

The Supreme Court of the State of Louisiana

IN RE: FRED C. LEBLEU, III

No.2020-B-01162

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

December 22, 2020

Suspension imposed. See per curiam.

JLW

JDH

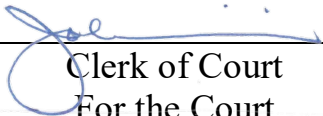
SJC

JTG

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Supreme Court of Louisiana
December 22, 2020



Clerk of Court
For the Court

SUPREME COURT OF LOUISIANA

NO. 2020-B-1162

IN RE: FRED C. LeBLEU, III

ATTORNEY DISCIPLINARY PROCEEDING

PER CURIAM

This disciplinary matter arises from formal charges filed by the Office of Disciplinary Counsel (“ODC”) against respondent, Fred C. LeBleu, III, an attorney licensed to practice law in Louisiana.

UNDERLYING FACTS

On December 3, 2017, respondent was arrested for possession of marijuana and cocaine. On May 14, 2018, respondent enrolled in an eighteen-month pre-trial intervention program in lieu of prosecution of the criminal charges. The record of this matter contains an undated letter from the district attorney’s office indicating respondent successfully completed the program.

On December 11, 2017, respondent self-reported his arrest to the ODC. Soon thereafter, respondent contacted the Judges and Lawyers Assistance Program (“JLAP”) and scheduled an evaluation at Palmetto Addiction Recovery Center.

Palmetto evaluated respondent between January 8, 2018 and January 11, 2018. According to this evaluation, respondent meets the criteria for severe alcohol use disorder and moderate cocaine use disorder. Palmetto recommended respondent complete a long-term inpatient treatment program and then sign a five-year recovery agreement with JLAP. Respondent entered Palmetto on February 19, 2018 to begin his inpatient treatment and was successfully discharged on May 3, 2018. On May 8, 2018, respondent executed a five-year JLAP recovery agreement.

DISCIPLINARY PROCEEDINGS

In September 2018, the ODC filed formal charges against respondent, alleging that his conduct violated Rules 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) of the Rules of Professional Conduct. In his answer, respondent admitted he violated the Rules of Professional Conduct as alleged. After providing a detailed explanation of the events leading up to his arrest, a summary of his recovery efforts, and his progress in the district attorney's pre-trial intervention program, respondent requested a mitigation hearing.

Hearing Committee Report

After considering the testimony and evidence presented at the hearing, the hearing committee found respondent's demeanor, remorsefulness, and sincerity to be impressive. Respondent self-reported his arrest to the ODC and has complied with the ODC's recommendations from that point forward. Respondent has also complied with every requirement imposed upon him by JLAP. The committee emphasized the fact that respondent was already sober when he entered Palmetto for inpatient treatment, which resulted in his successful completion of the program in 72 days instead of the normal 90 days. Since his release from inpatient treatment, respondent has been required by his JLAP agreement to attend Alcoholics Anonymous ("AA") meetings and to be randomly tested for alcohol and drugs. To date, respondent has complied with these requirements, and all of his alcohol and drug tests have been negative. The committee also noted that respondent's misconduct did not directly involve his law practice. Two other attorneys, David Green through live testimony and Jennifer Jones by letter, indicated they saw no evidence of respondent's substance use disorder affecting his work. He successfully returned to his law practice after completing inpatient treatment, and he has

successfully completed the pre-trial intervention program relative to his criminal charges.

Respondent's ex-wife also testified at the hearing. She described a good relationship with respondent, with whom she shares joint custody of their two small children. They see each other regularly because of their children, and she is an excellent source of support in his recovery. However, she testified that she will seek sole custody of the children if his drinking and drug use becomes a problem again.

Next, the committee heard from attorney David Green, who rents office space to respondent. He has known respondent for fifteen years and described respondent as a "good practicing lawyer that was always in court when he was supposed to be." Mr. Green was a narcotics police officer before becoming an attorney, which lent credence to his testimony about respondent's behavior and the effect of his substance use disorder on his law practice. According to Mr. Green, respondent's substance use disorder did not affect his law practice. He also believes respondent, since completing inpatient treatment, is on the right track and is taking care of his work and clients. Mr. Green believes respondent should be allowed to continue practicing law moving forward. Because of his background in law enforcement, the committee found Mr. Green to be a good judge of character and to possess unique knowledge relevant to this matter.

Finally, the committee heard from Buddy Stockwell, JLAP's executive director. The committee found his testimony to be powerful. Mr. Stockwell described respondent as "someone who is really doing the right thing" with his recovery. He noted how pro-active respondent was in immediately contacting JLAP after his arrest and considers respondent to be "wonderfully compliant in the JLAP program." According to Mr. Stockwell, all of respondent's sixteen random drug screens have been negative, and respondent's record of checking in every day is exemplary as he has only missed four check-ins out of 365 days. He attends AA

meetings as required, has obtained an AA sponsor, and has begun working the 12 steps of AA. Mr. Stockwell considers respondent to be genuine about and dedicated to his recovery.

Based on this evidence and the other evidence in the record, the committee determined respondent has begun to sincerely address the addiction issues that led to his misconduct. The committee also noted that respondent admitted to violating the Rules of Professional Conduct as charged.

