

## LOUISIANA ATTORNEY DISCIPLINARY BOARD

IN RE: RICHARD FORREST WHITE

DOCKET NO. 21-DB-031

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REPORT OF HEARING COMMITTEE #6

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## INTRODUCTION

This attorney disciplinary matter arises out of formal charges filed by the Office of Disciplinary Counsel (“ODC”) against Richard Forrest White (“Respondent”), Louisiana Bar Roll Number 22892.<sup>1</sup> ODC alleges that Respondent violated the following Rules of Professional Conduct: 1.3, 1.4(a)(3 & 4), 1.16(d), 8.1(c), and 8.4(a).<sup>2</sup>

## PROCEDURAL HISTORY

The formal charges were filed on May 26, 2021. By letters dated June 7, 2021, the formal charges were mailed via certified mail to Respondent’s primary registration address and another known address.<sup>3</sup> The mailings were returned marked as “unclaimed.” An ODC Staff Investigator also attempted to personally serve Respondent on July 30, 2021. Respondent failed to file an answer to the charges. Accordingly, on September 14, 2021, ODC filed a motion to deem the factual allegations admitted pursuant to Louisiana Supreme Court Rule XIX, §11(E)(3).<sup>4</sup> By order

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<sup>1</sup> Respondent was admitted to the practice of law in Louisiana on April 11, 1994. Respondent is currently ineligible to practice law due to his failure to complete his annual professional obligations.

<sup>2</sup> See the attached Appendix for the text of these Rules.

<sup>3</sup> 1522 20<sup>th</sup> St., Lake Charles, LA 70601 (primary); 650 6<sup>th</sup> St., Lake Charles, LA 70601 (other known).

<sup>4</sup> This rule states:

The respondent shall file a written answer with the Board and serve a copy on disciplinary counsel within twenty (20) days after service of the formal charges, unless the time is extended by the chair of the hearing committee. In the event, Respondent fails to answer within the prescribed time, or the time as extended, the factual allegations contained within the formal charges shall be deemed admitted and proven by clear and convincing evidence. Disciplinary Counsel shall file a motion with the chair of the hearing committee to which the matter is assigned requesting that the factual allegations be deemed proven with proof of service of the formal charges upon the respondent. The

signed September 22, 2021, the factual allegations contained in the formal charges were deemed admitted. On November 12, 2021, ODC filed its submission on sanction.

For the following reasons, the Committee finds that the Respondent violated the Rules of Professional Conduct as detailed below and recommends that he be suspended from the practice of law for one year and one day.

### **FORMAL CHARGES**

The formal charges read, in pertinent part:

On or about October 31, 2020, the Office of Disciplinary Counsel (hereinafter "ODC") received a complaint from Scott Campbell (hereinafter sometimes referred to as "Complainant" or "Mr. Campbell"). The ODC made several attempts to contact Respondent to remedy the issue complained of prior to opening this complaint. Specifically, the ODC sent emails to Respondent's bar registered address on November 9 and 16, 2020. The ODC attempted to contact Respondent via telephone at his bar registered phone number on November 12, 18 and 23, 2020. On December 1, 2020, the ODC forwarded a letter to Respondent with the complaint attached, instructing Respondent to forward the client file to the Complainant within fifteen (15) days and advise the ODC, in writing, of his compliance with the request. The December 1, 2020 letter was served on December 4, 2020, at Respondent's primary bar registered address. No response to the December 1, 2020, letter was ever received by the ODC. After numerous attempts by the ODC, as described herein above, to contact Respondent were unsuccessful, the matter was opened as investigative file number 0038950.

On January 29, 2021, a copy of the complaint was again forwarded to Respondent via certified mail to his primary address registered with the Louisiana State Bar Association. See Louisiana State Supreme Court Rule XIX, §8C. This address was also registered as Respondent's preferred mailing address. Respondent was directed to file a written response with the ODC within fifteen (15) days. See Louisiana State Supreme Court Rule XIX, §§ 4B(2), 9C; Louisiana Rules of Professional Conduct, Rule 8.4(b)(c). The certified mail was delivered to the Respondent on February 5, 2021. Having received no response to the original complaint, the ODC sent a second request, via certified mail, for a response to the Respondent on February 23, 2021. The certified mail was delivered to the Respondent on February 25, 2021.

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order signed by the hearing committee chair shall be served upon respondent as provided by Section 13C. Within twenty (20) days of the mailing of the order of the hearing committee chair deeming the factual allegations contained in the formal charges proven, the respondent may move the hearing committee chair to recall the order thus issued upon demonstration of good cause why imposition of the order would be improper or would result in a miscarriage of justice.

On March 10, 2021, ODC Investigator, Ishrahayl Dillard, traveled to Lake Charles in an effort to serve Respondent with the complaint and an investigative subpoena. The attempt to serve Respondent at his bar primary/secondary/preferred address, as well as an additional address the ODC obtained was unsuccessful.

To date, Respondent has not responded to the complaint, nor has the ODC had any contact with Respondent related to ODC complaint number 38950.

