



STATE OF MARYLAND

DHMH

Board of Professional Counselors and Therapists

Maryland Department of Health and Mental Hygiene
4201 Patterson Avenue • Baltimore, Maryland 21215-2299

Robert L. Ehrlich, Jr., Governor – Michael S. Steele, Lt. Governor – S. Anthony McCann, Secretary

November 15, 2005

VIA CERTIFIED AND FIRST CLASS MAIL

Philip M. Sutley, Esquire
Law Offices of Philip M. Sutley
116 West Mulberry Street
Baltimore, Maryland 21201

Alice Tayman, Esquire
Assistant Attorney General
Office of the Attorney General
300 West Preston Street, Suite 207
Baltimore Maryland 21201

Re: *Lawrance Lee Thomas*
Board Case Number: 04-BP-066

Dear Counsel:

Enclosed please find the Board of Professional Counselors and Therapists' Final Decision and Order in the above-referenced case.

Sincerely,

Aileen Taylor
Administrator
Board of Professional Counselors and Therapists

Enclosure

cc: Joanne Faber, M.Ed., LCPC, Chair
Noreen M. Rubin, Board Counsel
Timothy J. Paulus, Assistant Attorney General, Deputy Counsel
Lawrance Lee Thomas

IN THE MATTER OF
LAWRANCE LEE THOMAS
Applicant.

*** BEFORE THE MARYLAND**
*** STATE BOARD OF PROFESSIONAL**
*** COUNSELORS AND THERAPISTS**
*** Case Number: 04-BP-066**

* * * * *

FINAL DECISION AND ORDER
PROCEDURAL HISTORY

In November, 2003, the Maryland State Board of Professional Counselors and Therapists (the "Board") issued a Notice of Initial Denial of Application for Certification as a Certified Professional Counselor-Alcohol and Drug to Lawrance Lee Thomas. The Board based its denial on: (1) Mr. Thomas's failure to satisfy the good moral character requirements of the Professional Counselors and Therapists Act, Md. Health Occ. Code Ann. §§ 17-302(b), 17-302.3(b) (Repl. Vol. 2000) because of his guilty plea to and conviction for sexual battery of a fourteen-year old male in Virginia Beach in 1996; and (2) Mr. Thomas's failure to cooperate with the Board's efforts to obtain information regarding his crime.

During its investigation, the Board obtained documents from the Commonwealth of Virginia Juvenile and Domestic Relations District Court. The documents revealed that Virginia Beach police charged Mr. Thomas with committing sodomy on and taking indecent liberties with a fourteen -year old minor while in a custodial capacity from September through December, 1992. Mr. Thomas ultimately pleaded guilty to and was convicted of sexual battery which occurs if:

An accused . . . sexually abuses the complaining witness against the will of the complaining witness, by force, threat, intimidation or ruse, or through the use of the complaining witness's mental incapacity or physical helplessness.

Va. Code Ann. § 18.2-67.4 (1996).

The Board subsequently denied Mr. Thomas's application for certification pursuant to its authority under HO § 17-313 which provides:

Subject to the hearing provisions of § 17-314 of this subtitle, the Board, on an affirmative vote of a majority of its members then serving, may deny a certificate to any applicant, place any certificate holder on probation, reprimand any certificate holder, or suspend or revoke a certificate of any certificate holder, if the applicant or certificate holder:

(4) Violates the code of ethics adopted by the Board;

(6) Is convicted of or pleads guilty or nolo contendere to a felony or a crime of moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside; or

(13) Fails to cooperate with a lawful investigation conducted by the Board.

Md. Health Occ. Code Ann. § 17-313(4), (6), and (13) (2000 Repl. Vol. & Supp. 2004).

The Board's denial was also based on Code Md. Regs. ("COMAR") tit. 10, § 58.03, Code of Ethics which provide as follows:

04. Ethical Responsibility

A. A Counselor shall:

(13) Cooperate with investigations, proceedings, and other requirements of the Board.

On April 15, 2005, pursuant to HO § 17-314 and the Administrative Procedure Act, Md. State ("SG") Gov't Code Ann. § 10-201 *et seq.*, the Board conducted a contested case hearing on its denial of Mr. Thomas's application. Mr. Thomas was represented by counsel throughout the evidentiary proceedings.

