

The Supreme Court of the State of Louisiana

IN RE: GRETA L. WILSON

No. 2021-B-01579

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

January 26, 2022

Permanent disbarment imposed. See per curiam.

JDH

JLW

SJC

JBM

PDG

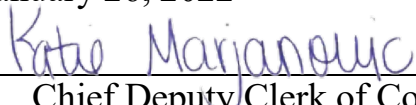
Crichton, J., additionally concurs and assigns reasons.

Genovese, J., dissents and would impose regular disbarment.

Crain, J., dissents and would impose regular disbarment.

Supreme Court of Louisiana

January 26, 2022



Chief Deputy Clerk of Court
For the Court

SUPREME COURT OF LOUISIANA

NO. 2021-B-1579

IN RE: GRETA L. WILSON

ATTORNEY DISCIPLINARY PROCEEDING

PER CURIAM

This disciplinary matter arises from formal charges filed by the Office of Disciplinary Counsel (“ODC”) against respondent, Greta L. Wilson, 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 1989.

On June 5, 2017, we disbarred respondent in *In re: Wilson*, 17-0622 (La. 6/5/17), 221 So. 3d 40 (“*Wilson I*”). In *Wilson I*, respondent engaged in misconduct by filing suit and enrolling as counsel in another suit for the purpose of obtaining funds, and then converting those funds to her own use. This misconduct occurred in 2013 and 2014.

On January 14, 2019, we adjudged respondent guilty of additional misconduct warranting discipline, to be considered in the event she sought readmission to the practice of law, and extended the time period in which she could seek readmission by two years. *In re: Wilson*, 18-1800 (La. 1/14/19), 260 So. 3d 1203 (“*Wilson II*”). The misconduct at issue in *Wilson II* took place over the period from 2012-2015 and included respondent’s neglect of a legal matter, failure to communicate with a client,

and failure to refund an unearned fee. Respondent also failed to cooperate with the ODC in its investigation, which was opened in 2015.

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

FORMAL CHARGES

By letter dated June 5, 2013, respondent informed Bernadine Underwood Johnson that she may be entitled to recover funds held in the registry of the Orleans Civil District Court. In the letter, respondent instructed Ms. Johnson to call her for further information.

Ms. Johnson telephoned respondent, as instructed. At that time, respondent explained to Ms. Johnson that she would need to sign a representation agreement in order to receive the money. Ms. Johnson signed the agreement on July 8, 2013 and returned it to respondent. Thereafter, Ms. Johnson attempted to contact respondent on multiple occasions, to no avail.

In 2020, Ms. Johnson researched the matter and learned that respondent had been disbarred. Ms. Johnson also learned that on July 29, 2013, the clerk of Civil District Court issued a check in the amount of \$14,829.64 payable to Ms. Johnson, her former spouse, and respondent. The check was negotiated by respondent on July 31, 2013, but Ms. Johnson never received any portion of the funds.

In February 2021, Ms. Johnson filed a complaint against respondent with the ODC.¹ In March 2021, the ODC sent notice of the complaint to respondent's primary bar registration address via certified mail, but the notice was returned "unable to forward." In April 2021, the ODC's investigator left a note at respondent's secondary address advising her to contact the ODC. The ODC also

¹ Ms. Johnson also filed a claim against respondent with the Louisiana State Bar Association's Client Assistance Fund.

attempted to contact respondent at her registered telephone numbers. Despite all these efforts, respondent has made no contact with the ODC.

DISCIPLINARY PROCEEDINGS

In May 2021, the ODC filed formal charges against respondent, alleging that her conduct violated Rules 1.3 (failure to act with reasonable diligence and promptness in representing a client), 1.4 (failure to communicate with a client), 1.15(d) (failure to timely remit funds to a client or third party), 8.1(c) (failure to cooperate with the ODC in its investigation), 8.4(a) (violation of the Rules of Professional Conduct), and 8.4(c) (engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation) of the Rules of Professional Conduct.

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 submission, the hearing committee determined the factual allegations in the formal charges were deemed admitted and proven by clear and convincing evidence. Based on those deemed admitted facts, the committee determined respondent violated the Rules of Professional Conduct as alleged in the formal charges.

The committee determined respondent intentionally violated duties owed to her client and the legal profession. Her misconduct resulted in significant actual

harm to Ms. Johnson, who has been deprived of a substantial amount of money for over eight years. Furthermore, the record does not demonstrate that restitution has been paid. After considering the ABA's *Standards for Imposing Lawyer Sanctions*, the committee determined the baseline sanction is disbarment.

The committee found the following aggravating factors are present: a dishonest or selfish motive, 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, vulnerability of the victim, substantial experience in the practice of law, and indifference to making restitution. In mitigation, the committee determined that in light of its sanction analysis, *Wilson I* and *Wilson II* should not be considered as prior misconduct.

Turning to the issue of an appropriate sanction, the committee noted that the instant misconduct occurred in 2013, while the misconduct in *Wilson I* and *Wilson II* occurred between 2012 and 2015. Because the instant misconduct occurred within the time period of the misconduct at issue in *Wilson I* and *Wilson II*, the committee concluded that all three matters must be considered together pursuant to *Louisiana State Bar Ass'n v. Chatelain*, 573 So. 2d 470 (La. 1991).²

Taking the misconduct of *Wilson I* and *Wilson II* into consideration along with the instant misconduct, the committee recognized an ongoing pattern of misconduct. This is the third instance in which respondent has failed to disburse funds owed to a client. Moreover, the factual pattern of the instant matter appears very similar to the facts in *Wilson I*. The extent of the financial harm to respondent's clients exceeds \$50,000.

