

GRIEVANCE ADMINISTRATOR,
Petitioner/Appellant,
v
WILLIAM J. MOSLEY,
Respondent/Cross-Appellant.

File No. DP 116/84

Decided: September 30, 1985

BOARD OPINION

Respondent was charged in criminal proceedings with participating in a conspiracy to transport a security in interstate commerce. The trial was conducted pursuant to stipulation of facts between the United States and Respondent. Respondent was convicted on the stipulated facts of conspiracy to commit fraud against a federally-funded youth program. He was sentenced to four teen months imprisonment end probation for a period of five years.

Under former GCR 1963, 969.1 [now MCR 9.120(A)], Respondent was automatically suspended, pending the hearing panel proceedings. The rule allows a Respondent to file a motion to set aside an interim suspension, after which the Board may "set aside the interim suspension when it appears consistent with the maintenance of the integrity and honor of the profession, the protection of the public, end the interests of justice." MCR 9.120 (A) (2). The Board denied the motion to set aside interim suspension; reconsideration of the motion to set aside interim suspension is moot given the Board's ruling of final discipline.

The panel, after a hearing, suspended Respondent for two years. Both the Grievance Administrator end Respondent petitioned for review. The Grievance Administrator calls for revocation based upon the fraudulent and egregious nature of the proven misconduct. Respondent claims to be innocent of wrongdoing end attacks the validity of the indictment against him on constitutional grounds. lie urges us to "go behind" the conviction to examine the facts, and to determine ourselves the constitutional question raised in connection with the indictment. Based upon the severity of criminal charge, we revoke Respondent's license.

I.

In his stipulation with the United States, Respondent admitted that for four years he was Chairman of the Board of Directors and legal counsel of the Afro Youth Community (AYC), a non-profit corporation in Chicago providing services for foster children. While Chairman of the Board of AYC, Respondent incorporated the National Furniture and Equipment Leasing Company (NFELC). The mailing address of NFELC was a Tennessee farm owned by Respondent's aunt.

During two years while Respondent was AYC Chairman, NFELC purchased some of AYC's existing furniture and vehicles for \$16,000. The furniture company then leased the furniture and vehicles back to AYC. Cumulative rental payments exceeded the purchase amount by about

\$49,000. A determinative factor in the government's case against Respondent was that the AYC transaction was the only business ever conducted by NFELC. Respondent was convicted on the basis of these facts of conspiracy to commit fraud against a federally-funded youth program, under 18 USC Sec. 371 and 2314.

II.

When presented with an attorney convicted of “illegal conduct involving moral turpitude,” DR 1-102(A)(3), we cannot look behind the fact of the judgment of conviction to analyze the facts of the crime, except for the purposes of mitigation of discipline. “In a disciplinary proceeding instituted against an attorney based on the attorney's conviction of a crime, a certified copy of the judgment of conviction is conclusive evidence of a commission of the crime.” MCR 9.120(A)(3).

To require routine review of criminal trials in the absence of some good cause demonstrated would be superfluous and an unmanageable burden for the hearing panels. Certainly, the panels do not have the expertise or resources of a court of appeals in criminal matters, and the post-trial judgments of the panel should not displace that of the court or jury in such criminal matter. In re Leonard, No. DP 47/80 (Mich ADB 1980).

We cannot look behind conviction to make factual determinations regarding a criminal charge and must limit the scope of our determination to the prima facie validity of the conviction, the severity of the offense and any factors in the record which might tend to mitigate the criminal offense. Respondent asserts a defense of law which does little or no thing to mitigate the criminal charges.

III.

Respondent's crimes is beyond doubt one of moral turpitude, which in the context of attorney discipline is “fraud, deceit, and intentional dishonesty for purposes of personal gain.” Matter of Grimes, 414 Mich 483, 326 NW2d 380, 383 (1982). The principle which supported disbarment in Grimes is sufficient to support disbarment here. “Such breaches of attorney-client trust violate our profession's pledge to seek truth and justice.” 326 NW2D at 384. Respondent's license is revoked.