

The Supreme Court of the State of Louisiana

IN RE: JESSE P. LAGARDE

No. 2022-B-01635

IN RE: Disciplinary Counsel - Applicant Other; Petition to extend probation;

January 25, 2023

Petition to extend probation granted. See order.

WJC

JLW

JDH

JBM

PDG

Crichton, J., dissents and assigns reasons.

Genovese, J., dissents and would revoke probation.

Supreme Court of Louisiana

January 25, 2023



Chief Deputy Clerk of Court
For the Court

SUPREME COURT OF LOUISIANA

NO. 2022-B-1635

IN RE: JESSE P. LAGARDE

ATTORNEY DISCIPLINARY PROCEEDING

PER CURIAM

This disciplinary matter arises from a motion to revoke probation filed by the Office of Disciplinary Counsel (“ODC”) against respondent, Jesse P. Lagarde, for his violation of additional Rules of Professional Conduct while on court-ordered probation imposed in *In re: Lagarde*, 21-0797 (La. 9/27/21), 323 So. 3d 862 (“*Lagarde I*”), as well as for his failure to comply with his probation agreement for that matter. After the ODC filed the motion, the parties entered into a joint stipulation regarding respondent’s violations and jointly recommended that respondent’s probation be extended for one year with additional conditions. The disciplinary board accepted the stipulations and filed the instant recommendation in this court.

UNDERLYING FACTS AND PROCEDURAL HISTORY

The record in *Lagarde I* demonstrated that respondent was retained to represent Michael Scott Hollis in his pending child custody case. Respondent failed to appear in court for a scheduled hearing, resulting in a judgment being entered against Mr. Hollis. Thereafter, respondent ignored the many attempts made by Mr. Hollis and his wife to communicate with him. Lastly, respondent failed to cooperate with the ODC in its investigation of the disciplinary complaint filed against him.

Prior to the filing of formal charges in the Hollis matter, respondent and the ODC filed a joint petition for consent discipline in this court. The parties proposed

that respondent be suspended from the practice of law for six months, fully deferred, subject to a one-year period of probation governed by the following conditions:

- 1) During the period of probation, respondent shall complete the Ethics School program offered by the Louisiana State Bar Association.
- 2) Six of respondent's mandatory MCLE hours, during the term of probation, shall be in the area of law office/practice management.
- 3) Respondent agrees to pay all costs of these proceedings.

We accepted the petition for consent discipline in *Lagarde I* on September 27, 2021. Our order provided that “[a]ny failure of respondent to comply with the conditions of probation, or any misconduct during the probationary period, may be grounds for making the deferred suspension executory, or imposing additional discipline, as appropriate.”

Respondent's probation commenced on November 3, 2021, when he executed a formal probation agreement with the ODC. The probation agreement required that respondent promptly respond to all requests of the ODC and provided that any violation of the Rules of Professional Conduct may result in the revocation of probation and/or the imposition of additional discipline.

DISCIPLINARY PROCEEDINGS

Motion to Revoke Probation

After respondent was placed on probation in *Lagarde I*, the ODC received disciplinary complaints from Patrick Ledet and Michael and Cynthia Bourg. On October 5, 2022, the ODC filed a motion to revoke probation, alleging that respondent failed to promptly respond to Mr. Ledet's complaint and violated additional Rules of Professional Conduct in both the Ledet and Bourg matters. Accordingly, the ODC prayed for the revocation of respondent's probation and the

imposition of the previously deferred six-month suspension. Respondent did not file an answer to the ODC's motion to revoke probation.

Hearing on Revocation of Probation

This matter proceeded to a hearing before an adjudicative panel of the disciplinary board on October 27, 2022. At the outset of the hearing, the parties submitted written Joint Stipulations agreeing that respondent violated his probation agreement and the Rules of Professional Conduct. The parties jointly recommended a modified probation sanction as a result of these violations. Respondent verbally confirmed on the record his agreement to the stipulations and the joint sanction recommendation. No testimony was presented.

Joint Stipulations

The parties jointly stipulated that respondent violated his probation in the following ways:

- 1) In the Patrick Ledet matter, respondent failed to promptly respond to all requests of the ODC and committed additional violations of the Rules of Professional Conduct.
 - a. The ODC sent a copy of Mr. Ledet's complaint to respondent on April 4, 2022 and requested a response within fifteen days. Respondent was served with the complaint at his primary registration address on April 6, 2022, but he did not timely respond. Respondent finally provided a response to Mr. Ledet's complaint on May 9, 2022.
 - b. On June 22, 2022, the ODC provided respondent with a copy of a supplemental complaint received from Mr. Ledet and requested a response within fifteen days. Respondent did not timely respond. Respondent finally provided an additional response on July 21, 2022.

