

The Supreme Court of the State of Louisiana

IN RE: TRAVIS MITCHELL HILL

No. 2021-B-01616

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

February 08, 2022

Discipline imposed. See per curiam.

PDG
JLW
JDH
SJC
JTG
WJC

McCallum, J., dissents and assigns reasons.

Supreme Court of Louisiana
February 08, 2022


Chief Deputy Clerk of Court
For the Court

SUPREME COURT OF LOUISIANA

NO. 2021-B-1616

IN RE: TRAVIS MITCHELL HILL

ATTORNEY DISCIPLINARY PROCEEDING

PER CURIAM

This disciplinary matter arises from formal charges filed by the Office of Disciplinary Counsel (“ODC”) against respondent, Travis Mitchell Hill. Respondent is not licensed to practice law in Louisiana; he is licensed to practice law only in the State of Texas, under Texas Bar Card Number 24043293.

Nevertheless, the ODC asserts jurisdiction over him in this matter pursuant to Supreme Court Rule XIX, § 6(A) and Rule 8.5 of the Rules of Professional Conduct. Supreme Court Rule XIX, § 6(A) provides that “any lawyer not admitted in this state who practices law or renders or offers to render any legal services in this state” is subject to the disciplinary authority of this court. Rule 8.5 of the Rules of Professional Conduct provides:

- (a) Disciplinary Authority. A lawyer admitted to practice in this jurisdiction is subject to the disciplinary authority of this jurisdiction, regardless of where the lawyer’s conduct occurs. A lawyer not admitted in this jurisdiction is also subject to the disciplinary authority of this jurisdiction if the lawyer provides or offers to provide any legal services in this jurisdiction. A lawyer may be subject to the disciplinary authority of both this jurisdiction and another jurisdiction for the same conduct.
- (b) Choice of Law. In any exercise of the disciplinary authority of this jurisdiction, the rules of professional conduct to be applied shall be as follows:
 - (1) for conduct in connection with a matter pending before a tribunal, the rules of the jurisdiction in which the tribunal sits, unless the rules of the tribunal provide otherwise; and

- (2) for any other conduct, the rules of the jurisdiction in which the lawyer's conduct occurred, or, if the predominant effect of the conduct is in a different jurisdiction, the rules of that jurisdiction shall be applied to the conduct. A lawyer shall not be subject to discipline if the lawyer's conduct conforms to the rules of a jurisdiction in which the lawyer reasonably believes the predominant effect of the lawyer's conduct will occur.

FORMAL CHARGES

On April 22, 2020, respondent filed a Motion to Transfer to State of Texas and a proposed Order Transferring Suit Affecting Parent-Child Relationship on behalf of Michelle Callais in the pending civil litigation matter captioned *Michelle Callais v. William James Hendrix, III*, No. 772-167 on the docket of the 24th Judicial District Court for the Parish of Jefferson ("the Louisiana litigation"). The motion to transfer, which did not identify respondent as a Louisiana lawyer, included a certificate of service made "in accordance with the Texas Rules of Civil Procedure." Respondent did not seek or otherwise obtain *pro hac vice* admission in the Louisiana litigation.

On April 29, 2020, Ruben Bailey, the Domestic Commissioner for the 24th Judicial District Court, sent respondent a letter in which he requested respondent provide proof that he is a member in good standing with the Louisiana State Bar Association. In a May 18, 2020 response letter to Mr. Bailey, respondent indicated, "You are correct. I am not a member of the Louisiana Bar. I am attempting to help a lady in Texas get a name change for her child."

In early August 2020, Mr. Bailey filed a disciplinary complaint against respondent. In his September 6, 2020 written response to the complaint, respondent stated:

As previously stated in my letter to Mr. Bailey, I am not a member of the Louisiana Bar. I have never claimed to be

a member of the Louisiana Bar nor have I appeared in any court in the State of Louisiana holding myself out to be a licensed attorney in the State of Louisiana.

The only contact I have ever had with a Louisiana State Court was to file a motion with the 24th District Court to perform a purely ministerial task of transferring a case to Texas so a name change can be done for a child.

The ODC alleged that respondent's conduct violated the following provisions of the Rules of Professional Conduct: Rules 5.5(a) (engaging in the unauthorized practice of law) and 8.4(d) (engaging in conduct prejudicial to the administration of justice).

DISCIPLINARY PROCEEDINGS

On November 16, 2020, the ODC filed formal charges against respondent. The formal charges were mailed via certified mail to respondent at his primary practice address in Texas. Respondent signed for the certified mail on November 24, 2020. However, he failed to file an answer to 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 reviewing the ODC's deemed admitted submission, the hearing committee made factual findings consistent with the deemed admitted factual allegations set forth in the formal charges. Based on those facts, the committee determined respondent violated the Rules of Professional Conduct as charged.

The committee then determined respondent knowingly and “deliberately” violated duties owed to his client, causing potential harm to said client. According to the committee, the baseline sanction for respondent’s misconduct is a public reprimand.

In light of the above findings and determinations, the committee recommended respondent be publicly reprimanded.

The ODC filed an objection to the committee’s report, arguing the recommended sanction was too lenient.

Disciplinary Board Recommendation

After review, the disciplinary board adopted the hearing committee’s factual findings, which the board noted were based upon the deemed admitted factual allegations set forth in the formal charges. The board also adopted the committee’s findings regarding rule violations, which are supported by the deemed admitted factual allegations and the evidence submitted in support of those allegations. In determining respondent violated Rule 5.5(a) of the Rules of Professional Conduct, the board found that he made a formal appearance in the Louisiana litigation without seeking temporary or *pro hac vice* admission in the case before he filed the motion to transfer and proposed order. In determining respondent violated Rule 8.4(d), the board found that respondent’s unauthorized practice of law was contrary to the proper administration of justice and circumvented the rules and laws governing the practice of law in Louisiana.

