

The Supreme Court of the State of Louisiana

IN RE: GEORGE A FLOURNOY

No. 2021-B-00614

IN RE: Disciplinary Counsel - Applicant Other; Rule to Revoke Probation;

June 22, 2021

Probation revoked. See per curiam.

JLW

JDH

SJC

WJC

JBM

PDG

Supreme Court of Louisiana

June 22, 2021



Chief Deputy Clerk of Court
For the Court

06/22/21

SUPREME COURT OF LOUISIANA

NO. 2021-B-0614

IN RE: GEORGE A. FLOURNOY

ATTORNEY DISCIPLINARY PROCEEDING

PER CURIAM

The instant disciplinary proceeding arises from a motion and rule to revoke probation filed by the Office of Disciplinary Counsel (“ODC”) against respondent, George A. Flournoy, for his additional violations of the Rules of Professional Conduct during the active portion of his suspension imposed in *In re: Flournoy*, 19-1479 (La. 4/3/20), ___ So. 3d ___ (“*Flournoy I*”).

UNDERLYING FACTS AND PROCEDURAL HISTORY

The record in *Flournoy I* demonstrated that respondent (1) instructed his secretary, Mary White a/k/a Mary Attenhofer, to forge his signature and the signature of a client on a satisfaction of judgment and then notarize the document and (2) continued to file pleadings into the record of his former clients’ cases despite the trial court’s order for him to cease doing so. For this knowing misconduct, the court suspended respondent from the practice of law for one year, with all but thirty days deferred, followed by one year of unsupervised probation. The court concluded 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 reinstatement to the practice of law was effective August 5, 2020. His probation commenced on August 20, 2020, when he executed a formal

probation agreement with the ODC. Respondent agreed to several conditions of probation, including that he shall:

Acknowledge that any violation of the Rules of Professional Conduct and/or this Probation Agreement may result in revocation of his probation and making the deferred portion of his suspension executory and/or such other disciplinary action as may be appropriate under the Rules of Professional Conduct and Louisiana Supreme Court Rule XIX.

DISCIPLINARY PROCEEDINGS

Motion and Rule to Revoke Probation

On March 23, 2021, the ODC filed the instant motion and rule to revoke respondent's probation, alleging that he failed to comply with the conditions of his probation by engaging in additional violations of the Rules of Professional Conduct during the active portion of his suspension imposed in *Flournoy I*.

Specifically, the ODC contended that, in anticipation of being reinstated to the practice of law following the active portion of his suspension, respondent signed a Rule XIX, §23, affidavit certifying to this court that he had complied with the conditions imposed in *Flournoy I*. Respondent's secretary, Mary White, purportedly notarized the affidavit on July 15, 2020 in Rapides Parish. However, the ODC later learned that respondent was in Montana on July 15, 2020 and that he directed Ms. White to notarize the affidavit on July 15, 2020 even though he actually signed it on or before July 11, 2020. The fraudulent affidavit was then submitted to this court in connection with respondent's reinstatement efforts. Respondent provided the ODC with a sworn statement on November 18, 2020, during which he indicated he saw nothing wrong with his actions. The ODC alleged respondent's conduct violated the following provisions of the Rules of Professional Conduct: Rules 3.3(a)(3) (candor toward the tribunal), 5.3(b), (c)(1), & (c)(2) (failure to properly supervise a non-

lawyer assistant), 8.4(a) (violation of the Rules of Professional Conduct), and 8.4(c) (engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation).

Additionally, the ODC contended that, during the active portion of his suspension, respondent informed opposing counsel in a worker's compensation case that he needed to continue a July 7, 2020 hearing due to medical reasons when, in fact, he needed the continuance because he was suspended from the practice of law. Opposing counsel placed this false information in a motion to continue and filed the motion with the worker's compensation court. Respondent allowed this false information to be presented to a tribunal and made no effort to correct the false statement. The ODC alleged respondent's conduct violated the following provisions of the Rules of Professional Conduct: Rules 3.3(a)(1) (candor toward the tribunal), 4.1 (a) (knowingly making a false statement of material fact or law to a third person), 8.4(a), and 8.4(c).

Accordingly, the ODC prayed for revocation of respondent's probation. The ODC further prayed for the imposition of the previously-deferred portion of the one-year suspension and/or additional discipline.

Hearing on Revocation of Probation

This matter proceeded to a hearing before an adjudicative panel of the disciplinary board on April 22, 2021. The ODC was represented by Chief Disciplinary Counsel Charles Plattsmier. Respondent appeared pro se. Both the ODC and respondent introduced documentary evidence and called witnesses to testify before the board panel. Respondent also testified on his own behalf and on cross-examination by the ODC.

The ODC first called Steven Oxenhandler, opposing counsel in the worker's compensation case. Mr. Oxenhandler testified that, on July 2, 2020, he and his co-counsel, attorney Mary Allison Johnson, had a telephone conference with

respondent, who requested a continuance of a hearing in the case because he was having medical issues. Mr. Oxenhandler testified that his client had no interest in continuing the matter, but he agreed to the continuance only because respondent represented he was having medical issues. Ms. Johnson also agreed to the continuance and called respondent again later to request a continuance of the trial date. Mr. Oxenhandler's understanding was that Ms. Johnson spoke with respondent's secretary and that his secretary relayed respondent's agreement to the trial date continuance. Mr. Oxenhandler further testified that Ms. Johnson drafted the motion to continue and he signed the motion. He did not learn respondent was suspended from the practice of law until Ms. Johnson received a letter from respondent informing her of his suspension approximately one week after the telephone conference.