SUMMARY OF EVIDENCE

A. Documents

The State submitted the following exhibits, which were admitted into evidence:

State's Exhibits 1-11

- State's Exhibit 1: Letter of Intent to Grandfather as a CPC-AD, dated Aug. 2, 1997.
- State's Exhibit 2: Waiver of Requirements (Grandfathering) Application, dated June 4, 2003.
- State's Exhibit 3: Professional References and Employment Verification, dated Jan. 24, May 12 and May 21, 2003, respectively.
- State's Exhibit 4: Letter to Applicant from Aileen Taylor, Exec. Director, dated Oct. 17, 2003.
- State's Exhibit 5: Letter to Aileen Taylor from Applicant Without Enclosures, dated Oct. 25, 2003.
- State's Exhibit 6: Letter to Applicant from Aileen Taylor, dated Jan. 22, 2004.
- State's Exhibit 7: Letter to Aileen Taylor from Applicant, dated Jan. 22, 2004.
- State's Exhibit 8: Letter to Virginia Beach Juvenile and Domestic Relations District Court from Aileen Taylor requesting Court Documents, dated Jan. 22, 2004.
- State's Exhibit 9: True Test Documents from Virginia Beach Juvenile and Domestic Relations District Court Copied Feb. 27, 2004 [Redacted by Administrative Prosecutor].
- State's Exhibit 10: Letter to Board of Professional Counselors and Therapists from Applicant With Attached Court Documents, dated Oct. 7, 2004.
- State's Exhibit 11: Letter of Procedure, dated Nov. 24, 2004; Notice of Initial Denial of Application for Certification Under Maryland Professional Counselors and Therapists Act, dated Nov. 19, 2004.

Mr. Thomas submitted the following exhibits which were admitted into evidence.

Applicant's Exhibits 1-5

- App.'s Exhibit 1: Character Reference Letter from Carolyn Smith, dated March 20, 2005.
- App.'s Exhibit 2: Character Reference Letter from Hoffman F. Brown, dated March 10, 2005.
- App.'s Exhibit 3: Letter Verifying Employment from Page Gross, Program Director, A Helping Hand Health Services, L.L.C., dated March 17, 2005.

App.'s Exhibit 4: Master of Education Degree for Lawrance Lee Thomas from Coppin State College, dated May 19, 1995.

App.'s Exhibit 5: Bachelor of Science Degree for Lawrance Lee Thomas from the Univ. of Maryland, dated Aug. 25, 1991.

Applicant's Additional Exhibits 6-8 submitted on April 21, 2005. (During the hearing on April 18, 2005, the Administrative Prosecutor for the State and the Board agreed to the admission of the following documents.)

App.'s Exhibit 6: Character Reference Letter from Barbara Smith, LCPC, Counseling Psychologist, Dept. of Veterans Affairs, dated April 18, 2005.

App.'s Exhibit 7: Character Reference Letter from Sharon Hinton, CAC-AD, A Helping Hand Health Services, L.L.C., dated April 22, 2005.

App.'s Exhibit 8: Character Reference Letter from Page Gross, MHS, CAC-AD, Program Director, dated April 19, 2005.

Based on the April 18, 2005 letter from Barbara Smith, (App's Exhibit 6), the Board requested and received a letter of clarification from Ms. Smith dated June 8, 2005. Prior to its final deliberations on Mr. Thomas's application, the Board on September 19, 2005, granted the parties the right to submit additional written comments concerning Ms. Smith's letter of June 8, 2005, including motions to reopen the hearing for direct and cross examination of Ms. Smith, and additional closing arguments. The Board received a written response dated September 23, 2005, from Mr. Thomas's counsel, stating that Mr. Thomas "has no additional comments and will submit to the record in his case." The parties did not submit further comments. The Board considered the June 8, 2005 letter in its deliberations, and has designated it as App.'s Exhibit 9.

B. Witness Testimony

Two witnesses testified on behalf of the State: Ms. Aileen Taylor, Executive Director for the Board, and Mr. Howard (Rick) Kenney, Board Investigator. Mr. Thomas testified on his own behalf.

Evaluation of the Evidence

Mr. Thomas's responses to Board questions on his application for certification, and his 1996 guilty plea to and conviction for sexual battery in Virginia were not in controversy. On the Board application form, Mr. Thomas correctly answered "YES" to a question asking if he had ever pled guilty, nolo contendere or been convicted of or received probation before judgment of any criminal act. (St. Exh. 2; T. 12) As additional information, Mr. Thomas merely stated that he had been convicted of "child abuse" in Virginia Beach, Virginia, in May 1995, but provided no details to the Board about the facts and circumstances of his crime. (St. Exh. 2; T. 13)