The board then determined respondent knowingly violated duties owed to his client, the legal system, and the legal profession. His conduct caused actual harm to the legal system because Mr. Bailey was forced to expend time and judicial resources in discerning whether respondent was eligible to practice law in Louisiana and in reporting respondent’s misconduct to the ODC. His conduct also caused potential

harm to his client by delaying the Louisiana litigation with an inappropriate filing. After consulting the ABA's *Standards for Imposing Lawyer Sanctions*, the board determined the baseline sanction is suspension. In aggravation, the board found a refusal to acknowledge the wrongful nature of the conduct and substantial experience in the practice of law (admitted in Texas in 2006). The board found no mitigating factors present.

Turning to the issue of an appropriate sanction, the board concluded that respondent's conduct is analogous to a Louisiana attorney who practices law while ineligible to do so. In *In re: Hardy*, 03-0443 (La. 5/2/03), 848 So. 2d 511, *In re: Goudeau*, 18-0638 (La. 8/31/18), 251 So. 3d 393, and *In re: Smothers*, 20-1412 (La. 3/16/21), 312 So. 3d 577, we held that the baseline sanction for practicing law while ineligible is a suspension from the practice of law for one year and one day. Additionally, the board found *In re: Cortigene*, 13-2022 (La. 2/14/14), 144 So. 3d 915, *reh'g denied* (5/2/14), to be instructive. In *Cortigene*, one of the respondents, Newton B. Schwartz, Sr., was licensed to practice law only in Texas and Pennsylvania. Mr. Schwartz participated in a deposition in New Orleans in litigation filed in federal court even though he was not licensed or admitted to practice *pro hac vice* in Louisiana at any time during the litigation. We concluded that Mr. Schwartz had engaged in the unauthorized practice of law and, because he was a non-Louisiana lawyer, ordered that he be enjoined for a period of three years from seeking full admission to the Louisiana bar or seeking admission to practice in Louisiana on any temporary or limited basis, including but not limited to seeking *pro hac vice* admission before a Louisiana court pursuant to Supreme Court Rule XVII, § 13 or seeking limited admission as an in-house counsel pursuant to Rule XVII, § 14.

In light of this case law, the board recommended respondent be enjoined for one year and one day from seeking admission to the Louisiana bar or seeking

admission to practice in Louisiana on a temporary or limited basis, including but not limited to seeking *pro hac vice* admission before a Louisiana court pursuant to Louisiana Supreme Court Rule XVII, § 13 or seeking limited admission as an in-house counsel pursuant to Louisiana Supreme Court Rule XVII, § 14.

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 record of this deemed admitted matter supports a finding that respondent, a non-Louisiana attorney, filed a motion in a Louisiana court case without seeking or obtaining *pro hac vice* admission in the litigation. Based on this fact, respondent

has violated the Rules of Professional Conduct as alleged by the ODC and found by the hearing committee and 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 further supports a finding that respondent knowingly violated duties owed to his client, the legal system, and the legal profession, causing actual and potential harm. The baseline sanction for this type of misconduct is suspension. The aggravating factors found by the disciplinary board are supported by the record, and we agree with the board that no mitigating factors are present.

In addition to the cases cited by the board, we find the case of *In re: Nguyen*, 17-0214 (La. 4/13/17), 215 So. 3d 668, provides guidance. In *Nguyen*, a non-Louisiana attorney, while admitted *pro hac vice* in the Western District of Louisiana, inappropriately communicated with a criminal defendant without the permission of the defendant's counsel and then failed to cooperate with the ODC's investigation into his conduct. We determined that this misconduct would warrant a one-year suspension from the practice of law if the attorney were a member of the Louisiana bar. Because the attorney was not a member of the bar, we instead ordered that he be enjoined for a period of one year from seeking full admission to the Louisiana bar or seeking admission to practice in Louisiana on any temporary or limited basis, including but not limited to seeking *pro hac vice* admission before a Louisiana court

pursuant to Supreme Court Rule XVII, § 13 or seeking limited admission as an in-house counsel pursuant to Supreme Court Rule XVII, § 14.

In light of this case law addressing misconduct by non-Louisiana attorneys, we will adopt the board's recommendation and enjoin respondent for a period of one year and one day from the date of this order from seeking full admission to the Louisiana bar or seeking admission to practice in Louisiana on any temporary or limited basis, including but not limited to seeking *pro hac vice* admission before a Louisiana court pursuant to Supreme Court Rule XVII, § 13 or seeking limited admission as an in-house counsel pursuant to Supreme Court Rule XVII, § 14. We will further direct the ODC to report our judgment to all jurisdictions in which respondent is currently admitted.

DECREE

Upon review of the findings and recommendation of the hearing committee and the disciplinary board, and considering the record, it is ordered that Travis Mitchell Hill shall be enjoined for a period of one year and one day from seeking admission to the Louisiana bar or seeking admission to practice in Louisiana on a temporary or limited basis, including but not limited to seeking *pro hac vice* admission before a Louisiana court pursuant to Supreme Court Rule XVII, § 13 or seeking limited admission as an in-house counsel pursuant to Supreme Court Rule XVII, § 14. The Office of Disciplinary Counsel is directed to report this judgment to all jurisdictions in which Mr. Hill is currently admitted.

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.