The committee then determined respondent knowingly and intentionally violated duties owed to the public and the legal profession. While respondent's misconduct caused no actual harm to his clients, it did cause actual harm to the legal profession. Relying on the ABA's *Standards for Imposing Lawyer Sanctions*, the committee determined the baseline sanction is suspension.

In mitigation, the committee found the following: the absence of a prior disciplinary record, full and free disclosure to the disciplinary board and a cooperative attitude toward the proceedings, character or reputation, mental disability or chemical dependency, and remorse. In further mitigation, the committee noted that respondent did not injure any client or person and has fully complied with his JLAP agreement. The committee did not specifically mention the presence of aggravating factors other than to note that respondent engaged in illegal conduct.

After further considering this court's prior jurisprudence addressing similar misconduct, the committee recommended respondent be suspended from the practice of law for two years, fully deferred, subject to his continued compliance with his current JLAP agreement.

Neither respondent nor the ODC filed an objection to the hearing committee's report.

Disciplinary Board Recommendation

After determining that the hearing committee's factual findings are not manifestly erroneous and are supported by the record, the disciplinary board adopted same. Based on these facts and respondent's admissions, the board determined the violations of Rules 8.4(a) and 8.4(b) of the Rules of Professional Conduct have been established.

The board then determined respondent knowingly and intentionally violated duties owed to the public and the legal profession. The board agreed with the committee that, although respondent did not harm any clients, he did cause actual harm to the legal profession. The board also agreed with the committee that the baseline sanction is suspension.

In aggravation, the board found only illegal conduct. In mitigation, the board found the absence of a prior disciplinary record, personal or emotional problems, full and free disclosure to the disciplinary board or a cooperative attitude toward the proceedings, character or reputation, mental disability or chemical dependency, imposition of other penalties or sanctions, and remorse.

After further considering this court's prior jurisprudence addressing similar misconduct, the board recommended respondent be suspended from the practice of law for two years, fully deferred, subject to a period of unsupervised probation to coincide with the remainder of his JLAP agreement.

Neither respondent nor the ODC filed an objection to the disciplinary board's recommendation.

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 of this matter supports a finding that respondent was arrested for possession of marijuana and cocaine. Respondent admitted to violating the Rules of Professional Conduct as alleged in the formal charges, and the record supports such a finding.

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 knowingly, if not intentionally, violated duties owed to the public and the legal profession. While his illegal conduct did not cause actual harm, the potential for significant harm existed. We agree with the hearing committee and the disciplinary board that the baseline sanction is suspension.

Respondent's illegal conduct is the sole aggravating factor. However, the record supports several mitigating factors, including the absence of a prior disciplinary record, full and free disclosure to the disciplinary board and a

cooperative attitude toward the proceedings, character or reputation, mental disability or chemical dependency including alcoholism or drug abuse, and remorse.

In further mitigation, we note that respondent self-reported his arrest to the ODC and immediately sought help through JLAP. He agreed to be evaluated by Palmetto Addiction Recovery Center, and this evaluation indicated that he meets the criteria for severe alcohol use disorder and moderate cocaine use disorder. Respondent then sought inpatient treatment at Palmetto, which he successfully completed. Palmetto recommended respondent sign a five-year JLAP recovery agreement, and he complied on May 8, 2018. Respondent's JLAP agreement requires him to attend AA meetings and submit to random alcohol and drug tests, and he is in full compliance with this agreement.

In recommending a sanction, both the committee and the board found guidance from *In re: Bertucci*, 08-1349 (La. 9/26/08), 990 So. 2d 1275. In *Bertucci*, an attorney was arrested for unlawful possession of various drugs and drug paraphernalia. The attorney immediately sought both inpatient and outpatient treatment for his polysubstance dependence. He successfully completed a pre-trial diversion program, and the criminal charges against him were dismissed. He also entered into a JLAP agreement, which lasted for a total of four years. We suspended the attorney from the practice of law for two years, fully deferred, subject to two years of unsupervised probation with the condition that the attorney comply with a new two-year JLAP agreement. We agree with the committee and the board that *Bertucci* is instructive. Respondent and Mr. Bertucci engaged in similar misconduct, which resulted in their arrests. They both immediately sought help for their substance use disorders and were successful in their recovery efforts, including compliance with their JLAP recovery agreements.

In light of the above, we will adopt the board's recommendation and suspend respondent from the practice of law for two years, fully deferred, subject to a period of unsupervised probation to coincide with the remainder of his JLAP agreement.

DECREE

Upon review of the findings and recommendations of the hearing committee and disciplinary board, and considering the record, it is ordered that Fred C. LeBleu, III, Louisiana Bar Roll number 28654, be and he hereby is suspended from the practice of law for a period of two years. This suspension shall be deferred in its entirety, subject to a period of unsupervised probation coinciding with the remainder of respondent's five-year recovery agreement with the Judges and Lawyers Assistance Program, which he executed on May 8, 2018. The probationary period shall commence from the date respondent and the ODC sign a formal probation plan. Any failure of respondent to comply with the conditions of the probation plan, or any misconduct during the probationary period, may be grounds for making the deferred suspension executory, or imposing additional discipline, as appropriate. 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.