The facts arising from the investigation of this complaint are simple. Respondent enrolled as attorney for Complainant on May 29, 2018, in the matter entitled *State of Louisiana v. Scott Richard Campbell*, Case # 3635-VC-2018, before the 14th Judicial District Court, Parish of Calcasieu. The Complainant was being charged with Attempted Second-Degree Rape. On this same date, Respondent, on the record, acknowledged receipt of a Joint Stipulation Packet. On October 22, 2019, with counsel, Blake Hale, the Complainant pled no contest to the charge of Attempted Second-Degree Rape. Thereafter, on December 18, 2019, while represented in court by Respondent, the Court sentenced Complainant to fifteen (15) years in the custody of the Department of Corrections at hard labor, with credit for time served from the date of the arrest, December 23, 2017.

According to Complainant, shortly after being sentenced by the Court, on July 26, 2020 and October 11, 2020, Complainant wrote to Respondent in an attempt to retrieve his entire client file in order to proceed with the appeals process. Moreover, the Complainant reports that he has been successful in attempting to contact Respondent via telephone. To date, despite his efforts, Complainant has not received his client file, nor has he been able to communicate with Respondent in any way.

The Office of Disciplinary Counsel respectfully suggests that there exist clear and convincing evidence that Respondent has violated the following Rules of Professional Conduct: Rule 1.3 (diligence); Rule 1.4(A)(3)(4)(failure to communicate); Rule 1.16(d)(Declining or Terminating Representation); Rule 8.1(c)(failure to cooperate with the Office of Disciplinary Counsel); Rule 8.4(a)(Violate or Attempt to Violate the Rules).

### **EVIDENCE**

The Committee reviewed the exhibits submitted by ODC, which are Exhibits ODC 1-18. Respondent did not submit evidence or argument for the Committee's consideration, nor did he request to be heard in mitigation pursuant to Rule XIX, §11(E)(4).

### **FINDINGS OF FACT**

Respondent did not respond to the allegations made by ODC so the Committee finds all of the allegations presented by ODC to be deemed admitted and to have actually occurred. As such the facts outlined above are adopted as factual findings by the Committee.

## **RULES VIOLATED**

The Committee finds that the deemed admitted factual allegations are sufficient to prove the violation of all of the Rules ODC had alleged that Respondent breached. The Committee finds that there exists clear and convincing evidence that Respondent has negligently, knowingly and intentionally violated the following Rules of Professional Conduct: Rule 1.3 (diligence); Rule 1.4(A)(3)(4)(failure to communicate); Rule 1.16(d)(Declining or Terminating Representation); Rule 8.1(c)(failure to cooperate with the Office of Disciplinary Counsel); Rule 8.4(a)(Violate or Attempt to Violate the Rules).

## **SANCTION**

Louisiana Supreme Court Rule XIX, §10(C), states that when imposing a sanction after a finding of lawyer misconduct, a committee shall consider the following factors:

- (1) Whether the lawyer has violated a duty owed to a client, to the public, to the legal system, or to the profession;
- (2) Whether the lawyer acted intentionally, knowingly, or negligently;
- (3) The amount of the actual or potential injury caused by the lawyer's misconduct; and
- (4) The existence of any aggravating or mitigating factors.

Here, Respondent violated duties owed to the client, public, legal system, and profession. He acted negligently, knowingly, and intentionally on the different violations. Respondent's misconduct caused harm as outlined in the misconduct charges outlined above. The financial harm to his client is significant. Respondent's failure to cooperate with ODC's investigations, his false statements to his client, his multiple offenses, his pattern of not communicating with his client and the ODC, and his prior and pending disciplinary history serve as aggravating factors. Respondent violated duties owed to both his client, the ODC, and the legal profession as a whole.

The *ABA Standards for Imposing Lawyer Sanctions* suggest that suspension is the baseline sanction for Respondent's misconduct. They provide, "[i]n imposing a sanction after a finding

of lawyer misconduct, a court should consider the following factors: (a) the duty violated; (b) the lawyer's mental state; (c) the potential or actual injury caused by the lawyer's misconduct; and (d) the existence of aggravating or mitigating factors." ABA Standard 3.0.

With regard to Respondent's violation of Rules 1.3 and 1.4 in neglecting a client matter and failing to communicate with his client, ABA Standard 4.42(a) makes it clear that "Suspension is generally appropriate when a lawyer engages in a pattern of neglect and causes injury or potential injury to a client." Moreover, ABA Standard 4.12 states, "suspension is generally appropriate when a lawyer knows or should know that he is dealing improperly with client property and causes injury or potential injury to a client."

In this case, Respondent repeatedly ignored Complainant's multiple requests for information in writing and by telephone. Respondent improperly handled client's property by withholding and failing to return Complainant's client file, thereby causing injury to Complainant because to date, he has not received his client file from Respondent. This has prevented Complainant, an incarcerated and thus vulnerable individual with limited resources, from properly pursuing an appeal and/or post-conviction relief. Respondent's conduct was knowing, if not intentional.

