

The Supreme Court of the State of Louisiana

IN RE: KEVIN MATTHEW DANTZLER

No. 2023-B-00966

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

December 05, 2023

Permanent disbarment imposed. See per curiam.

SJC
JLW
JDH
JTG
JBM
PDG

Crain, J., dissents and assigns reasons.

Supreme Court of Louisiana
December 05, 2023

Katio Marjanovic
Chief Deputy Clerk of Court
For the Court

SUPREME COURT OF LOUISIANA

NO. 2023-B-0966

IN RE: KEVIN MATTHEW DANTZLER

ATTORNEY DISCIPLINARY PROCEEDING

PER CURIAM

This disciplinary matter arises from formal charges filed by the Office of Disciplinary Counsel (“ODC”) against respondent, Kevin Matthew Dantzler, a disbarred attorney.

PRIOR DISCIPLINARY HISTORY

Before we address the current charges, we find it helpful to review respondent’s prior disciplinary history. Respondent was admitted to the practice of law in Louisiana in 2006.

In 2018, we placed respondent on interim suspension for threat of harm to the public. *In re: Dantzler*, 18-0621 (La. 4/27/18), 242 So. 3d 559. In 2021, we disbarred respondent, retroactive to the date of his interim suspension, for neglecting legal matters, failing to communicate with clients, failing to return client files upon request, failing to refund unearned fees, allowing his client trust account to become overdrawn on numerous occasions, converting client funds, practicing law while ineligible to do so, practicing law after being placed on interim suspension, illegally selling pain pills to another person, and failing to cooperate with the ODC in numerous investigations. *In re: Dantzler*, 21-1235 (La. 11/3/21), 326 So. 3d 868 (“*Dantzler I*”).

Against this backdrop, we now turn to a consideration of the misconduct at issue in the instant proceeding.

FORMAL CHARGES

Count I

On June 11, 2021, respondent was arrested in Grant Parish for Possession of Controlled Dangerous Substances, Schedule II (Fentanyl). On January 13, 2022, respondent pleaded guilty as charged.

Count II

On June 28, 2021, respondent was arrested in Rapides Parish for Possession of Controlled Dangerous Substances, Schedule II (Fentanyl). Neither he nor his attorney appeared for his December 2021 arraignment. A bench warrant was issued for respondent's arrest and a contempt bond was set at \$25,000. On September 29, 2022, respondent pleaded guilty as charged.

Count III

While obtaining the documentation for the criminal cases at issue in Counts I and II, the ODC learned that respondent had been arrested on November 30, 2018 for issuing worthless checks.

On October 4, 2021, the ODC mailed notice of the complaint to respondent at his primary bar registration address, but the notice was returned unclaimed.

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 8.1(c) (failure to cooperate with the ODC in its investigation), 8.4(a) (violation of the Rules of Professional Conduct), and 8.4(b) (commission of a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer).

Respondent failed to answer 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 Report

After considering the ODC's deemed admitted submission, the hearing committee determined that the factual allegations of the formal charges were deemed admitted and, thus, proven by clear and convincing evidence. The committee also made the following factual findings:

Count I: Respondent was arrested in Grant Parish for possession of fentanyl after he was observed dropping a cigarette package that contained the drug at the Jena Choctaw Pines Casino.

Count II: Respondent was stopped in Rapides Parish after law enforcement observed him driving erratically. During a pat-down search, officers detected a "cut straw," frequently used for nasal inhalation of narcotics. Respondent admitted that he had ingested fentanyl that morning. He was taken to the hospital for treatment and then transported to the Rapides Parish jail. Respondent was subsequently charged by bill of information with a violation of La. R.S. 40:967.

Count III: Respondent was arrested in Alexandria for issuing worthless checks. Respondent did not respond to the disciplinary complaint.

Based on those facts, the committee found that respondent violated Rules 8.1(c), 8.4(a), and 8.4(b) of the Rules of Professional Conduct. As to the violation of Rule 8.4(b), the committee noted that respondent pleaded guilty to two significant violations of Louisiana law regarding narcotics, the abuse of which clearly impacts

one's fitness to practice law, which requires clarity of judgment. The committee added that the arrest for issuing worthless checks reflects on his trustworthiness.