The ODC next called Ms. Johnson to testify. Ms. Johnson confirmed that respondent requested the continuance due to medical reasons and that respondent did not mention his suspension at any time during the telephone conference. She also indicated her client would not have agreed to a continuance for reasons other than medical. She and Mr. Oxenhandler agreed to the continuance, and respondent asked them to draft the motion. Ms. Johnson further testified that she later called respondent's office to request a continuance of the trial date and spoke to respondent's secretary, Mary. Respondent was not available, so Mary relayed the request to him and called Ms. Johnson back to inform her of respondent's agreement to the trial continuance. Ms. Johnson then drafted the motion to continue, stating respondent's medical issues as the reason, which motion was faxed and mailed to respondent on July 2, 2020. She first learned of respondent's suspension when she received a letter from him dated July 6, 2020, in which he stated that he was suspended.

Regarding the worker's compensation case, respondent testified that he informed Mr. Oxenhandler and Ms. Johnson of his suspension during the telephone conference. He denied telling them he needed the continuance because he was having medical issues. They agreed to the continuance because of his suspension. He confirmed asking them to file the motion to continue but requested they not reference his suspension in the motion. He stated that he did not see the motion when it was received in his office because Ms. White filed it since he had already told her the matter was being continued.

Regarding the affidavit, respondent testified that he was out of town on July 15, 2020 and that he executed the affidavit in Ms. White's presence before leaving town. He also admitted that he instructed Ms. White to date, notarize, and file the affidavit with the court on July 15, 2020.

Respondent then called Ms. White as a witness. Regarding the worker's compensation case, Ms. White testified that respondent informed her opposing counsel had agreed to continue the hearing and the trial date. She also testified that, more than likely, she filed the motion and did not show it to respondent when she received it because he was already aware of the continuance.

Regarding the affidavit, Ms. White confirmed that respondent executed the affidavit in her presence prior to July 15, 2020 but instructed her to show July 15, 2020 as the date she notarized the affidavit and to file the affidavit with the court on that date. She testified that she followed respondent's instructions.

Disciplinary Board Recommendation

On May 4, 2021, the disciplinary board filed its report with this court, recommending that the ODC's motion and rule to revoke probation be granted in light of the evidence in the record.

With respect to the affidavit, the board found that respondent instructed Ms. White to date and notarize the affidavit on a date after it was actually executed and then file the affidavit with this court. Based on these facts, the board determined respondent violated Rules 3.3(a)(3), 5.3(b), (c)(1), & (c)(2), 8.4(a), and 8.4(c) of the Rules of Professional Conduct.

With respect to the worker's compensation case, the board determined the testimony of Mr. Oxenhandler and Ms. Johnson was credible. Based on this testimony, the board found that respondent contacted opposing counsel and requested they agree to a continuance of the July 7, 2020 hearing due to his medical issues. He also asked opposing counsel to file the motion for continuance with the worker's compensation court. Based on these facts, the board determined respondent violated Rules 3.3(a)(1), 4.1(a), 8.4(a), 8.4(c), and 8.4(d) (engaging in conduct prejudicial to the administration of justice).

In light of the above findings, the board concluded that respondent has committed additional violations of the Rules of Professional Conduct, which constitutes grounds for the revocation of his probation ordered by the court in *Flournoy I*. Accordingly, the board recommended that the motion to revoke probation be granted and that the previously-deferred portion of the one-year suspension imposed in *Flournoy I* be made executory. Finally, the board recommended that respondent be assessed with all costs and expenses of this proceeding.

Respondent filed a response to the board's recommendation, asking the court not to revoke his probation.

DISCUSSION

A review of the record reveals that respondent engaged in additional violations of the Rules of Professional Conduct during the active portion of his

suspension imposed in *Flournoy I*. As the disciplinary board has found, respondent instructed his secretary to date and notarize an affidavit on a date after it was actually executed. Additionally, the board found that respondent contacted opposing counsel in a worker's compensation case and requested they agree to a continuance of a hearing due to his medical issues when, in fact, he needed the continuance because he was suspended from the practice of law. Based on this additional misconduct during his period of active suspension, the board recommended respondent's probation be revoked and the previously-deferred portion of his one-year suspension be made executory.

In light of respondent's additional violations of the Rules of Professional Conduct, we will accept the board's recommendation and grant the motion to revoke respondent's probation, making the previously-deferred portion of the one-year suspension imposed in *Flournoy I* immediately executory.

DECREE

For the reasons assigned, respondent's probation is revoked and the previously-deferred portion of the one-year suspension imposed in *In re: Flournoy*, 19-1479 (La. 4/3/20), ___ So. 3d ___, is hereby made immediately executory. All costs and expenses in the matter are assessed against respondent, George A. Flournoy, Louisiana Bar Roll number 5620, 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.