² In *Chatelain*, we held that when a second disciplinary proceeding against an attorney involves misconduct which occurred during the same time period as the first proceeding, "the overall discipline to be imposed should be determined as if both proceedings were before the court simultaneously."

Under these circumstances, the committee recommended that respondent be permanently disbarred. The committee also recommended respondent be ordered to pay restitution to Ms. Johnson and be assessed with the costs and expenses of this proceeding.

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.

The record in this deemed admitted matter supports a finding that respondent neglected a legal matter, failed to communicate with a client, and failed to remit funds to a client. She also failed to cooperate with the ODC in its investigation. As

such, respondent 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).

Respondent violated duties owed to her client and the legal system, causing actual harm. Her conduct was intentional. The applicable baseline sanction is disbarment. The aggravating factors found by the hearing committee are supported by the record. No mitigating factors are present.

In *Chatelain, supra*, we were concerned that it would be potentially unfair for a lawyer to receive a greater sanction simply because of the timing of the prosecution. However, as the jurisprudence has evolved, we have also recognized that the lawyer should not benefit in cases where it is obvious that the cumulative effect of the newly-charged misconduct and the prior misconduct would have caused the court to impose a greater sanction had it been aware of that misconduct at the time the court rendered its initial judgment. *See, e.g., In re: Holley*, 03-1366 (La. 10/3/03), 856 So. 2d 1197 (“[h]ad we considered the instant misconduct together with the misconduct in *Holley I*, it is likely we would have imposed a more severe sanction, probably in the range of eighteen months, with some period of deferral and probation.”). In short, the court's overriding consideration has been to determine

the appropriate overall sanction for the lawyer's misconduct, ignoring any distortions which may be caused by the timing of the filing of formal charges.

Applying that reasoning to the instant case, it is evident that the substantive misconduct in the instant formal charge is part of the continuing series of professional breaches by respondent spanning the period from 2012 to 2015 that we first addressed in *Wilson I* and *Wilson II*. To consider this matter in isolation from the similar charges in the prior cases would prevent us from recognizing respondent's pattern of serious misconduct. Accordingly, we will consider the instant matter together with the charges at issue in *Wilson I* and *Wilson II* and determine an appropriate sanction as if all three cases were before the court simultaneously.

Wilson I involved two client matters. In the Gates matter, respondent filed suit on behalf of Lawrence Gates, Jr., without his consent or authorization, regarding funds recovered from the sale of property. Thereafter, respondent received a check in the amount of \$20,141. She endorsed the check with Mr. Gates' signature and deposited the funds into her client trust account. Respondent did not disburse any funds to Mr. Gates, who had to hire an attorney to recover the funds. Although Mr. Gates was able to recover the money owed to him with the assistance of his new attorney, the balance in respondent's trust account dropped below the amount in question during the time she held the funds, which was over eight months. The refund to Mr. Gates did not come from respondent's trust account.

In the Pittman matter, respondent enrolled as counsel for Harry Lee Pittman for the purpose of recovering funds held in the registry of the Orleans Civil District Court on his behalf. Respondent did not have Mr. Pittman's consent or authorization to enroll as counsel. She subsequently received a check in the amount of \$33,220.81. Respondent endorsed the check with Mr. Pittman's signature and negotiated the check. Mr. Pittman had never met respondent and, upon learning of her actions, had

to hire an attorney to recover his funds. He was not able to do so. We disbarred respondent for her misconduct in *Wilson I* and ordered that she pay restitution to Mr. Pittman.

In *Wilson II*, Kim Richardson hired respondent to represent him in a contract dispute. Mr. Richardson paid respondent a \$5,000 retainer fee. Respondent failed to perform any substantive work on the matter and failed to refund the unearned fee. Because this misconduct occurred during the same time period as the misconduct in *Wilson I*, we adjudged her guilty of additional violations pursuant to *Chatelain*. For her failure to cooperate with the ODC in its investigation of the complaint filed by Mr. Richardson, we extended by two years the time in which respondent could apply for readmission.

In the instant matter, respondent solicited Ms. Johnson to recover funds held in the registry of the court on her behalf. After being hired, respondent received a check payable to Ms. Johnson in the amount of \$14,829.64. Respondent endorsed the check with Ms. Johnson's signature but did not remit any portion of the funds to Ms. Johnson.

In Appendix D to Supreme Court Rule XIX, we set forth guidelines illustrating the types of conduct which might warrant permanent disbarment. Guideline 1 applies to "repeated or multiple instances of intentional conversion of client funds with substantial harm." Taken as a whole, respondent's conduct here and in *Wilson I* and *Wilson II* falls within Guideline 1. Respondent engaged in a pattern of converting client funds, causing harm to her clients. With the exception of Mr. Gates, she has not paid restitution to any of her clients. Numerous aggravating factors are present, with no factors in mitigation. Had we been aware of the instant misconduct at the time of *Wilson I* and *Wilson II*, respondent would have been permanently disbarred.

Accordingly, we will adopt the hearing committee's recommendation and permanently disbar respondent. We will further order respondent to pay restitution to Ms. Johnson and/or to the Client Assistance Fund, as appropriate, as well as pay all costs of this proceeding.

DECREE

Upon review of the findings and recommendations of the hearing committee, and considering the record, it is ordered that Greta L. Wilson, Louisiana Bar Roll number 19834, be and she hereby is permanently disbarred. Her name shall be stricken from the roll of attorneys and her license to practice law in the State of Louisiana shall be revoked. Pursuant to Supreme Court Rule XIX, § 24(A), it is further ordered that respondent be permanently prohibited from being readmitted to the practice of law in this state. It is further ordered that respondent shall make restitution to Bernadine Underwood Johnson and/or repay to the Louisiana State Bar Association's Client Assistance Fund any amounts paid to Ms. Johnson on her behalf. 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.