

The Supreme Court of the State of Louisiana

IN RE: GEORGE ALLEN ROTH WALSH

No. 2022-B-00695

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

June 28, 2022

Disbarment imposed. See per curiam.

JTG

JLW

JDH

SJC

WJC

JBM

PDG

Supreme Court of Louisiana

June 28, 2022



Chief Deputy Clerk of Court
For the Court

SUPREME COURT OF LOUISIANA

NO. 2022-B-0695

IN RE: GEORGE ALLEN ROTH WALSH

ATTORNEY DISCIPLINARY PROCEEDING

PER CURIAM

This disciplinary matter arises from formal charges filed by the Office of Disciplinary Counsel (“ODC”) against respondent, George Allen Roth Walsh, a currently 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 2005.

In 2018, this court considered a petition for consent discipline in which respondent acknowledged that he had practiced law while he was ineligible to do so. For this misconduct, we suspended respondent from the practice of law for six months, with all but thirty days deferred, followed by one year of probation with conditions. *In re: Walsh*, 18-1232 (La. 12/3/18), 257 So. 3d 654 (“*Walsh I*”). Respondent had not yet sought reinstatement from his suspension in *Walsh I* when he engaged in the practice of law, failed to advise his client of his suspension, and fraudulently filed pleadings under his father’s name and bar roll number in an effort to conceal his unauthorized practice of law. For this misconduct, which took place throughout 2019, we disbarred respondent. *In re: Walsh*, 21-0280 (La. 6/29/21), 319 So. 3d 281 (“*Walsh II*”).

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

FORMAL CHARGES

On July 14, 2019, respondent was driving a pickup truck westbound on I-12 in Baton Rouge. He exited at Drusilla Lane and came to a stop at the intersection but did not proceed when the traffic signal cycled to green. A motorist who had been following respondent exited his vehicle, approached respondent's door, and tapped on the driver's side window. Respondent did not respond to the tapping sound on the window glass, and the witness called police to report the matter.

When officers arrived on the scene, respondent was slumped over his steering wheel, with his truck transmission still in gear. Although he was unconscious, respondent was applying sufficient pressure on the brake pedal to prevent the vehicle from moving forward. The officers successfully roused respondent and removed him from the vehicle so that it could be moved to a safe location. Corporal Lateral Sawyer of the Baton Rouge City Police Department then arrived on the scene. He noted a strong odor of alcohol on respondent's person, and the odor intensified as respondent spoke to officers. Respondent was given notice of his Miranda rights and asked to perform a field sobriety test. His performance was poor and he exhibited all six cues for impairment on the HGN (horizontal gaze nystagmus) test.¹ Respondent was transported to the Third District Station of the Baton Rouge Police Department, where he was offered an Intoxilyzer breath test, but he refused to submit

¹ During his sworn statement, Corporal Sawyer testified that respondent's speech was heavily slurred, his balance was unsteady, his eyes were glassy and bloodshot, and he appeared to be obviously intoxicated. Corporal Sawyer stated that he had to terminate a portion of one of the sobriety tests for safety reasons because it appeared that respondent was going to physically topple over. Respondent denied consuming any alcohol, indicated that he was an attorney, and argued that he should not be arrested. He also accused Corporal Sawyer of harassment.

a sample. Respondent was arrested and charged with first offense DWI, driving on a suspended/revoked license, and obstruction of a public passage.

Following his arrest, a blood sample was successfully drawn from respondent. As Corporal Sawyer recalled, respondent's blood alcohol content was approximately .3g%, at which level he would be characterized as highly intoxicated, almost four times the legal BAC limit to qualify as impaired. Corporal Sawyer explained that a BAC of .3g% would classify respondent as "dangerously intoxicated" and near the threshold for alcohol poisoning. According to the scientific analysis report prepared by the Louisiana State Police Crime Lab and tendered to the ODC, respondent's blood alcohol content was .32g%, which indicates that he was in a severely intoxicated condition at the time the sample was drawn.

The ODC sent respondent a DWI initial notice letter containing a reference to the Judges and Lawyers Assistance Program ("JLAP") and instructing respondent to contact JLAP's executive director about obtaining an evaluation to determine the existence of any potential substance abuse issues. Also with the mailing, the ODC included release forms for respondent's signature. Respondent did not contact JLAP or sign and return the release forms to the ODC. Respondent also failed to provide a written response to the notice letter, as required.

On January 28, 2021, respondent pleaded guilty to first offense DWI. However, as of July 27, 2021, respondent had not appeared for his probation review. A bench warrant was then issued for his arrest. Based upon information and belief, respondent failed to complete any of his other obligations, including thirty-two hours of community service, Mothers Against Drunk Driving requirements, a driver improvement program, and the payment of \$760 in fees owed to the court.

DISCIPLINARY PROCEEDINGS

In September 2021, the ODC filed formal charges against respondent, alleging that his conduct set forth above violated the following provisions of the Rules of Professional Conduct: Rules 8.1(b) (knowing failure to respond to a lawful demand for information from a disciplinary authority), 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.² 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, as well as the ODC's submission on sanctions, the hearing committee found that the factual allegations in the formal charges are deemed admitted and supported by the evidence in the record. Based on the deemed admitted facts, the committee made the following factual findings:

The formal charges illustrate that respondent pleaded guilty to the criminal offense of first offense DWI. Respondent has neither provided a response to the formal charges nor has he seen fit to cooperate with the ODC in the adjudication of this matter. While driving in an intoxicated state and failing to respond to the ODC

² The formal charges, which were mailed via certified mail to respondent's primary and secondary bar registration addresses, were returned marked "refused."

are egregious acts of misconduct, respondent's failure to adhere to the order of the 19th JDC illustrates his inability to function appropriately and effectively as an officer of the court. Additionally, the fact that respondent is currently disbarred brings into question whether he has the mental, medical, and/or physical capacity to continue in the practice of law, which compels the committee to consider a stronger penalty.