In re Martin, 2006-2948 (La. 3/9/07), 951 So. 2d 167, involved a matter wherein the court found a two-year suspension from the practice of law was the appropriate sanction for attorney's misconduct in neglecting a bankruptcy matter, failing to communicate with client, failing to protect client's interests upon termination of representation, and failing to cooperate with Office of Disciplinary Counsel (ODC) in its investigation. The attorney's conduct resulted in considerable harm to client, and there were various aggravating factors, including

prior disciplinary offenses, bad faith obstruction of disciplinary proceeding, and vulnerability of victim.

In re Taylor, 2014-0646 (La. 5/23/14), 139 So. 3d 1004, involved a deemed admitted matter wherein the Court found the attorney's neglect of client's postconviction petition and failure to communicate with client, to refund an unearned fee, and to cooperate with the disciplinary authority in its investigation warranted suspension from practice of law for period of one year and one day. The court specifically stated, "[i]n cases of misconduct involving one count of neglect, failure to communicate, and failure to cooperate with the ODC, we have typically imposed a one year and one day suspension. In re Taylor, 2014-0646 (La. 5/23/14), 139 So. 3d 1004, 1007. In so reasoning, the court relied on the following cases: In re: Kurzweg, 03-2902 (La.4/2/04), 870 So.2d 978 (attorney neglected a legal matter, failed to communicate with his clients, and failed to cooperate with the ODC in its investigation; no mitigating factors were present, and the aggravating factors included the attorney's ineligibility to practice law); In re: Turnage, 01-1240 (La.6/22/01), 790 So.2d 620 (attorney neglected a legal matter, failed to communicate with her client, failed to return her client's file, failed to refund an unearned fee, and failed to cooperate with the ODC in two separate investigations; numerous aggravating factors present but no mitigating factors); In re: Bergeron, 00-1386 (La.9/15/00), 768 So.2d 595 (attorney knowingly and intentionally neglected his client's legal matter, failed to communicate with his client, failed to return his client's file, and failed to cooperate with the ODC in its investigation). In re Taylor, 2014-0646 (La. 5/23/14), 139 So. 3d 1004, 1007.

In aggravation, considering Respondent's conduct complained of in 21-DB-006, Respondent has established a pattern of illegal misconduct and has engaged in deceptive practices

during the disciplinary processes; Respondent has exhibited a gross lack of cooperation with the disciplinary process, and substantial experience in the practice of law. In mitigation, the Respondent has no prior disciplinary record, although as described above, he has a pending recommendation for permanent disbarment which is currently before the Board under docket number 21-DB-006. Respondent's lack of participation in the disciplinary process makes it difficult to determine if there are any additional aggravating or mitigating circumstances which would be supported by the evidence.

### **PROPOSED SANCTION AND CONCLUSION**

The Committee finds that the appropriate discipline for Respondent's knowing, if not intentional, violations of Rules 1.3; 1.4(A)(3)(4); 1.16(d); 8.1(c) and 8.4(a) is a suspension of one (1) year and one (1) day, with discipline to commence from the effective date of the final order of discipline. Respondent should also be cast with all costs and expenses. See La. S.Ct. Rules, Rule XIX, §10.1.

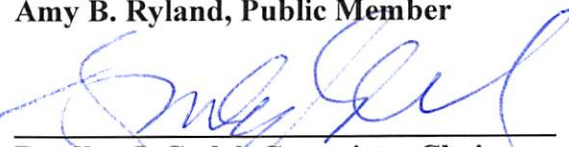
This opinion is unanimous and has been reviewed by each committee member, who fully concur, and who have authorized the Chair to sign on their behalf.

ALEXANDER, Louisiana, this 10 day of JANUARY, <sup>2022</sup>2021.

**Louisiana Attorney Disciplinary Board  
Hearing Committee #6**

**Bradley J. Gadel, Committee Chair  
Andree B. Leddy, Lawyer Member  
Amy B. Ryland, Public Member**

BY:

  
**Bradley J. Gadel, Committee Chair  
For the Committee**

## **APPENDIX**

### **Rule 1.3. Diligence**

A lawyer shall act with reasonable diligence and promptness in representing a client.

### **Rule 1.4. Communication**

(a) A lawyer shall: ... (3) keep the client reasonably informed about the status of the matter; (4) promptly comply with reasonable requests for information; ...

### **Rule 1.16. Declining or Terminating Representation**

...

(d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. Upon written request by the client, the lawyer shall promptly release to the client or the client's new lawyer the entire file relating to the matter. The lawyer may retain a copy of the file but shall not condition release over issues relating to the expense of copying the file or for any other reason. The responsibility for the cost of copying shall be determined in an appropriate proceeding.

### **Rule 8.1. Bar Admission and Disciplinary Matters**

An applicant for admission to the bar, or a lawyer in connection with a bar admission application or in connection with a disciplinary matter, shall not:

...

(c) Fail to cooperate with the Office of Disciplinary Counsel in its investigation of any matter before it except for an openly expressed claim of a constitutional privilege.

### **Rule 8.4. Misconduct**

It is professional misconduct for a lawyer to:

(a) Violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;

...