

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Thursday the 29th day of October, 2015.

Neil Kuchinsky, Appellant,

against Record No. 150878
Circuit Court No. CL13-71

Virginia State Bar, ex rel.
Third District Committee, Appellee.

Upon an appeal from a judgment rendered by the Circuit Court of the City of Colonial Heights.

In Kuchinsky v. Virginia State Bar, 287 Va. 491, 506, 756 S.E.2d 475, 483 (2014), we remanded this case to the three-judge court to consider appropriate sanctions for two violations of the Rules of Professional Conduct that we affirmed on appeal. On remand, the three-judge court imposed public reprimands for the two rule violations. Exercising his appeal of right, pursuant to Code § 54.1-3935(E), Neil Kuchinsky now contends that the three-judge court had no “jurisdiction to hear evidence and determine a sanction on remand.” Appellant’s Br. at 2. We disagree and affirm.

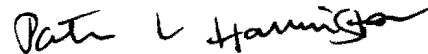
Our mandate remanded the case to the three-judge court “for reconsideration of the sanction to be imposed” for the two rule violations affirmed on appeal. Kuchinsky, 287 Va. at 506, 756 S.E.2d at 483. The three-judge court’s jurisdiction on remand was exactly the same as the jurisdiction Kuchinsky invoked when he appealed to the three-judge court from the determination made by the State Bar District Committee. See Cilman v. Virginia State Bar, 266 Va. 66, 72, 580 S.E.2d 830, 833 (2003) (explaining that “when an attorney makes a timely demand for the matter to be tried by a three-judge court, the proceedings before the Board shall terminate”); see also Code §§ 54.1-3915, 54.1-3935(D); accord Va. Sup. Ct. R., Part 6, § IV, ¶ 13-17(A). The three-judge court, therefore, had jurisdiction to reconsider and impose sanctions

on remand.* We thus affirm the judgment of the Circuit Court of the City of Colonial Heights. Appellant shall pay to the appellee two hundred and fifty dollars damages.

This order shall be certified to the said circuit court.

A Copy,

Teste:



Clerk

* Kuchinsky also argues on appeal that the exercise of remand jurisdiction by the three-judge court violates his right to a jury trial guaranteed by Article I, Section 8 of the Constitution of Virginia. See also Va. Const. art. VI, § 5 (requiring rules of court to not “be in conflict with the general law”); but cf. Seventh Dist. Comm. v. Gunter, 212 Va. 278, 284, 183 S.E.2d 713, 717 (1971) (“A proceeding to discipline an attorney . . . is a special proceeding, civil and disciplinary in nature, and of a summary character.”). We do not address this issue because it was not raised below, see Rule 5:25, and is not fairly encompassed in Kuchinsky’s single assignment of error, see Rule 5:17(c)(1)(i).