In October, 2003, the Board sent a letter to Mr. Thomas, requesting information about the charges against him and the outcome of the Virginia Beach court proceedings. (St. Exh. 4; T. 14-15) In a written response, Mr. Thomas declined to provide any court documents to the Board, declared that he was unable to "emotionally handle reliving that situation," and requested a hearing before the Board "to address the [Board's] concerns." (St. Exh. 5) When contacted by telephone by the Board investigator, Mr. Thomas also refused to provide any documents or additional information about his crime. (T. 61-63)

In January, 2004, the Board once more requested all relevant documentation from Mr. Thomas regarding his criminal conviction. (St. Exh. 6) For the third time, Mr. Thomas declined to provide any court documents but requested a hearing before the Board and permission to have a counseling psychologist accompany him. (St. Exh. 7)

Board staff requested and eventually obtained the relevant written information from the Virginia Beach court. (St. Exh. 8) The documents confirmed that Mr. Thomas was charged with committing sodomy on and taking indecent liberties with a fourteen-

year old minor and that he pled guilty to and was convicted of sexual battery. (St. Exh. 9) In October, 2004 one year after the Board's first request for information, Mr. Thomas provided the court documents to the Board. (St. Exh. 10; T. 19-20) In November, 2004, the Board denied Mr. Thomas's application for certification. (St. Exh. 11)

At the hearing, Mr. Thomas admitted that he had failed to provide the information and court documents requested by the Board during its investigation. (T. 46-48) He denied the accusations underlying his guilty plea and conviction, however, and maintained that he had decided to plead guilty to avoid the expense of a trial and a potential jail sentence, and because of caregiving responsibilities for an ill family member. (T. 33, 35) Mr. Thomas presented no evidence or witnesses to support his claims.

By pleading guilty to sexual battery with a minor, Mr. Thomas avoided a jury trial that theoretically could have led to incarceration. (T. 35-36) In addition, the Commonwealth of Virginia dropped more serious charges against him. *Id.* Under Maryland law, Mr. Thomas "cannot now collaterally attack the conclusive final judgment" of the Virginia Beach court in his case. *Attorney Grievance Comm'n of Md. v. Sabghir*, 350 Md. 67 (1998). That court's final judgment is "conclusive proof of [his] guilt of the crime . . ." *Bar Ass'n of Balt. City v. Siegel*, 275 Md. 521, 528 (1975).

The crime at issue is Mr. Thomas's conviction for sexual battery or abuse of a minor. As a state licensing body, the Board must determine whether an applicant's crime constitutes a crime of moral turpitude in the professional licensing setting and assess an applicant's fitness to practice the profession. *Stidwell v. Maryland State Board of Chiropractic Examiners*, 144 Md. App. 613, 619 (2002). Because the Board's mission is to (1) safeguard patients undergoing counseling treatment from conduct by counselors

that has the potential to cause psychological harm; and (2) protect the integrity of the counseling profession in Maryland, the Board must ensure that applicants for counselor certification meet the requirement of good moral character. See Md. Health Occ. Code Ann. §§ 17-302(b) and 17-302.3(b) (Repl. Vol. 2000).

A crime of moral turpitude is an offense that "is so base, vile, and shameful as to leave the offender not wanting in depravity, which the words moral turpitude imply." *Board of Dental Examiners v. Lazell*, 172 Md. 314, 321 (1937). Sexual abuse of a minor is unquestionably a crime of moral turpitude within the meaning of §17-313(6) of the Professional Counselors and Therapists Act, and for the purpose of determining whether an applicant is of good moral character. Such abuse is not only unlawful and inherently exploitative, but shows complete disregard for social norms and values. Under the Professional Counselors and Therapists Act, the Board finds that Mr. Thomas's criminal act is one that destroys the public's confidence in the profession, that Mr. Thomas pled guilty to and was convicted of a crime of moral turpitude, and that he lacks good moral character.

Throughout the Board's investigation, Mr. Thomas's uncommunicative stance for one whole year severely compromised the Board's ability to make an informed judgment regarding his character and qualifications to practice alcohol and drug counseling. Mr. Thomas's failure to cooperate, lack of forthrightness and unwillingness to come to terms with his actions gave no assurance to the Board that he has taken responsibility for his crime.

At the hearing, Mr. Thomas also took no responsibility for his crime. In fact, Mr. Thomas denied any misconduct on his part. There was also no indication that Mr. Thomas recognized the impact of sexual battery on the fourteen-year old victim. Despite

receiving psychotherapy, Mr. Thomas apparently never explored his own psychological risk factors for this type of misconduct; or if he did so, it had no beneficial effect noticeable to the Board. He failed to satisfy the Board that he holds himself accountable for the events leading to his conviction or that the public would be protected from any future misconduct. The Board has considered the positive character references submitted by Mr. Thomas but finds them unpersuasive.

