

the Alaska Bar Association, acting as a Disciplinary Board. The recommendations of the Area Disciplinary Committee were unanimously adopted with the Board concluding that respondent's violations of the Disciplinary Rules, heretofore mentioned, were of a "clear and flagrant" character, and that respondent receive, as the appropriate sanctions, public admonitions.

Based upon our independent review of the record, we have determined that there is an adequate evidentiary foundation supporting the Disciplinary Board's adoption of the findings and recommendations of the Area Disciplinary Committee. We are of the further view that this same evidentiary base discloses violations of the relevant Disciplinary Rules.⁶ We thus conclude that the findings and conclusions of the Disciplinary Board of the Alaska Bar Association should be Affirmed and that respondent should receive a public censure.

IT IS ORDERED:

The findings and recommendations of the Disciplinary Board of the Alaska Bar Association are Affirmed.

Donald L. Craddick is publicly censured for violations of the Code of Professional Responsibility.

BOOCHEVER, J., not participating.



6. With regard to the first violation of the Disciplinary Rules of the Code of Professional Responsibility, concerning employing a threat of criminal prosecution to gain an advantage in a civil matter, respondent has expressed a continued belief that his conduct did not violate the Code, apparently because the threat of criminal prosecution was not directly stated. However, we think the findings and conclusions of the Area Disciplinary Committee, which are based on substantial evidence in the hearing record, amply indicate a violation of Disciplinary Rule 7-105(A) through implication and innuendo. As a result of the meeting out of which the disciplinary charges arose, the

In the Matter of Duncan C. WEBB.

No. 4373.

Supreme Court of Alaska.

July 20, 1979.

Disciplinary proceedings were instituted against attorney. The Supreme Court, Rabinowitz, C. J., held that conviction for the felony offense of accessory after the fact of first-degree murder warrants disbarment.

Respondent disbarred.

Attorney and Client — 39, 58

Conviction for the felony offense of accessory after the fact to first-degree murder is a conviction for a serious crime showing illegal conduct involving moral turpitude as well as engaging in conduct prejudicial to the administration of justice and warrants disbarment. State Bar Rules, rules 12(a), 23; Code of Professional Responsibility, DR1-102(A)(3, 5).

Duncan Webb, pro se.

William W. Garrison, Anchorage, for Alaska Bar Assn.

Before RABINOWITZ, C. J., CONNOR, BOOCHEVER and MATTHEWS, JJ., and DIMOND, Senior Justice.

attorney for the threatened party, who was present at the meeting, thought that criminal charges were going to be filed against his client as a consequence of her refusal to admit to respondent her theft of a substantial sum of money and agree to its restitution, when, in fact, there was no evidence of a crime which would have supported a criminal prosecution. We think that the conduct of respondent, in misleading another party into believing that she was subject to criminal prosecution because of her refusal to make restitution of money alleged to be stolen, was a clear violation of the Code of Professional Responsibility.

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OPINION AND ORDER

RABINOWITZ, Chief Justice.

This matter comes before the Supreme Court under the provisions of Rule 16(c) of the Alaska Bar Rules¹ for review of the recommendation of the Board of Governors of the Alaska Bar Association, acting as the Disciplinary Board, that Duncan Webb be disbarred from the practice of law within the State of Alaska.

The disciplinary proceeding was initiated by the filing of a petition by counsel for the Alaska Bar Association in which it was alleged that Duncan C. Webb was convicted in the superior court, third judicial district, of the felony crime of accessory after the fact to murder, a "serious crime" within the meaning of that term as it is used in Rule 23 of the Alaska Bar Rules.² It was further alleged that the commission of this crime constituted engaging in illegal conduct involving moral turpitude in violation of DR 1-102(A)(3) of the Code of Professional Responsibility,³ as well as constituting engaging in conduct that is prejudicial to the administration of justice in violation of DR 1-102(A)(5) of the Code of Professional Responsibility.⁴

While disciplinary proceedings were pending against Duncan Webb, this court upheld his conviction of accessory after the fact to first degree murder. *Webb v. State*,

580 P.2d 295 (Alaska 1978). In addition, we agreed with the state's contentions in its cross-appeal that the superior court's sentence of two years imprisonment, all of which was suspended with Webb being placed upon probation, was too lenient. In voicing our disapproval of the sentence imposed by the superior court, we noted that:

It is true that Webb will probably be disbarred and, if so, will no longer be able to engage in the practice of law. He has brought great dishonor upon the legal profession. His criminal conduct, employing conscious dishonesty, deserves greater condemnation than if it were committed by one not obligated to adhere to high standards of honor and integrity. [footnote omitted]⁵

Subsequently, after notice and hearing, an Area Disciplinary Committee for the third judicial district determined that the essential allegations of bar counsel's petition had been established and unanimously recommended that Duncan Webb be disbarred from the practice of law within the State of Alaska.⁶ The matter then came before the Board of Governors of the Alaska Bar Association, acting as the Disciplinary Board.⁷ The Disciplinary Board unanimously adopted the findings of the Area Disciplinary Committee, and further recommended that Duncan Webb be disbarred

1. The Alaska Bar Rules governing disciplinary matters were substantially amended effective April 1, 1979. All references to the Alaska Bar Rules are to the rules as they existed prior to the 1979 amendments.

