

The Supreme Court of the State of Louisiana

IN RE: JUAN CARLOS LABADIE

No. 2022-B-01552

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

January 18, 2023

Suspension imposed. See per curiam.

JDH

JLW

JTG

PDG

Crichton, J., dissents and assigns reasons.

Crain, J., dissents and assigns reasons.

McCallum, J., dissents for reasons assigned by Justice Crichton.

Supreme Court of Louisiana

January 18, 2023



Chief Deputy Clerk of Court
For the Court

SUPREME COURT OF LOUISIANA

NO. 2022-B-1552

IN RE: JUAN CARLOS LABADIE

ATTORNEY DISCIPLINARY PROCEEDING

PER CURIAM

This disciplinary matter arises from formal charges filed by the Office of Disciplinary Counsel (“ODC”) against respondent, Juan Carlos Labadie, 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 1996.

In 2011, respondent consented to be suspended from the practice of law for one year and one day, fully deferred, subject to a two-year period of supervised probation with conditions, for maintaining incomplete records of his client trust account, which resulted in a negligent commingling and conversion of funds. *In re: Labadie*, 11-1021 (La. 6/24/11), 65 So. 3d 152 (“*Labadie I*”).

In 2016, we placed respondent on interim suspension for threat of harm to the public. *In re: Labadie*, 16-0884 (La. 8/31/16), 199 So. 3d 607. In 2018, we disbarred respondent, retroactive to the date of his interim suspension, for neglecting legal matters, failing to return unearned fees, making false statements regarding the integrity of a judge, committing multiple acts of domestic violence, and failing to cooperate with the ODC in its investigation. *In re: Labadie*, 18-1033 (La. 10/29/18), 255 So. 3d 558 (“*Labadie II*”).

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

FORMAL CHARGES

In 2018, Detective John Wiebelt III of the Jefferson Parish Sheriff's Office served as a member of a tactical team conducting police surveillance on a Terrytown residence pursuant to a Crimestoppers complaint. A confidential informant had advised the surveillance team that cocaine was being sold from the residence.

On the evening of March 8, 2018, respondent appeared at the residence and went inside. A short time later, respondent exited the residence, entered his vehicle, and departed the location. He then committed a traffic violation, which provided Detective Wiebelt with probable cause to pull over the vehicle.

The Jefferson Parish District Attorney's Office notified the ODC of respondent's arrest in August 2018. After the criminal charges were resolved, Detective Wiebelt provided a sworn statement to the ODC. During his statement, Detective Wiebelt indicated that respondent appeared to be extremely nervous at the time of the traffic stop. Detective Wiebelt added that he summoned a K-9 unit to the scene to perform a drug detection, and after the K-9 detected an odor of a narcotic substance, respondent was placed under arrest and searched. During the search, a clear bag containing a white powdery substance was found in respondent's rear pocket. The substance was field-tested and confirmed to be cocaine, a Schedule II Controlled Dangerous Substance.

DISCIPLINARY PROCEEDINGS

In February 2022, 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 8.4(a) (violation of the Rules of Professional Conduct)

and 8.4(b) (commission of a criminal act reflecting 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 hearing committee's consideration.

Hearing Committee Report

After considering the ODC's deemed admitted submission and the exhibits in the record, the hearing committee adopted the deemed admitted factual allegations set forth in the formal charges as its factual findings. The committee determined that these facts establish by clear and convincing evidence that respondent violated the Rules of Professional Conduct as charged.

The committee determined that respondent violated duties owed to the public. He knowingly violated the laws of the State of Louisiana, causing potential harm to others through his possession of an illegal narcotic/controlled substance and doing so while he was driving a vehicle, which presented a high risk of harm to the public. Relying on the ABA's *Standards for Imposing Lawyer Sanctions*, the committee determined the baseline sanction is suspension.

The committee determined the following aggravating factors are present: a prior disciplinary record, a dishonest or selfish motive, a pattern of misconduct, 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 committee determined no mitigating factors are present.