The committee determined respondent knowingly violated duties owed to the legal system and the legal profession. His conduct caused potential harm to the public and actual harm to the legal profession. By engaging in criminal behavior, respondent undermined the integrity of the profession as a whole and the public's confidence in the profession. Based on the ABA's *Standards for Imposing Lawyer Sanctions*, the committee determined the baseline sanction is disbarment.

In aggravation, the committee found the following factors present: a prior disciplinary record, a pattern of misconduct, substantial experience in the practice of law, and illegal conduct, including that involving the use of controlled substances. The committee also noted that respondent has "consistently refused to cooperate in the disciplinary process in both the current matter and in [*Dantzler I*]." The committee found no mitigating factors present.

After further considering the court's prior case law addressing similar misconduct, the committee recommended respondent be permanently disbarred.

Neither respondent nor the ODC filed an objection to the hearing committee's report and recommendation. Therefore, pursuant to Supreme Court Rule XIX, § 11(G), the disciplinary board submitted the committee's report to the court for review.¹

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

¹ As amended effective May 15, 2019, Supreme Court Rule XIX, § 11(G) provides that "[i]f the parties do not file objections to the hearing committee report, the board shall promptly submit the hearing committee's report to the court."

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. While we are not bound in any way by the findings and recommendations of the hearing committee and disciplinary board, we have held the manifest error standard is applicable to the committee's factual findings. *See In re: Caulfield*, 96-1401 (La. 11/25/96), 683 So.2d 714; *In re: Pardue*, 93-2865 (La. 3/11/94), 633 So.2d 150.

The record in this deemed admitted matter supports a finding that respondent was arrested for issuing worthless checks and twice convicted of possession of illegal narcotics. Respondent also failed to cooperate with the ODC in its investigation. This conduct amounts to a violation of 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).

The record supports a finding that respondent knowingly violated duties owed to the public and the legal profession. His conduct caused both potential and actual harm. The applicable baseline sanction is disbarment. The record supports the aggravating factors found by the committee. No mitigating factors are present.

The committee has recommended that respondent be permanently disbarred. On May 4, 2022, we adopted amendments to Supreme Court Rule XIX related to

permanent disbarment. As is set forth in the order, permanent disbarment may be imposed only “upon an express finding of the presence of the following factors: (1) the lawyer’s conduct is so egregious as to demonstrate a convincing lack of ethical and moral fitness to practice law; and (2) there is no reasonable expectation of significant rehabilitation in the lawyer’s character in the future.” Respondent’s misconduct was clearly egregious. His convictions for two felony drug offenses “demonstrate[s] a convincing lack of ethical and moral fitness to practice law.” Furthermore, the misconduct at issue occurred after respondent was disbarred for misconduct that included selling pain pills to a friend. We therefore find there can be no reasonable expectation of significant rehabilitation in respondent’s character in the future.

Based on these findings, we conclude the recommended sanction of permanent disbarment is adequately supported under Supreme Court Rule XIX. Accordingly, we will accept the committee’s recommendation and permanently disbar respondent.

DECREE

Upon review of the findings and recommendations of the hearing committee, and considering the record, it is ordered that Kevin Matthew Dantzler, Louisiana Bar Roll number 30237, be and he hereby is permanently 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. Pursuant to Supreme Court Rule XIX, § 24(A), it is further ordered that respondent be permanently prohibited from being readmitted to the practice of law in this state. 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.

SUPREME COURT OF LOUISIANA

No. 2023-B-00966

IN RE: KEVIN MATTHEW DANTZLER

Attorney Disciplinary Proceeding

CRAIN, J., dissents and assigns reasons.

I dissent, finding the imposition of discipline is premature. Respondent is currently disbarred and cannot be readmitted without the approval of this court. Accordingly, he is not currently a practicing attorney. The allegations, while serious and amount to violations of the Rules of Professional Conduct, occurred after Respondent's disbarment and should be considered only if and when he seeks readmission. It is inefficient and places an unnecessary demand on this court's limited resources to police the conduct of an individual who is not currently practicing law and cannot until and unless this court finds he meets the requirements for readmission. I would defer consideration of the current disciplinary charges to that time.