



**BEFORE THE BOARD OF DISCIPLINARY APPEALS
APPOINTED BY
THE SUPREME COURT OF TEXAS**

**IN THE MATTER OF
LEONARD CARDENAS III
STATE BAR CARD NO. 00792159**

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§
§

CAUSE NO. 48983

JUDGMENT DENYING RECIPROCAL DISCIPLINE

On the 20th day of April, 2012, the above-styled and numbered reciprocal disciplinary action was called for hearing before the Board of Disciplinary Appeals. Petitioner Commission for Lawyer Discipline appeared by attorney and announced ready. Respondent appeared *pro se* and announced ready. All issues of fact as well as all questions of law were submitted to the Board of Disciplinary Appeals for determination.

Having considered the pleadings on file, having received evidence, and having heard the argument of counsel, the Board of Disciplinary Appeals is of the opinion that Respondent proved pursuant to Texas Rule of Disciplinary Procedure 9.04(e) that the conduct for which he was disciplined in Louisiana does not constitute Professional Misconduct in Texas and that the petition should therefore be denied.

Findings of Fact. The Board of Disciplinary Appeals finds that:

- (1) Respondent, Leonard Cardenas III, Bar Card No. 00792159, is an attorney who is licensed and authorized to practice law in the State of Texas;
- (2) On or about May 6, 2011, the Supreme Court of Louisiana issued its Per Curium Opinion in a matter styled: No. 11-B-0031 *IN RE: LEONARD*

CARDENAS, III, suspending Respondent from the practice of law for one year and ordering that six months of the suspension be deferred, subject to respondent's successful completion of a two-year period of supervised probation. In the Per Curium Opinion, the Court found that Respondent was convicted of one misdemeanor count of domestic abuse battery (child endangerment), and that Respondent conceded that his conviction constituted a violation of Rule 8.4(b) of the Louisiana Rules of Professional Conduct;

- (3) Respondent, Leonard Cardenas III, is the same person as the Leonard Cardenas, III, who is the subject of the Order by the Supreme Court of Louisiana; and
- (4) The Order from the Supreme Court of Louisiana is final.
- (5) The opinion of the Louisiana Supreme Court states that Cardenas was disciplined because he had committed a crime and by doing so violated Louisiana Rule of Professional Conduct 8.4(b). None of the disciplinary authorities found that Cardenas' conduct reflected adversely on his fitness to practice law.
- (6) The Commission for Lawyer Discipline agreed that a conviction for misdemeanor domestic abuse battery (child endangerment) is not a "serious crime" as defined under TDRPC 8.04(a)(2) or TRDP 1.06Z ("serious crime" is "barratry, any felony involving moral turpitude, or any misdemeanor involving theft, embezzlement, or fraudulent or reckless misappropriation of money or other property or any attempt, conspiracy, or solicitation of another to commit any of the foregoing crimes."); TRDP 1.06Z (identical definition).
- (7) The Commission for Lawyer Discipline agreed that a conviction for misdemeanor domestic abuse battery (child endangerment) does not reflect adversely on a lawyer's honesty or trustworthiness under TDRPC 8.04(2).
- (8) The Commission cited no instances of discipline being imposed in Texas for this conduct in the regular disciplinary system.
- (9) There is no evidence that the conduct for which Respondent was disciplined in Louisiana was in any way related to his practice of law.
- (10) The conduct for which Respondent was disciplined in Louisiana was personal conduct.

Conclusions of Law. Based upon the foregoing findings of fact the Board of Disciplinary

Appeals makes the following conclusions of law:

- (1) This Board has jurisdiction to hear and determine this matter. Tex. R. Disciplinary P. 7.08(H);
- (2) Louisiana Rule of Professional Conduct 8.4(b) and Texas Disciplinary Rule of Professional Conduct (“TDRPC”) 8.04(a)(2) are substantially different:
 - (a) It is professional misconduct in Louisiana to “commit a criminal act, especially one that reflects adversely on the lawyer’s honesty, trustworthiness or fitness as a lawyer in other respects.” Louisiana Rule of Professional Conduct 8.4(b). This rule allows for discipline for any crime, whether or not the underlying conduct related to the practice of law and making no distinction between misdemeanor and felony.
 - (b) Texas Rule 8.04(a)(2) limits criminal acts which result in misconduct to a “serious crime or . . . any other criminal act that reflects adversely on the lawyers [sic] honesty, trustworthiness or fitness as a lawyer in other respects.” TDRPC 8.04(a)(2).
 - (c) The Louisiana Rules of Professional Conduct do not expressly define “Fitness” in the Terminology.
 - (d) For purposes of attorney discipline in Texas, “‘Fitness’ denotes those qualities of physical, mental and psychological health that enable a person to discharge a lawyer’s responsibilities to clients in conformity with the Texas Disciplinary Rules of Professional Conduct.” TDRPC Terminology. “This definition of fitness plainly contemplates that some review of particular facts or a course of conduct may be necessary before one can conclude that an attorney should be professionally answerable for a particular offense or pattern of offenses.” *In re Lock*, 54 S.W.3d 305, 309 (Tex. 2001).
- (3) We decline to follow the law urged by the Commission as controlling that assault by a man against a woman involves moral turpitude *per se* while assault by a woman against a man does not, because, *inter alia*, the impeachment cases cited are not attorney discipline cases. The Commission cited no cases involving attorney discipline to support that position.
- (4) A conviction for misdemeanor domestic abuse battery (child endangerment) does not involve moral turpitude *per se* for purposes of attorney discipline in Texas. *See, Turton v. State Bar of Texas*, 775 S.W.2d 712, 717 (Tex. App.—San Antonio, 1989, writ denied) (a conviction for felony aggravated assault with serious bodily injury does not involve moral turpitude *per se* for purposes of attorney discipline, and the trier of fact must examine the totality of the circumstances).

- (5) A conviction for misdemeanor domestic abuse battery (child endangerment) is not a "serious crime" in Texas under TDRPC 8.04(a)(2) or TRDP 1.06Z.
- (6) Under the Texas Disciplinary Rules of Professional Conduct and the Texas Rules of Disciplinary Procedure, a misdemeanor conviction for domestic abuse battery (child endangerment), however reprehensible that conduct, does not necessarily render the attorney unfit to practice law. *See, In re Lock*, 54 S.W.3d 305, 309 (Tex. 2001).
- (7) The Petition should be denied.

It is, accordingly, ORDERED, ADJUDGED, AND DECREED that the Petition for Reciprocal Discipline is **DENIED** with prejudice to refile same.

Signed this 25th day of April 2012.



CHAIR PRESIDING