

Twentieth Judicial Circuit Certified Civil Process Server Review Board

MINUTES OF MEETING

April 19, 2010

2:10 p.m.

1415 Dean Street., Ft. Myers, FL 33901

In attendance:

Board Members: Ernie Averill, Chair
Robert Tardif, Vice Chair
Lynette Young, Secretary
Sgt. Chris Webb

Non Board Members Camille Cavallo
Nico J. Vitale. Esq.

1. Quorum present.
2. Minutes of February 15, 2010 meeting were presented. Mr. Tardif made a motion to accept the minutes, seconded by Ms. Young. Motion carried.
3. A question was brought to Board concerning the posted list of servers – there are only 116 servers on the list, not the maximum of 125 servers. Mr. Averill explained that there were a few cards that have not been picked up and a few were in Naples at the time of submission to court administration the first time. The list is being corrected and the website should be updated later this month.
4. Camille Cavallo appeared before the Board to appeal Chief Judge Cary's revocation of her certification. Ms. Cavallo and her attorney, Nico J. Vitale, were present. Clarification was given that the issue being brought before the Board is not a disciplinary issue.

Mr. Vitale noted that Ms. Cavallo had been a certified process server for the past two years. She filed her application, completed her 4-hour refresher course and received notification that she was approved for 2010. He stated that no complaints have ever been filed against her. Mr. Vitale advised that Ms. Cavallo thought that picking up of her process server's ID card was just a formality. Ms. Cavallo apologized to Chief Judge for this action. Her certification has been revoked since the end of January.

Mr. Vitale stated that the procedure for picking up of the 2010 cards changed from 2009. He advised that Ms. Cavallo attempted to pick up her card up from the LCSO office on Victoria Street. Mr. Vitale stated that Ms. Cavallo has been punished enough by being shut down for the past 90 days. He indicated that she did not do anything knowingly or purposely. Rather, a mistake occurred and he is asking the Board to recommend to the Chief Judge that her suspension be reversed.

Mr. Averill stated that he would be abstaining from voting on this issue so that there will be no conflict of interest issue.

Mr. Averill made a clarification to Mr. Vitale's earlier statement. He indicated that this was not a suspension but rather a revocation. He stated that in the past the sheriff's office did keep the cards. This year Mr. Averill personally handled the notification regarding pick up of the cards. He stated that all servers know that the cards expire on December 31st of each year. The issue is that she served after that expiration date. The signing of the oath of office, which is notarized, is the event that makes the card valid. On January 21st or 22nd Mr. Averill became aware that Ms. Cavallo served on an expired card. The Chief Judge extended her appointment to January 22nd.

Mr. Vitale stated that she was unaware that she had to pick up the card. She was also unaware of where to pick up the card. Mr. Averill stated that she was told where to pick up the card. He stated that he personally told all 125 servers. Mr. Averill noted that Ms. Cavallo did not seem to have any concern about picking up her card. Mr. Averill stated that servers that came in after December 31, 2009 were required to sign a notarized statement stating that they had not served papers after December 31, 2009, and the date they picked up the new card.

Mr. Tardif wanted to get an idea of the timeframe of what happened. Ms. Cavallo stated that she went to Victoria Street and then clarified that she called LCSO on December 28, 2009, and was told that they were not doing the cards. She called Mr. Averill again around December 30, 2009. She had a telephone record that she called the call lasted one minute. Mr. Averill did not answer and she left a message. She stated that she recalls a call with Mr. Averill on December 12, 2009. On January 21, 2010, Ms. Cavallo went to the LCSO office on Six Mile Cypress. She received response from Mr. Averill the p.m. of the January 21, 2010. Mr. Averill texted back information that day.

Mr. Vitale stated that all of this could have been avoided if everything was put in writing. Ms. Cavallo is aware that this was a problem. Ms. Young stated that the agreement states that servers must have the card at all times. Mr. Averill responded that her main client asked him if Ms. Cavallo was reappointed. Mr. Tardif stated that he received a call from a lawyer from Provest around the January 21, 2010, about the appointment. Mr. Tardif asked Ms. Cavallo if any clients other than Provest asked for her reappointment and she said no. Mr. Averill stated that the Civil and Human Resources departments knew where the cards were.

Mr. Vitale stated that Ms. Cavallo was approved and made an attempt to pick her card up so she should be reappointed. Mr. Averill noted that when the Board was established it was agreed that there would be no "babysitting" of the servers. Servers are responsible for their renewals, scheduling their classes, getting their bonds, meeting the deadline, etc. Mr. Vitale noted that this is not something she did because she didn't care.

Mr. Averill stated that the Chief Judge could have temporarily revoked Ms. Cavallo's certification, but he did not. Renewing her certification currently is not an option.

Sgt. Webb asked how long Ms. Cavallo had been serving and she stated that she has been serving since 2007. Sgt. Webb asked whether she has received any complaints and she advised that she has had no complaints.

Ms. Young pointed out that Ms. Cavallo could still serve by way of filing motions and orders to appoint a special process server as a possible way to maintain her business. Mr. Tardif

pointed out that she can reapply. The Chief Judge had been very fair to Ms. Cavallo. There could have been issues regarding false returns. Mr. Averill noted that this is not a disciplinary issue, but rather a revocation, so there is no reason to invoke the disciplinary procedure.

The action was taken by the Chief Judge. The Board has not heard anything that would cause the Board to conclude differently. Mr. Vitale asked if the Chief Judge was aware that there was a change in the application pickup procedure and that the procedure was not in writing.

The Board has heard the information from counsel and from Ms. Cavallo. Reapplying is an option. Sgt. Webb made a motion to uphold the Chief Judge's decision. Mr. Tardif seconded the motion. Discussion – Mr. Vitale made note of Section 17 of the Administrative Order regarding reinstatement of revocation. He asked whether Ms. Cavallo can apply for reinstatement. She is asking for reinstatement. Sgt. Webb's motion carried. Mr. Averill abstained from voting.

It was noted that if Ms. Cavallo wanted to obtain certification again it would not be a renewal of certification, but rather a new application. She will be required to do the refresher course and not the 40-hour class. Mr. Vitale requested that a copy of minutes be emailed to him at nico@nicovitale.com. The minutes will be emailed after approval at the next Board meeting.

5. School schedule will be posted at a later date.
6. At the next meeting the items to be addressed - procedure issues, open position on the list and the waiting list procedure.
7. Complaints received by Sgt Webb - Verbal complaint about notes being left on residence. This was a verbal complaint and nothing has been received in writing. No further discussion needed at this time.
8. Meeting was adjourned at 3:35 pm.