2. Rule 23(a), Alaska Bar Rules, provides:

Upon the filing with the Court of a certificate demonstrating that an attorney has been convicted of a serious crime as hereinafter defined, the Court shall enter an order immediately suspending the attorney, regardless of the pendency of an appeal, pending final disposition of a disciplinary proceeding to be commenced upon such conviction.

An order suspending Duncan Webb from the active practice of the law in the State of Alaska, pending final disposition of the disciplinary proceedings in this matter, was entered in accordance with Rule 23(a).

3. DR 1-102(A)(3) provides:

A lawyer shall not:

Engage in illegal conduct involving moral turpitude.

4. DR 1-102(A)(5) states:

A lawyer shall not:

Engage in conduct that is prejudicial to the administration of justice.

5. *Webb v. State*, 580 P.2d 295, 304 (Alaska 1978).

6. The committee further recommended that the "disbarment commence on September 18, 1978, the date that this matter was presented for hearing."

7. Although duly served with notice, Duncan Webb did not appear before the Disciplinary Board in person or by counsel.

from the practice of law within the State of Alaska.⁸

Our review of the record in this matter has led us to the conclusion that the underlying facts of the petition are fully established and that Duncan Webb's disbarment from the practice of law within the State of Alaska is an appropriate sanction.⁹ Duncan Webb's criminal conduct resulting in his conviction of the felony offense of accessory after the fact to first degree murder is a serious crime within the meaning of Rule 23 of the Alaska Bar Rules and constitutes engaging in illegal conduct involving moral turpitude in violation of DR 1-102(A)(3) of the Code of Professional Responsibility as well as engaging in conduct that is prejudicial to the administration of justice in violation of DR 1-102(A)(5) of the Code of Professional Responsibility.¹⁰

In light of the foregoing,
IT IS HEREBY ORDERED:

That the findings and recommendations of the Disciplinary Board of the Alaska Bar Association are Affirmed. Duncan Webb is disbarred from the practice of law within the State of Alaska.¹¹

BURKE, J., not participating.



8. The Disciplinary Board also recommended that:

If, after review, the Supreme Court of the State of Alaska enters an order disbarring Duncan Campbell Webb from the practice of law, it is further recommended that the effective date of disbarment commence on the date that said order is entered.

9. Rule 16(c), Alaska Bar Rules, provides, in part:

Upon receipt of the Board's conclusion and recommendations, [t]he Court shall review the record and briefs submitted and enter an appropriate order.

Rule 12(a) provides as to types of discipline: "Misconduct shall be grounds for [d]isbarment by the Court"

STATE of Alaska, Petitioner,

v.

Daniel CASSELL, Respondent.

No. 4342.

Supreme Court of Alaska.

Sept. 13, 1979.

In prosecution of defendant for inciting commission of crime, defendant moved to suppress confession on ground that it was unlawfully obtained. The Superior Court, Third Judicial District, Anchorage, Mark C. Rowland, J., suppressed confession, and State petitioned for review. The Supreme Court, Rabinowitz, C. J., held that: (1) defendant was undergoing custodial interrogation and, thus, was entitled to *Miranda* warnings, and (2) *Miranda* warning given was inadequate.

Affirmed.

Boochever, J., dissented with opinion in which Burke, J., joined.

1. Criminal Law — 412.2(2)

Where defendant was asked to accompany police officers to police station for questioning, where he did not go there on his own initiative but was driven in a patrol car, where at the police station defendant was questioned extensively in isolated setting by two police officers using techniques described in the *Miranda* decision as the

10. We think it appropriate at this point to reiterate an observation made in *Webb* that:

Webb did more than simply lie. After the commission of a most brutal and coldblooded murder, he concealed or aided the murderers with knowledge that they had committed first degree murder and with intent that they might avoid or escape from arrest, trial, or conviction.

Webb v. State, 580 P.2d 295, 304 (Alaska 1978) (footnote omitted).

11. The effective date of our order of disbarment is the date of issuance of the mandate of this court in the case at bar.

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