

STATEWIDE GRIEVANCE COMMITTEE

Ali Samater Qalad
Complainant

vs.

Grievance Complaint #07-1187

Walter Burrier
Respondent

DECISION

Pursuant to Practice Book §2-35, the undersigned, duly-appointed reviewing committee of the Statewide Grievance Committee, conducted hearings at the Superior Court, 80 Washington Street, Hartford, Connecticut on October 2, 2008 and December 4, 2008. The hearings addressed the record of the complaint filed on December 6, 2007, and the probable cause determination filed by the Windham Judicial District Grievance Panel on January 17, 2008, finding that there existed probable cause that the Respondent violated Rules 1.1 and 5.5(2) of the Rules of Professional Conduct (2002).

On January 21, 2008, Disciplinary Counsel transferred this matter to California. On May 7, 2008, California declined to take jurisdiction over this matter and a hearing was scheduled for October 2, 2008 before this reviewing committee. Notice of the hearing was mailed to the Complainant, to the Respondent and to the Office of the Chief Disciplinary Counsel on September 5, 2008. At the hearing, this reviewing committee granted Disciplinary Counsel's oral motion for continuance. A subsequent hearing was scheduled for December 4, 2008. Notice of the December 4, 2008 hearing was mailed to the Complainant, to the Respondent and to the Office of the Chief Disciplinary Counsel on October 30, 2008. Pursuant to Practice Book §2-35(d), Assistant Disciplinary Counsel Karyl Carrasquilla pursued the matter before this reviewing committee. The Complainant did not appear at the hearings. The Respondent, represented by Attorney William Bloss, appeared at the hearings and testified. One exhibit was admitted into evidence.

The Respondent filed a pre-hearing brief challenging the jurisdiction of the Statewide Grievance Committee to hear this matter and requesting that this matter be dismissed. Disciplinary Counsel filed a responsive brief. Following argument at the December 2, 2008 hearing, this reviewing committee denied the Respondent's request that this matter be dismissed.

This reviewing committee finds the following facts by clear and convincing evidence:

On May 24, 1999, the Complainant, a citizen of Somalia, filed an asylum application in California. In December of 1999, the Complainant's case was referred to the Immigration Court. The Complainant retained Attorney Deloris Brown to represent him before the

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Immigration Court. Attorney Brown represented the Complainant at his first two hearings. Thereafter, Attorney Brown retained the Respondent to represent the Complainant at the remaining hearings.

The Respondent represented the Complainant at hearings held on December 6, 2000, January 17, 2001, August 7, 2001, August 23, 2001 and April 23, 2002. Testimony was offered at the August 7, 2001 and April 23, 2002 hearings. At the April 23, 2002 hearing, the Immigration Judge denied the Complainant's application for asylum.

The Respondent filed an appeal on behalf of the Complainant with the Board of Immigration Appeals (hereinafter "BIA"). The Respondent retained Walter Wenko, a disbarred California attorney, to write the Complainant's appeal brief. The Respondent signed and filed the brief written by Mr. Wenko. In 2003, the BIA administratively closed the Complainant's case because it found that the Complainant qualified for Temporary Protective Status.

The Complainant filed this grievance complaint against the Respondent on December 6, 2007. In or about January of 2008, the Respondent filed a four and one-half page written response to the grievance complaint. In his response, the Respondent acknowledged that the brief prepared by Mr. Wenko was inadequate. The Respondent stated the following:

Stupidly though, I hired a disbarred attorney, Walter Wenko, to write the brief... Unfortunately, the quality of his work deteriorated after he started to have personal problems e.g. a divorce, etc. He started to 'cut and paste' a lot. He certainly did this in Mr. Qalad's case. I hate him for that. In fact, as the Bar knows, I've had about 9 complaints filed against me because of Wenko and his shoddy work. Still, my name is on the brief that the Board has so I must accept responsibility... The brief written in my name does not do Mr. Qalad justice... I am ashamed and angered that I allowed such a cad as Wenko to prepare such a mediocre brief in my name.

This reviewing committee also considered the following:

At the hearing before this reviewing committee on December 4, 2008, the Respondent testified that when he wrote his response to the grievance complaint, he had not reviewed the brief or the transcripts of the hearings before the Immigration Judge. The Respondent contended that after submitting his answer he reviewed the transcripts and determined that the brief was adequate given the testimony of the Complainant regarding when he entered the country. The Respondent testified that although the Complainant made out a claim for asylum, his claim was time barred because he could not prove that he had filed his asylum application within a year after entering the country. The Respondent maintained that he responded too

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quickly when he submitted his written response and did not recall the time bar issue and that given this fact, the brief was adequate.

This reviewing committee concludes by clear and convincing evidence that the Respondent's conduct violated Rules 1.1 and 5.5(2) of the Rules of Professional Conduct. In his written response to the grievance complaint, the Respondent admitted that he retained a disbarred attorney to write the appeal brief to the BIA, that the brief was "mediocre", and did "not do Mr. Qalad justice." We find these statements by the Respondent in his detailed written response to the grievance complaint to be credible. We do not find credible the Respondent's statements at the hearing before this reviewing committee that he supervised Mr. Wenko in connection with the preparation of the brief and that upon further reflection the brief was adequate. Although the Respondent testified that he reviewed the transcripts after he submitted his written response, there is no testimony or evidence in the record to indicate that the Respondent reviewed the brief to arrive at the determination that the brief was adequate. Accordingly, we find that the Respondent's written response to the grievance complaint supports a finding by clear and convincing evidence that the Respondent failed to supervise Mr. Wenko in the preparation of the BIA appeal brief, thereby assisting Mr. Wenko in the unauthorized practice of law in violation of Rule 5.5(2) of the Rules of Professional Conduct. Furthermore, the Respondent's admission that he signed and filed a brief he admitted was "mediocre" supports a finding by clear and convincing evidence that the Respondent failed to provide the Complainant with competent representation in violation of Rule 1.1 of the Rules of Professional Conduct.

Since this reviewing committee concludes that the Respondent violated Rules 1.1 and 5.5(2) of the Rules of Professional Conduct, we reprimand the Respondent.

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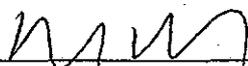
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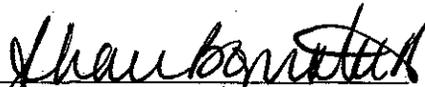


Attorney David Channing

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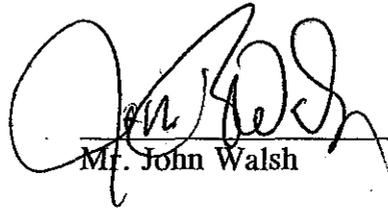
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Attorney Shari Bornstein

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Mr. John Walsh