The committee found respondent violated duties owed to the public and the court. He acted knowingly and intentionally. Based upon his disregard for the safety of others as well as his disregard for the court, his misconduct caused actual harm to the general public and to the profession. The committee determined that the applicable baseline sanction is permanent disbarment.³ The sole aggravating factor found by the committee was a prior disciplinary record. The committee did not mention any mitigating factors.

Turning to the issue of an appropriate sanction, the committee noted that this court has imposed permanent disbarment upon disbarred attorneys who continued to engage in behavior that violated the Rules of Professional Conduct. For example, in *In re: Guidry*, 02-3006 (La. 6/27/03), 849 So. 2d 525, the court permanently disbarred an attorney who engaged in the unauthorized practice of law and converted client funds. Similarly, in *In re: Dyer*, 05-0522 (La. 4/29/05), 900 So. 2d 824, the court permanently disbarred an attorney who, among other misconduct, engaged in the unauthorized practice of law and converted the settlement funds of two clients, resulting in one matter in his conviction for felony theft.

Here, respondent was disbarred in *Walsh II* but he has nevertheless continued to engage in violations of the Rules of Professional Conduct. He pleaded guilty to DWI and failed to cooperate with the ODC, demonstrating that he "has total

³ In *In re: McClanahan*, 09-1883, fn. 9 (La. 2/5/10), 26 So. 3d 756, we established that disbarment, and not permanent disbarment, is the most serious sanction available as a baseline sanction.

disregard for the discipline that was previously administered and the professional standards that have been established for this profession.”

Based on this reasoning, the committee recommended that respondent be permanently disbarred.

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

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. 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 pleaded guilty to first offense DWI and then failed to cooperate with the ODC’s investigation. This misconduct amounts to a violation of Rules 8.1(b), 8.1(c), 8.4(a), and 8.4(b) 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).

Respondent violated duties owed to the public and the legal profession. He acted at least knowingly, and perhaps intentionally, with regard to his failure to cooperate with the ODC. His misconduct caused potential harm to the public and actual harm to the profession. The applicable baseline sanction is suspension.

The record supports the following aggravating factors: a prior disciplinary record, bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with the rules or orders of the disciplinary agency, substantial experience in the practice of law, and illegal conduct. The only mitigating factor supported by the record is the imposition of other penalties or sanctions.

Turning to the issue of an appropriate sanction, we find the committee erred insofar as it failed to recognize that the substantive misconduct charged in the instant proceeding occurred during the same general time frame as the conduct forming the basis of respondent's disbarment in *Walsh II*. In *Louisiana State Bar Ass'n v. Chatelain*, 573 So. 2d 470 (La. 1991), we considered an attorney's misconduct that occurred during the same general time period as his misconduct in a previous proceeding, which led to the attorney's disbarment. Because of this timing of the misconduct, we adjudged the disbarred attorney guilty of additional violations to be considered when and if the attorney sought readmission after becoming eligible to do so.

We acknowledge our decision in *Chatelain* was rendered prior to the adoption of the provisions for permanent disbarment in 2001. A decision to permanently prohibit respondent from seeking readmission would obviate the need to consider these violations in the future.

However, we do not find the record demonstrates respondent's actions are so egregious as to demonstrate a convincing lack of ethical and moral fitness to practice law, nor do we find there has been a showing that there is no reasonable expectation of significant rehabilitation in respondent's character in the future. Supreme Court Rule XIX, § 10(A)(1). If we had been aware of respondent's actions at the time of our decision in *Walsh II*, these actions would have reinforced our view that he should have been disbarred, but would not have caused us to permanently prohibit him from seeking readmission.

Accordingly, we decline to accept the committee's recommendation of permanent disbarment and instead adjudge respondent guilty of additional rule violations which would warrant disbarment.⁴ In doing so, however, we caution respondent that he will be required to show compelling evidence of rehabilitation, including appropriate evaluation and treatment under the auspices of JLAP, before we will consider any application for readmission.

DECREE

Upon review of the findings and recommendations of the hearing committee, and considering the record, it is ordered that George Allen Roth Walsh, Louisiana Bar Roll number 29696, be and he hereby is adjudged guilty of additional violations warranting disbarment, which shall be considered in the event he seeks readmission from our decree of disbarment in *In re: Walsh*, 21-0280 (La. 6/29/21), 319 So. 3d

⁴ Although neither party objected to the committee's recommendation, we do not find briefing or oral argument pursuant to Supreme Court Rule XIX, § 11(G)(1)(a) is necessary. As we have explained in prior cases, permanent disbarment is not a distinct sanction from disbarment; rather, it is simply a limitation on the lawyer's right to seek readmission. *See In re: Laudumiey & Mann*, 03-0234 (La. 6/27/03), 849 So.2d 515, 521 (explaining that "the most serious sanction a lawyer may receive under Rule XIX is the sanction of disbarment" and that the amendment providing for permanent disbarment only "relates to the ability of a disbarred attorney to seek readmission"); *see also In re: Edwards*, 04-0290 (La. 7/2/04), 879 So. 2d 718, 723 at n.7 (explaining the amendments providing for permanent disbarment "do not represent a substantive change to the bar disciplinary rules, nor do they result in the adoption of a new sanction which did not previously exist").

281, after becoming eligible to do so. 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.