- c. Respondent's failure to provide timely responses to the ODC violated Rule 8.1(c) (failure to cooperate) of the Rules of Professional Conduct.
- 2) In the Michael and Cynthia Bourg matter, respondent committed additional violations of the Rules of Professional Conduct.
 - a. Respondent failed to diligently represent the Bourgs in connection with a writ application to the Third Circuit Court of Appeal, in violation of Rule 1.3 (neglect of a legal matter) of the Rules of Professional Conduct.
 - b. Respondent failed to communicate with the Bourgs on June 28, 2022, June 30, 2022, July 11, 2022, July 13, 2022, and July 19, 2022, in violation of Rule 1.4 (failure to communicate) of the Rules of Professional Conduct.
- 3) For the stipulated violations, additional discipline is appropriate, as follows:
 - a. Respondent's probation shall be extended for an additional year;
 - b. Respondent agrees to participate in the Louisiana State Bar Association's Law Practice Management Program, with a requirement that he attend the Solo and Small Firm Conference;
 - c. Respondent will surrender any papers and property in his possession to which Michael and Cynthia Bourg are entitled. In the alternative, respondent will make a diligent effort to obtain such papers and property and/or have them returned to Michael and Cynthia Bourg, to the extent they have not already been returned; and
 - d. Respondent will be cast to pay all costs associated with these proceedings.

Disciplinary Board Recommendation

The disciplinary board accepted the parties' stipulations and found that respondent has breached his probation agreement by failing to promptly respond to requests from the ODC and by committing additional violations of the Rules of Professional Conduct. The board recommended that respondent's probation period be extended and the conditions of probation be modified in accordance with the recommendation of the parties set forth in the joint stipulations.¹

DISCUSSION

Respondent and the ODC have stipulated that respondent violated his probation agreement by failing to promptly respond to requests from the ODC and by committing additional violations of the Rules of Professional Conduct. As a sanction for respondent's violation, the parties have agreed, and the disciplinary board has recommended, that the period of respondent's probation will be extended for one year with additional conditions.

Although respondent's new misconduct is relatively minor, we note that it is very similar to the misconduct for which he was originally placed on probation. This ongoing pattern suggests that continued supervision and additional education are necessary to ensure that respondent conforms his conduct to the Rules of Professional Conduct. The sanction proposed by the parties accomplishes this goal by extending the *Lagarde I* probationary period through the beginning of 2024 and requiring that respondent receive training in law practice management. Therefore, we believe the stipulations of the parties appropriately address respondent's misconduct.

¹ The board added that all other provisions and conditions of probation imposed in *Lagarde I* and the probation agreement executed on November 3, 2021 will remain in full force and effect.

Based on this reasoning, we will accept the disciplinary board's recommendation.

DECREE

Upon review of the findings and recommendation of the disciplinary board, and considering the record filed herein, it is ordered that the one-year period of probation imposed against respondent in *In re: Lagarde*, 21-0797 (La. 9/27/21), 323 So. 3d 862, be extended for an additional period of one year, commencing from the date of finality of this judgment. During the extended period of probation, respondent shall participate in the Louisiana State Bar Association's Law Practice Management Program, attend the Solo and Small Firm Conference, and return any papers and property to which Michael and Cynthia Bourg are entitled. It is further ordered that all other provisions and conditions of probation imposed by this court's order of September 27, 2021 and the probation agreement executed on November 3, 2021 shall remain in full force and effect. All costs of this proceeding are assessed to respondent.

SUPREME COURT OF LOUISIANA

No. 2022-B-01635

IN RE: JESSE P. LAGARDE

Attorney Disciplinary Proceeding

Crichton, J., dissents.

I disagree with the majority decision to extend this respondent's probation and would instead revoke probation. In *In re Lagarde*, 2021-00797 (La. 9/27/21), 323 So. 3d 862, I dissented from the acceptance of the petition for consent discipline, finding that the discipline imposed was too lenient. *Id.* ("In my view, the facts and circumstances presented here, including respondent's initial failure to cooperate with the ODC's investigation and the actual harm to his client caused by his actions, warrant greater discipline."). Respondent has now breached his original probation agreement in several ways, including by failing to promptly respond to requests from the Office of Disciplinary Counsel and committing additional rule violations. In my view, the conduct described in the per curiam warrants revocation of probation, not an extension thereof.