

The Supreme Court of the State of Louisiana

IN RE: ANNA M. JACKSON

No. 2021-B-01488

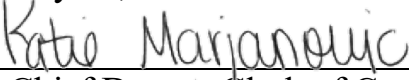
IN RE: Disciplinary Counsel - Applicant Other; Findings and Recommendations
(Formal Charges);

January 12, 2022

Suspension imposed. See per curiam.

JLW
JDH
SJC
JTG
WJC
JBM
PDG

Crichton, J., additionally concurs and assigns reasons.

Supreme Court of Louisiana
January 12, 2022


Chief Deputy Clerk of Court
For the Court

SUPREME COURT OF LOUISIANA

NO. 2021-B-1488

IN RE: ANNA M. JACKSON

ATTORNEY DISCIPLINARY PROCEEDING

PER CURIAM

This disciplinary matter arises from formal charges filed by the Office of Disciplinary Counsel (“ODC”) against respondent, Anna M. Jackson, an attorney licensed to practice law in Louisiana, but currently ineligible to practice.¹

PROCEDURAL HISTORY

The ODC filed two sets of formal charges against respondent under disciplinary board docket numbers 18-DB-044 and 19-DB-073. Respondent failed to answer either set of 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).

The matters were then considered by separate hearing committees. No formal hearings were held, but the parties were given an opportunity to file with the hearing committees written arguments and documentary evidence on the issue of sanctions. Respondent filed nothing for the hearing committee’s consideration in either matter.

Following their consideration by the hearing committees, the matters were consolidated by order of the disciplinary board. The board then filed in this court a single recommendation of discipline encompassing both sets of formal charges.

¹ On May 31, 2019, respondent was declared ineligible to practice law for failure to comply with the mandatory continuing legal education requirements. She is also ineligible for failure to pay her bar dues and the disciplinary assessment and for failure to file her trust account registration statement.

FORMAL CHARGES

18-DB-044

In 2008, respondent's uncle, Ronnie Jackson, and one of his coworkers retained respondent to represent them in a racial discrimination suit against their employer. On several occasions, Mr. Jackson asked respondent if she was able to handle this type of case, and respondent confirmed to him that she could. Respondent also agreed to handle the case on a contingency fee basis, but she never reduced the agreement to writing.

Thereafter, Mr. Jackson contacted respondent numerous times to request an update about the case, to no avail. In his sworn statement to the ODC, Mr. Jackson stated that respondent never informed him whether she had filed a suit or if she had furthered the case in any other respect. Mr. Jackson indicated that he has had no contact with respondent since approximately 2016.

Mr. Jackson attempted to secure additional counsel to pursue his claim. However, Mr. Jackson testified that he could not find another attorney to take the case because the matter was "too old."

In June 2017, Mr. Jackson filed a complaint against respondent with the ODC. Respondent failed to answer the complaint, necessitating the issuance of a subpoena for her sworn statement. Despite repeated efforts, the ODC was unable to contact respondent and was unable to serve the subpoena.

The ODC alleged respondent's conduct violated the following provisions of the Rules of Professional Conduct: Rules 1.3 (failure to act with reasonable diligence and promptness in representing a client), 1.4 (failure to communicate with a client), 1.5(c) (contingency fee agreements), and 8.1(c) (failure to cooperate with the ODC in its investigation).

Hearing Committee Report

After considering the ODC's submission, the hearing committee determined that the factual allegations in the formal charges were deemed admitted and proven by clear and convincing evidence. Based on these facts, the committee determined that respondent violated the Rules of Professional Conduct as charged.

The committee determined respondent violated duties owed to her client and the legal profession. She acted both knowingly and intentionally. She caused actual harm to her client by accepting the representation and performing minimal legal work, if any, before completely abandoning the matter. Her failure to reduce the contingency fee agreement to writing violated duties owed to the client and the legal profession but did not cause significant harm to her client. She caused actual harm to the legal profession by forcing the ODC to unnecessarily expend its limited resources in an attempt to sufficiently investigate the matter. Based on the ABA's *Standards for Imposing Lawyer Sanctions*, the committee determined the applicable baseline sanction is suspension.

In aggravation, the committee cited respondent's bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with the rules or orders of the disciplinary agency, refusal to acknowledge the wrongful nature of the conduct, and substantial experience in the practice of law (admitted 1997). The committee found that no mitigating factors are present.

After further considering the jurisprudence of the court, the committee recommended respondent be suspended from the practice of law for one year and one day. The committee further recommended that she be assessed with the costs and expenses of this proceeding.

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

In February 2018, Carl Burd retained respondent to represent him in an interdiction proceeding concerning his brother. Mr. Burd explained to respondent that due to several exigent medical circumstances, the interdiction process needed to begin as soon as possible. Mr. Burd paid respondent \$1,000 to begin the process.

In April 2018, Mr. Burd began contacting respondent to request the status of the interdiction. By letter dated April 20, 2018, respondent thanked Mr. Burd for retaining her services, but she failed to provide him with an update regarding the status of the case. Thereafter, Mr. Burd continued to leave messages for respondent requesting information about his case, but she did not respond to these requests.

In October 2018, Mr. Burd went to the courthouse and requested a copy of the interdiction petition. At that time, he learned that no petition had been filed. Mr. Burd continued to attempt to contact respondent, to no avail.

In November 2018, Mr. Burd filed a complaint against respondent with the ODC. Respondent failed to answer the complaint, despite numerous efforts by the ODC to contact her regarding the matter.

During his sworn statement to the ODC, Mr. Burd testified that he was forced to hire additional counsel to complete the interdiction. At the time of hiring new counsel, Mr. Burd sent correspondence to respondent terminating her services. The correspondence was returned as unable to forward. Respondent has not responded to the termination letter or provided any refund of the \$1,000 fee paid by Mr. Burd.