Turning to the issue of an appropriate sanction, the committee cited *In re: Clark*, 09-1631 (La. 12/1/09), 25 So. 3d 728, wherein an attorney was charged with possession with intent to distribute marijuana, distribution of marijuana, possession of cocaine, and possession of drug paraphernalia. The court suspended him from the practice of law for two years. Next, the committee cited *In re: Steinhardt*, 04-0011 (La. 9/9/04), 883 So. 2d 404, wherein an attorney pled guilty to misdemeanor possession of marijuana. The court suspended her for three years, with two years deferred in light of her sincere attempts at rehabilitation. Finally, the committee cited *In re: Jackson*, 94-2261 (La. 9/15/95), 660 So. 2d 838, wherein an attorney was convicted of knowingly making false official statements and wrongfully using controlled dangerous substances (cocaine and marijuana). The court suspended him for two years.

After further considering this court's prior jurisprudence addressing similar misconduct, the committee recommended that respondent be suspended from the practice of law for two years.

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.

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.

In this deemed admitted matter, the record supports a finding that respondent was arrested for possession of cocaine. Accordingly, he has violated the Rules of Professional Conduct as alleged in the formal charges.

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 the potential for serious harm. The baseline sanction for this type of misconduct is suspension. We agree with the hearing committee's assessment of the aggravating factors and its determination that no mitigating factors are supported by the record.

Of the cases cited by the committee, *In re: Clark*, 09-1631 (La. 12/1/09), 25 So. 3d 728, is the most instructive. In *Clark*, an attorney was charged with

possession with intent to distribute marijuana, distribution of marijuana, possession of cocaine, and possession of drug paraphernalia. Several mitigating factors were present, including the absence of a disciplinary record. For his misconduct, we suspended the attorney from the practice of law for two years.

Notably, the “distribution” issues in *Clark* are not present in the instant case. Therefore, the facts in *Clark* are arguably more severe. However, the attorney in *Clark* had several mitigating factors present, including the absence of a prior disciplinary record. Respondent, on the other hand, has a significant disciplinary record and no mitigating factors are present. On balance, these additional considerations provide a sufficient basis for imposing the sanction imposed in *Clark*.

Accordingly, we will adopt the committee’s recommendation and suspend respondent from the practice of law for two years.¹

DECREE

Upon review of the findings and recommendations of the hearing committee, and considering the record, it is ordered that Juan Carlos Labadie, Louisiana Bar Roll number 24145, be and he hereby is suspended from the practice of law for two years. 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.

¹ Because respondent is disbarred, the effect of our judgment will be to extend by two years the minimum period which must elapse before he may seek readmission to the practice of law. See *In re: White*, 00-2732 (La. 4/25/01), 791 So. 2d 602.

SUPREME COURT OF LOUISIANA

No. 2022-B-01552

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Attorney Disciplinary Proceeding

CRICHTON, J., dissents and assigns reasons:

In light of respondent's previous suspension in 2011, *In re: Labadie*, 11-1021 (La. 6/24/11), 65 So. 3d 152, and his interim suspension in 2016 which ultimately resulted in his disbarment in 2018, *see, respectively In re: Labadie*, 16-0884 (La. 8/31/16), 199 So. 3d 607, and *In re: Labadie*, 18-1033 (La. 10/29/18), 255 So. 3d 558, I find the Court's suspension of respondent herein woefully inadequate. Specifically, regarding his most recent misconduct, respondent was arrested for possession of a Schedule II Controlled Dangerous Substance and, while the charge for possession was *nolle prosequied* by the State after respondent enrolled in a pre-trial diversion program, respondent failed to even provide a response to the most recent formal charges filed against him. Accordingly, the factual allegations against him are deemed admitted and proven by clear and convincing evidence pursuant to Supreme Court Rule XIX § 11(E)(3). Thus, due to respondent's consistent inability to adhere to the solemn oath which he took when he was admitted to this noble profession, I would strongly consider permanent disbarment as an appropriate sanction.¹

¹ Because this sanction (permanent disbarment) would differ from that of the recommendation of the hearing committee (two-year suspension), in accordance with Rule XIX, Sec. 11(G)(1)(a) of the Louisiana Supreme Court rules, I would order briefing and/or oral argument. *See* La. S.Ct. Rule XIX, Sec. 11(G)(1)(a) (" . . . If the court determines that a different disposition may be appropriate, or for any other reason desires briefs or oral argument, the court will notify respondent and disciplinary counsel of the date for submission of briefs and/or oral argument, and may also designate the issue or issues which especially interest the court.")

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Crain, J., dissenting

Because the respondent is already disbarred, I would defer discipline on the current charge until he actually seeks readmission to the practice of law.