

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

**IN THE MATTER OF
JACK WENDELL FRIEZE
STATE BAR CARD NO. 07477000**

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CAUSE NO. 34096

**JUDGMENT REVISING DISCIPLINARY RECORD TO SHOW
PRIOR ACTIVE SUSPENSION FROM THE PRACTICE OF LAW**

On the 1st day of April 2005, the above-styled and numbered disciplinary action was called for hearing before the Board of Disciplinary Appeals. Petitioner, Commission for Lawyer Discipline of the State Bar of Texas, appeared by Assistant Disciplinary Counsel, Michael E. McClendon, and announced ready. Respondent, Jack Wendell Frieze, appeared in person and through counsel, John A. George, and announced ready. All issues of fact and 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 Petitioner is entitled to entry of the following findings and orders:

Findings of Fact: the Deferred Adjudication

The Board of Disciplinary Appeals finds that:

- (1) Respondent, Jack Wendell Frieze, State Bar Card Number 07477000, is currently licensed to practice law in Texas.
- (2) On or about July 15, 2002, Respondent, Jack Wendell Frieze, pleaded guilty to and was placed on two years' deferred adjudication for Indecency with a Child Younger than 17 Years in Cause No. F-9531267-HQ styled *The State of Texas v. Jack W. Frieze* in the 204th Judicial District Court of Dallas County, Texas following a new trial after remand (the "second" conviction).
- (3) The 204th Judicial District Court amended Respondent's terms and conditions of probation on July 24, 2002 to delete certain requirements, including (1)

requirements that he participate in a sexual abuse and sexual offender program, (2) restrictions prohibiting him from contact with any person under the age of 17, and (3) the requirement that he report to his probation officer in person.

- (4) On or about July 15, 2004, Respondent successfully completed his two years' community supervision and was discharged from deferred adjudication by order signed by the 204th Judicial District Court. Said order provides that "all proceedings in this cause against the defendant, including the indictment or information, are hereby dismissed."
- (5) The Commission for Lawyer Discipline, through the Office of the Chief Disciplinary Counsel of the State Bar of Texas, filed the Petition for Compulsory Discipline seeking to discipline Respondent Jack Wendell Frieze on the basis of the above deferred adjudication on December 15, 2004, 29 months after the deferred adjudication order was signed and five months after Respondent completed the community supervision and was discharged.

Findings of Fact: the First Conviction

The Board of Disciplinary Appeals further finds that:

- (6) On May 20, 1996, Respondent was convicted after jury trial in Cause No. F-9531267-HQ styled *The State of Texas v. Jack W. Frieze* in the 204th Judicial District Court of Dallas County, Texas, of Indecency with a Child Younger than 17 Years (the "first" conviction) based on the same conduct as in the deferred adjudication.
- (7) As a result of the first conviction, the Commission for Lawyer Discipline filed a petition for compulsory discipline September 4, 1996 (BODA Cause No. 10146). BODA signed an Agreed Interlocutory Order in Case No. 10146 suspending Respondent from the practice of law in Texas beginning October 18, 1996, pending the appeal of the first conviction.
- (8) On July 7, 1998, the Court of Appeals for the Fifth District of Texas (Cause No. 05-96-01381-CR) reversed the first criminal conviction and remanded the case for a new trial.
- (9) On July 22, 1998, BODA terminated Respondent's suspension from practicing law in accordance with Texas Rules of Disciplinary Procedure 8.04 ("TRDP"). Respondent was actively suspended from the practice of law in Texas for approximately 21 months as a result of the first conviction before it was reversed on appeal, and BODA terminated the suspension.
- (10) Respondent's interlocutory suspension was reflected on his State Bar membership record until the criminal conviction was reversed on appeal, and BODA terminated the suspension.

- (11) The period of actual active suspension from the practice of law served by Respondent as a result of the first conviction is essentially equivalent to the period of deferred adjudication/community supervision imposed in the second conviction in the criminal case.
- (12) Respondent, Jack Wendell Frieze, is the same person as the Jack W. Frieze who is the subject of the deferred adjudication order dated July 15, 2002, and the first conviction dated May 20, 1996, described above.

Conclusions of Law. Based upon the foregoing findings of facts, the Board of Disciplinary Appeals makes the following conclusions of law:

- (1) This Board has jurisdiction to hear and determine this matter. TRDP 7.08(G).
- (2) Suspension for a length of time similar to Respondent's period of deferred adjudication (which deferred adjudication was imposed upon and served by Respondent from July 15, 2002 until July 15, 2004), is the appropriate sanction in this case.
- (3) Because the disciplinary suspension must run concurrently with the criminal sentence, and Respondent has completed the period of deferred adjudication resulting from the second conviction described above, BODA cannot presently suspend Respondent.
- (4) Respondent's disciplinary and membership records for the State Bar of Texas should be revised to permanently include, as public information, his prior active suspension from the practice of law in Texas between the dates of October 18, 1996, and July 22, 1998.

It is, accordingly, **ORDERED, ADJUDGED, and DECREED** that the permanent disciplinary record of Respondent, Jack Wendell Frieze, State Bar Card No. 07477000, is hereby **REVISED**, effective immediately, to include his active suspension from the practice of law in the State of Texas from October 18, 1996 until July 22, 1998 as a result of the conviction May 20, 1996 in Cause No. F-9531267-HQ styled *The State of Texas v. Jack W. Frieze* in the 204th Judicial District Court of Dallas County, Texas, and BODA compulsory discipline cases 10146 and 34096.

It is further **ORDERED** that State Bar of Texas membership records shall be **REVISED** effective immediately to permanently show that Respondent was actively suspended from the practice of law in the State of Texas from October 18, 1996 until July 22, 1998, and that said suspension shall be available as public information.

It is further **ORDERED** that notice of this judgment and revision to Respondent's membership and disciplinary records shall be reported by the State Bar of Texas Chief Disciplinary Counsel to the Clerk of the Supreme Court of Texas and published in accordance with TRDP Part VI as for other compulsory discipline actions.

Signed this 4th day of May, 2005.


CHAIRMAN PRESIDING