The ODC alleged respondent's conduct violated the following provisions of the Rules of Professional Conduct: Rules 1.3, 1.4, 1.5(f)(5) (failure to refund an unearned fee), 8.1(c), and 8.4(a) (violation of the Rules of Professional Conduct).

Hearing Committee Report

After considering the ODC's submission, the hearing committee determined that the factual allegations in the formal charges were deemed admitted and proven by clear and convincing evidence. Based on these facts, the committee determined that respondent violated Rules 1.3, 1.4, 1.5(f)(5), and 8.1(c) of the Rules of Professional Conduct.

The committee determined respondent violated duties owed to her client, the public, and the legal system. Her knowing, if not intentional, failure to perform services for her client and abandonment of the representation caused actual harm to her client, precluding him from potential relief in the underlying litigation. She caused significant harm to her client by collecting fees from him and failing to complete the work for which she was hired, and then by failing to return the unearned fee. She caused actual harm to the legal profession by forcing the ODC to unnecessarily expend its limited resources in an attempt to sufficiently investigate the matter. Based on the ABA's *Standards for Imposing Lawyer Sanctions*, the committee determined the applicable baseline sanction is suspension.

In aggravation, the committee noted respondent's "failure to comply [with] the ODC..." The committee found that no mitigating factors are present.

After further considering the jurisprudence of the court, the committee recommended respondent be suspended from the practice of law for one year and one day. The committee further recommended that she be assessed with the costs and expenses of this proceeding.

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

Disciplinary Board Recommendation

18-DB-044 and 19-DB-073

After reviewing these consolidated matters, the disciplinary board determined that the factual allegations in the formal charges were deemed admitted and proven. The board also determined that the legal conclusions of the committees are supported by the factual allegations asserted in the formal charges and/or by the evidence submitted in support of the factual allegations. Based on these findings, the board agreed with the committees that respondent violated the Rules of Professional Conduct as charged, with one exception.

In 19-DB-073, the board agreed that the deemed admitted facts establish that respondent failed to perform any meaningful work in Mr. Burd's legal matter and failed to refund the \$1,000 fee he paid. The deemed admitted facts and evidence also prove that Mr. Burd sent correspondence to respondent terminating her services, which correspondence was returned as undeliverable. However, this correspondence is not in the record, and therefore the board found the facts do not establish that Mr. Burd requested a refund of the unearned fees. Accordingly, the board concluded that the ODC failed to establish a violation by respondent of Rule 1.5(f)(5).

The board determined respondent violated duties owed to her clients, the legal system, and the legal profession. Respondent acted negligently, knowingly, and intentionally. She caused injury to Mr. Jackson by neglecting his legal matter which has languished since 2008 and may have prescribed. She caused injury to Mr. Burd by failing to properly pursue his legal matter and delaying his case, requiring Mr. Burd to hire a new lawyer, and by failing to return the \$1,000 legal fee. By failing to cooperate with the investigation of these matters, respondent caused actual harm to the ODC and the legal system. Based on the ABA's *Standards for Imposing*

Lawyer Sanctions, the board determined the applicable baseline sanction is suspension.

In aggravation, the board found a pattern of misconduct, multiple offenses, bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with the rules or orders of the disciplinary agency, refusal to acknowledge the wrongful nature of the conduct, substantial experience in the practice of law, and indifference to making restitution. The board declined to adopt the aggravating factor of “failure to comply” with the ODC, which is not specifically included in the ABA Standards. The sole mitigating factor found by the board was the absence of a prior disciplinary record.

After considering this court’s jurisprudence addressing similar misconduct, the board recommended respondent be suspended from the practice of law for one year and one day. The board further recommended respondent be ordered to make restitution to Mr. Burd in the amount of \$1,000, and that she be assessed with the costs and expenses of this proceeding.

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.

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.

The evidence in the record of these deemed admitted matters supports a finding that respondent neglected client matters, failed to communicate with her clients, failed to reduce a contingency fee agreement to writing, and failed to cooperate with the ODC in its investigation. Based on these facts, respondent has violated the Rules of Professional Conduct as found by the disciplinary board.

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 also supports a finding that respondent knowingly violated duties owed to her clients, the legal system, and the legal profession, causing potential and actual harm. The aggravating and mitigating factors found by the disciplinary board are supported by the record. The applicable baseline sanction is suspension.

Turning to the issue of an appropriate sanction, the disciplinary board cited two recent cases in which a one year and one day suspension was imposed for similar

misconduct. We agree that these cases provide guidance here. In *In re: Montgomery*, 18-0637 (La. 8/31/18), 251 So. 3d 401, an attorney neglected two legal matters, failed to communicate with two clients, failed to account for fees, and failed to cooperate with the ODC in two investigations. In *In re: Brown-Manning*, 15-2342 (La. 3/4/16), 185 So. 3d 728, an attorney neglected two legal matters, failed to communicate with two clients, failed to refund unearned fees, and failed to cooperate with the ODC in two investigations.

Based on this case law, a one year and one day suspension is appropriate. Accordingly, we will adopt the disciplinary board's recommendation and suspend respondent from the practice of law for one year and one day. We will also order respondent to pay restitution to Mr. Burd in the amount of \$1,000.

DECREE

Upon review of the findings and recommendations of the hearing committees and disciplinary board, and considering the record, it is ordered that Anna M. Jackson, Louisiana Bar Roll number 25104, be and she hereby is suspended from the practice of law for one year and one day. It is further ordered that respondent pay restitution to Carl Burd in the amount of \$1,000. 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.