

The Supreme Court of the State of Louisiana

IN RE: DERRICK K. WILLIAMS

No. 2023-B-00949

IN RE: Disciplinary Counsel - Applicant Other; Findings and Recommendations
(Formal Charges);

October 10, 2023

Disbarment imposed. See per curiam.

JBM

JLW

JDH

SJC

JTG

WJC

PDG

Supreme Court of Louisiana

October 10, 2023



Chief Deputy Clerk of Court
For the Court

SUPREME COURT OF LOUISIANA

NO. 2023-B-0949

IN RE: DERRICK K. WILLIAMS

ATTORNEY DISCIPLINARY PROCEEDING

PER CURIAM

This disciplinary matter arises from formal charges filed by the Office of Disciplinary Counsel (“ODC”) against respondent, Derrick K. Williams, a suspended attorney. On May 24, 2022, we suspended respondent from the practice of law for one year and one day for misconduct that occurred between 2016 and 2019 and involved allowing his client trust account to become overdrawn on numerous occasions, engaging in the unauthorized practice of law during a period of ineligibility, and failing to cooperate with the ODC in several investigations. *In re: Williams*, 22-0350 (La. 5/24/22), 338 So. 3d 39. Respondent has not yet applied for reinstatement following this suspension; therefore, he remains suspended from the practice of law.

FORMAL CHARGES

On January 17, 2020, Curtis Stewart hired respondent to defend him against a lawsuit filed by his neighbor. Mr. Stewart paid respondent \$1,000 for the representation, and respondent filed an answer to the lawsuit on Mr. Stewart’s behalf. Thereafter, respondent took no further action and failed to communicate with Mr. Stewart.

On August 20, 2020, Mr. Stewart hired respondent to represent him in a personal injury matter. Respondent never discussed his fee with Mr. Stewart and never provided him with a written contingency fee contract. On December 15, 2020,

respondent received an \$11,500 settlement check on Mr. Stewart's behalf. Respondent offered Mr. Stewart \$5,000 of this total settlement, but Mr. Stewart refused and requested an accounting. Respondent did not provide the requested accounting, did not contact Mr. Stewart again, and failed to respond to Mr. Stewart's telephone calls. On December 21, 2020, respondent deposited the settlement check into his client trust account after forging Mr. Stewart's endorsement without Mr. Stewart's authority. Respondent never paid Mr. Stewart any money from the settlement. Respondent also failed to pay from the settlement \$4,320 owed to Mr. Stewart's third-party medical provider.

On August 24, 2021, Mr. Stewart filed a disciplinary complaint against respondent. Respondent failed to cooperate with the ODC's investigation of the complaint.

DISCIPLINARY PROCEEDINGS

In January 2023, the ODC filed formal charges against respondent, alleging that his conduct, as set forth above, violated the following provisions of the Rules of Professional Conduct: Rules 1.3 (failure to act with reasonable diligence and promptness in representing a client), 1.4 (failure to communicate with a client), 1.5(a) (charging an unreasonable fee), 1.5(b) (rate of fees and expenses must be communicated to the client), 1.5(c) (contingency fee agreements), 1.15(d) (failure to timely remit funds to a client or third person), 8.1(c) (failure to cooperate with the ODC in its investigation), and 8.4(c) (engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation).

Respondent failed to file an answer to the formal charges. Accordingly, the factual allegations contained therein were deemed admitted and proven by clear and convincing evidence pursuant to Supreme Court Rule XIX, § 11(E)(3). No formal hearing was held, but the parties were given an opportunity to file with the hearing

committee written arguments and documentary evidence on the issue of sanctions. Respondent filed nothing for the committee's consideration.

Hearing Committee Recommendation

After considering the ODC's deemed admitted submission, the hearing committee made factual findings consistent with the deemed admitted facts set forth in the formal charges. Based upon those facts, the committee determined respondent violated the Rules of Professional Conduct as charged.

The committee then determined respondent knowingly and intentionally violated duties owed to the public and the legal profession, and his conduct caused actual harm to his client. The committee also noted that respondent has abandoned his law practice and has been uncooperative in this disciplinary proceeding. Based upon the ABA's *Standards for Imposing Lawyer Sanctions*, the committee determined the baseline sanction is disbarment.

The committee found no mitigating factors present. However, in aggravation, the committee found the following: a prior disciplinary record, a dishonest or selfish motive, a pattern of misconduct, multiple offenses, bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with the rules or orders of the disciplinary agency, vulnerability of the victim, substantial experience in the practice of law (admitted 2006), and indifference to making restitution.

After further considering this court's prior case law addressing similar misconduct, the committee recommended that respondent be disbarred. The committee further recommended that respondent be ordered to make full restitution.

