

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

IN THE MATTER OF	§	
EUGENE X. MERCIER	§	CAUSE NO. 38020
STATE BAR CARD NO. 19857100	§	

INTERLOCUTORY ORDER OF SUSPENSION

On the 29th day of September 2006, the above-styled and numbered disciplinary action was called for hearing before this Board. Petitioner, Commission for Lawyer Discipline of the State Bar of Texas, appeared by Assistance Disciplinary Counsel, Stephen A. Moyik, and announced ready. Respondent, Eugene X. Mercier, appeared by attorney, James R. Harris, and announced ready. All issues of fact as well as all questions of law were submitted to this Board for determination. Having considered the pleadings on file, received evidence, and heard the argument of counsel, the Board made the following findings of fact:

- (1) Respondent, Eugene X. Mercier, whose State Bar Card number is 19857100, is not as of this date subject to any other administrative or disciplinary action by the State Bar of Texas and is therefore authorized to practice as an attorney and counselor at law in the State of Texas.
- (2) On or about May 26, 2006, an Order Granting Resentencing Motion After Court of Appeals Mandate Issued, Judgment on Verdict of Guilty Punishment Fixed by Court Modified: Community Supervision was entered in Case Number CR-3680-01-F, styled *The State of Texas v. Eugene X. Mercier*, in the 332nd District Court of Hidalgo County, Texas, finding the Respondent guilty of Conspiracy to Commit Barratry, a State Jail Felony, in violation of § 38.12 of the Texas Penal Code.
- (3) Respondent was sentenced to six (6) months in the State Jail Division of the Texas Department of Criminal Justice which the Court suspended and ordered that Respondent be placed on Community Supervision for two (2) years. Respondent was also ordered to pay a fine in the amount of \$7,500.00, attend and complete a 15-hour drug education program, work 240 hours at a community service project, and surrender his law license.

- (4) Respondent, Eugene X. Mercier, is the same person as the Eugene X. Mercier who is the subject of the Judgment described above; and
- (5) Respondent has appealed the criminal conviction.

Based upon the foregoing findings of facts, the Board makes the following conclusions of law:

- (1) This Board has jurisdiction to hear and determine this matter. Rule 7.08(G), Texas Rules of Disciplinary Procedure ("TRDP").
- (2) The crime for which Respondent has been convicted is an Intentional Crime as defined by TRDP 1.06(T) and a Serious Crime as defined by TRDP 1.06(Z).
- (3) Having been found guilty and convicted of an Intentional Crime and such conviction currently being appealed, Respondent, Eugene X. Mercier, should be suspended from practicing law in Texas during the appeal of his conviction. TRDP 8.04.
- (4) In the event that the conviction of Respondent, Eugene X. Mercier, is affirmed and becomes final, Respondent, Eugene X. Mercier, should be disbarred. TRDP 8.05.

It is, accordingly, **ORDERED, ADJUDGED, and DECREED** that Respondent, Eugene X. Mercier, State Bar Card No.19857100, is hereby **SUSPENDED** from the practice of law in the State of Texas effective immediately and continuing hereafter until further order of this Board.

It is further **ORDERED** that, in the event that Respondent's criminal conviction is affirmed, he shall be disbarred.

It is further **ORDERED, ADJUDGED and DECREED** that Respondent, Eugene X. Mercier, during said suspension is hereby prohibited, effective immediately, from practicing law in Texas, holding himself out as an attorney at law, performing any legal service for others, accepting any fee directly or indirectly for legal services not completed prior to the date of this judgment, appearing as counsel in any proceeding in any Texas court or before any Texas administrative body,

or from holding himself out to others or using his name, in any manner, in conjunction with the words “attorney,” “counselor,” or “lawyer.”

It is further **ORDERED** that Respondent, Eugene X. Mercier, not later than thirty (30) days from the date of this Order, shall notify in writing each and every justice of the peace, judge, magistrate, and chief justice of each and every court in which Respondent, Eugene X. Mercier, has any legal matter pending, if any, of his suspension, of the style and cause number of the pending matter(s), and of the name, address, and telephone number of the client(s) Respondent is representing in that court. Respondent is also **ORDERED** to mail copies of all such notifications to the Office of the Chief Disciplinary Counsel, State Bar of Texas, P.O. Box 12487, Austin, Texas 78711.

It is further **ORDERED** that Respondent, Eugene X. Mercier, shall immediately notify each of his current clients, if any, in writing, of his suspension. In addition to such notification, Respondent is **ORDERED** to return all files, papers, unearned fees paid in advance, and all other monies and properties which are in his possession but which belong to current or former clients, if any, to those respective clients or former clients within thirty (30) days after the date on which this Order is signed by the Board. Respondent is further **ORDERED** to file with this Board, within the same thirty (30) days, an affidavit stating either (a) that all current clients have been notified of his suspension and that all files, papers, unearned fees paid in advance, and all other monies and properties belonging to clients and former clients have been returned as ordered herein or (b) that Respondent has no current clients, files, or papers, and that any unearned fees paid in advance or other monies or properties belonging to clients have previously been returned to the appropriate client. If Respondent should be unable to return any file, papers, money or other property to any client or former client, Respondent’s affidavit shall state with particularity the efforts made by

Respondent with respect to each particular client and the cause of his inability to return to said client any file, paper, money or other property. Respondent is also **ORDERED** to mail a copy of said affidavit and copies of all notification letters to clients, to the Office of the Chief Disciplinary Counsel, State Bar of Texas, P.O. Box 12487, Austin, Texas 78711.

It is further **ORDERED** that Respondent, Eugene X. Mercier, immediately surrender his Texas law license and permanent State Bar Card to the Office of the Chief Disciplinary, State Bar of Texas, P.O. Box 12487, Austin, Texas 78711, for transmittal to the Clerk of the Supreme Court of Texas.

It is further **ORDERED** that a certified copy of the Petition for Compulsory Discipline on file herein, along with a copy of this Order, be sent to the Chief Disciplinary Counsel of the State Bar of Texas, P.O. Box 12487, Austin, Texas 78711.

It is further **ORDERED** that this Order is interlocutory pending the further orders of this Board upon the conclusion of Respondent's appeal of his criminal conviction. In the event that the conviction of Respondent, Eugene X. Mercier, is reversed, Respondent or his attorney may move this Board to terminate the suspension by motion with certified copies of court documents showing that the conviction has been reversed. In the event that the conviction of Respondent, Eugene X. Mercier, is affirmed and becomes final, the Commission for Lawyer Discipline may move for entry of final judgment of disbarment pursuant to TRDP 8.05 by motion supported by certified copies of court documents showing that the conviction has become final

Signed this 3rd day of November 2006.



CHAIR PRESIDING