In response to questions from Board members, Mr. Thomas also stated that he has worked as an addictions counselor providing alcohol and drug counseling at his present employment since October, 2003. (T. 49-51, 55, 68) Because Mr. Thomas has never been certified as an alcohol and drug counselor or approved by the Board as an alcohol and drug trainee, (St. Exh. 10), his employment in this capacity is prohibited by §§17-301(d), 17-401 and COMAR 10.58.07.12. Mr. Thomas's practice in Maryland without Board certification also reflects badly on his moral character.

As an applicant for certification, Mr. Thomas is subject to the standards and policies adopted by the Board and embodied in the law and regulations. After a thorough review of the testimony and the evidence, the Board finds that Mr. Thomas failed to meet his burden to show that he satisfies the Board's standards of fitness for certification. Accordingly, the Board will deny Mr. Thomas a certificate to practice alcohol and drug counseling in the State of Maryland.

FINDINGS OF FACT

Having considered the entire record in connection with Mr. Thomas's application, all of the documentary and testimonial evidence presented at the hearing, and the arguments of counsel, the Board finds the following facts:

1. In June, 2003, Mr. Thomas applied to the Board for certification as a Certified Professional Counselor – Alcohol and Drug (“CPC-AD”).
2. Mr. Thomas answered “YES” to a question asking if he had ever pled guilty, nolo contendere or been convicted of or received probation before judgment of any criminal act (excluding traffic violations).
3. On his application, Mr. Thomas stated that he had been convicted of a charge of child abuse in Virginia Beach, Virginia, in 1995.
4. From October, 2003, to October, 2004, in response to the Board’s requests for more information, Mr. Thomas repeatedly failed to cooperate with the Board’s investigation to obtain information regarding the Virginia Beach charges and conviction.
5. The Board itself requested and obtained relevant court documents from the Virginia Beach district court.
6. The documents established that Mr. Thomas was charged with committing sodomy on and taking indecent liberties with a 14-year old minor while in a custodial capacity from September through December, 1992.
7. The documents also established that Mr. Thomas pled guilty to and was convicted of sexual battery with a minor in the Commonwealth of Virginia, in 1996.
8. Mr. Thomas practiced as an alcohol and drug counselor in Maryland without formal certification or approval as a trainee since October, 2003.
9. Mr. Thomas failed to meet his burden to demonstrate that he meets the requirement of good moral character. He is unfit to be certified as an alcohol and drug counselor in the State of Maryland.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes that Mr. Thomas (1) pled guilty to and was convicted of a crime of moral turpitude, in violation of Md. Health Occ. Code Ann. § 17-313(6); (2) failed to cooperate with a lawful Board investigation, in violation of Md. Health Occ. Code Ann. §17-313 (4) and (13) and COMAR 10.58.03.04 A (13); (3) fails to meet the good moral character requirements for certification as an alcohol and drug counselor as required by §§ 17-302(b), 17-302.3(b) (Repl. Vol. 2000).

ORDER

It is this 15TH day of November, 2005, by a majority of the members of the Board:

ORDERED that the Board's initial decision to deny certification as a Certified Professional Counselor – Alcohol and Drug ("CPC-AD") to Lawrance Lee Thomas pursuant to Md. Health Occ. Code Ann. § 17-313(4), (6) and (13) and §§ 17-302(b), 17-302.3(b) and COMAR 10.58.03.04 A(13), be **UPHELD**; and it is further

ORDERED that this is a Final Order and as such is a **PUBLIC** document pursuant to Md. State Gov't Code Ann. §§ 10-611 et seq. (1999 Repl. Vol.)

November 15, 2005
Date

Joanne Faber
Joanne Faber, M.Ed., LCPC, Chair
Maryland State Board of Professional
Counselors and Therapists

NOTICE OF RIGHT TO APPEAL

Pursuant to Md. Health Occ. Code Ann. § 17-315, Mr. Thomas has the right to take a direct judicial appeal. Any appeal shall be filed within thirty (30) days from the receipt of this Final Order and shall be made as provided for judicial review of a final decision in the Maryland Administrative Procedure Act, Md. State Gov't Code Ann., § 10-222 and Title 7, Chapter 200 of the Maryland Rules of Procedure.

If Mr. Thomas files an appeal, the Board is a party and must be served with the court's process. In addition, Mr. Thomas is requested to send a copy to the Board's counsel, Noreen M. Rubin, Esq., at the Office of the Attorney General, 300 W. Preston Street, Suite 302, Baltimore, Maryland 21201. The Administrative Prosecutor is no longer a party to these proceedings at this point and need not be served or copied.