Neither respondent nor the ODC filed an objection to the committee's recommendation. Therefore, pursuant to Supreme Court Rule XIX, § 11(G), the disciplinary board submitted the committee's report directly to this court.

DISCUSSION

Bar disciplinary matters fall within the original jurisdiction of this court. La. Const. art. V, § 5(B). Consequently, we act as triers of fact and conduct an independent review of the record to determine whether the alleged misconduct has been proven by clear and convincing evidence. *In re: Banks*, 09-1212 (La. 10/2/09), 18 So. 3d 57.

In cases in which the lawyer does not answer the formal charges, the factual allegations of those charges are deemed admitted. Supreme Court Rule XIX, § 11(E)(3). Thus, the ODC bears no additional burden to prove the factual allegations contained in the formal charges after those charges have been deemed admitted. However, the language of § 11(E)(3) does not encompass legal conclusions that flow from the factual allegations. If the legal conclusion the ODC seeks to prove (i.e., a violation of a specific rule) is not readily apparent from the deemed admitted facts, additional evidence may need to be submitted in order to prove the legal conclusions that flow from the admitted factual allegations. *In re: Donnan*, 01-3058 (La. 1/10/03), 838 So. 2d 715.

The record of this deemed admitted matter supports a finding that respondent neglected a legal matter, failed to communicate with a client, charged an unreasonable fee, failed to explain a fee arrangement to a client, failed to reduce a contingency fee agreement to writing, forged a client's endorsement on a settlement check, failed to pay settlement proceeds to a client and the client's third-party medical provider, and failed to cooperate with the ODC in its investigation. Based upon these facts, respondent has violated the Rules of Professional Conduct as charged.

Having found evidence of professional misconduct, we now turn to a determination of the appropriate sanction for respondent's actions. In determining a sanction, we are mindful that disciplinary proceedings are designed to maintain

high standards of conduct, protect the public, preserve the integrity of the profession, and deter future misconduct. *Louisiana State Bar Ass'n v. Reis*, 513 So. 2d 1173 (La. 1987). The discipline to be imposed depends upon the facts of each case and the seriousness of the offenses involved considered in light of any aggravating and mitigating circumstances. *Louisiana State Bar Ass'n v. Whittington*, 459 So. 2d 520 (La. 1984).

Respondent has knowingly and intentionally violated duties owed to his client, the public, and the legal profession. His conduct has caused significant actual harm to his client and his client's third-party medical provider and has caused potential harm to the attorney disciplinary system. We agree with the hearing committee that the baseline sanction is disbarment. We also agree with the committee's determination of aggravating factors, and we agree that the record does not support the presence of any mitigating factors.

Our prior case law indicates that the committee's recommended sanction of disbarment is reasonable. Regarding respondent's conversion of client funds by failing to pay Mr. Stewart or his third-party medical provider, in *Louisiana State Bar Ass'n v. Hinrichs*, 486 So. 2d 116 (La. 1986), we established guidelines for disciplining attorneys who have engaged in such conduct. More specifically, in *Hinrichs*, we stated that disbarment is appropriate when one or more of the following are present:

the lawyer acts in bad faith and intends a result inconsistent with his client's interest; the lawyer commits forgery or other fraudulent acts in connection with the violation; the magnitude or the duration of the deprivation is extensive; the magnitude of the damage or risk of damage, expense and inconvenience caused the client is great; the lawyer either fails to make full restitution or does so tardily after extended pressure of disciplinary or legal proceedings.

The deemed admitted facts in this matter indicate that most, if not all, of the above elements are present here, thereby warranting disbarment.

The imposition of disbarment is further supported by the more recent case of *In re: Merritt*, 23-0134 (La. 5/31/23), 361 So. 3d 451, wherein an attorney neglected a legal matter, failed to communicate with his clients, converted approximately \$11,500 in client funds, and failed to cooperate with the ODC in its investigation. We determined that the attorney acted knowingly, if not intentionally, and caused significant actual harm. For this misconduct, we imposed disbarment and ordered the attorney to make full restitution.

In light of this case law, as well as respondent's prior disciplinary record, a downward deviation from the baseline sanction is unwarranted. Accordingly, we will adopt the committee's recommendation and disbar respondent. We will further order respondent to make full restitution.

DECREE

Upon review of the findings and recommendation of the hearing committee, and considering the record, it is ordered that Derrick K. Williams, Louisiana Bar Roll number 30836, be and he hereby is disbarred. His name shall be stricken from the roll of attorneys and his license to practice law in the State of Louisiana shall be revoked. It is further ordered that respondent shall make full restitution to Curtis Stewart and his third-party medical provider. All costs and expenses in the matter are assessed against respondent in accordance with Supreme Court Rule XIX, § 10.1, with legal interest to commence thirty days from the date of finality of this court's judgment until paid.