

The Supreme Court of the State of Louisiana

IN RE: DONOVAN KENNETH HUDSON

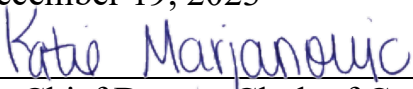
No. 2023-B-01261

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

December 19, 2023

Disbarment imposed. See per curiam.

JDH
JLW
SJC
JTG
WJC
JBM
PDG

Supreme Court of Louisiana
December 19, 2023


Chief Deputy Clerk of Court
For the Court

SUPREME COURT OF LOUISIANA

NO. 2023-B-1261

IN RE: DONOVAN KENNETH HUDSON

ATTORNEY DISCIPLINARY PROCEEDING

PER CURIAM

This disciplinary matter arises from formal charges filed by the Office of Disciplinary Counsel (“ODC”) against respondent, Donovan Kenneth Hudson, an attorney licensed to practice law in Louisiana, but currently on interim suspension for threat of harm to the public. *In re: Hudson*, 22-0942 (La. 6/23/22), 340 So. 3d 879.

FORMAL CHARGES

Count I

In March 2022, the ODC received a complaint against respondent from Judges Jeffrey S. Johnson and Brian K. Abels of the 21st Judicial District Court for the Parishes of Livingston, Tangipahoa, and St. Helena. The ODC opened an investigation which revealed that in an effort to cure title to property, respondent had generated two bogus court orders, using manufactured docket numbers, and forged the signatures of the judges on the bogus orders. After verifying that the signatures were forgeries and that there was no such docket number as reflected on the “orders,” the judges alerted law enforcement. On February 21, 2022, respondent was arrested on two counts of forgery and two counts of presenting forged court orders, in violation of La. R.S. 14:72. Respondent self-reported his arrest to the ODC, but provided no details or acknowledgement of his conduct, nor did he assert a Fifth Amendment privilege against self-incrimination.

Respondent then failed to respond to the ODC's requests for a response and an explanation for his conduct, necessitating the issuance of a subpoena directing him to appear for a sworn statement on May 2, 2022. Despite being personally served with the subpoena, respondent failed to appear for the sworn statement.

The ODC alleged that respondent's conduct violated Rules 8.1(c) (failure to cooperate with the ODC in its investigation), 8.4(a) (violation of the Rules of Professional Conduct), 8.4(b) (commission of a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer), and 8.4(c) (engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation) of the Rules of Professional Conduct.

Count II

In December 2021, Shuamanda Papillion hired respondent to assist her in securing a financing agreement on a vehicle she had purchased through Vroom. She paid respondent \$3,000 and received his commitment that the issues would be remedied by February 2022. Respondent initially invented explanations for what he claimed he was doing and then ceased all communications with Ms. Papillion. As of March 2022, he had not resolved the issue. Ms. Papillion contacted Vroom and was able to obtain the needed information on her own. Despite Ms. Papillion's repeated requests, respondent did not return her original documents or refund the \$3,000 fee.¹

In April 2022, Ms. Papillion filed a complaint against respondent with the ODC. Respondent was personally served with notice of the complaint and asked to respond to same, but he failed to do so. Consequently, the ODC issued a subpoena directing respondent to appear for a sworn statement on September 7, 2022. Despite

¹ The record reflects that the Louisiana State Bar Association's ("LSBA") Client Assistance Fund has approved a payment of \$3,000 to Ms. Papillion.

being personally served with the subpoena, respondent failed to appear for the sworn statement.

The ODC alleged that respondent's 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), 1.5(f)(5) (failure to refund an unearned fee), 8.1(c), and 8.4(a) of the Rules of Professional Conduct.

Count III

On May 14, 2021, respondent was arrested in St. Landry Parish on charges of resisting an officer by force of violence, driving on a roadway laned for traffic, careless operation of a motor vehicle, and signal lamps required. The events started when a Deputy Sheriff was stopped in traffic for a red light. Respondent drove his vehicle into the lane designated for a left-turn only and then executed a right-turn through the red light. When the deputy pulled him over, respondent reportedly made racist comments towards the deputy and refused to follow instructions to keep his hands out of his vehicle. When respondent next inserted his hands into the pockets of his pants, the deputy tried to restrain him (for safety). Respondent resisted while shouting at the deputy, who then had to deploy a Taser, which was ineffective. The deputy was ultimately able to restrain respondent's hands and effect his arrest.

The ODC opened an investigation into respondent's arrest. Respondent was personally served with notice of the complaint and asked to respond to same, but he failed to do so. Consequently, the ODC issued a subpoena directing respondent to appear for a sworn statement on September 7, 2022. Despite being personally served with the subpoena, respondent failed to appear for the sworn statement.

The ODC alleged that respondent's conduct violated Rules 8.1(c), 8.4(a) and 8.4(b) of the Rules of Professional Conduct.

Count IV

The ODC received a complaint filed against respondent from attorney Jacob H. Hargett, alleging that respondent had failed to timely file suit on behalf of Bella Joseph, a former client of respondent's, thereby allowing her claim to prescribe. After all attempts to discuss the matter with respondent had failed, Mr. Hargett filed a legal malpractice suit against respondent. Thereafter, respondent failed to file responses to requests for production, failed to appear for a hearing on a motion to compel discovery on at least two occasions, and then failed to appear for a third hearing. When respondent then failed to provide discovery by the court's deadline, he was held in contempt of court.

The ODC alleged that respondent's conduct violated Rules 8.4(a) and 8.4(d) (engaging in conduct prejudicial to the administration of justice) of the Rules of Professional Conduct.

DISCIPLINARY PROCEEDINGS

The ODC filed formal charges, as set forth above, against respondent in February 2023. 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 committee's consideration.

Hearing Committee Report

After considering the ODC's deemed admitted submission, the hearing committee adopted the deemed admitted factual allegations of the formal charges as

its factual findings. Based on those facts, the committee determined respondent violated the Rules of Professional Conduct as charged.

The committee determined respondent violated duties owed to his clients, the public, and the legal profession. He acted both intentionally and negligently, and his conduct caused harm to his clients. His most egregious conduct involves the forgeries of the judges' signatures, and is "woefully inconsistent with how a member of the bar should conduct himself and is highly prejudicial to the administration of justice." Relying on the ABA's *Standards for Imposing Lawyer Sanctions*, the committee determined the baseline sanction is disbarment.

The committee determined that the following aggravating factors are present: a dishonest or selfish motive, a pattern of misconduct, 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 (admitted 1991), and illegal conduct. The committee determined that no mitigating factors are present.

Based on the above, the committee recommended respondent be disbarred, retroactive to the date of his interim suspension. The committee also recommended respondent be ordered to pay restitution in the amount of \$3,000 to the LSBA's Client Assistance Fund. The committee further recommended he be ordered to pay all costs associated with 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. 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 in this deemed admitted matter supports a finding that respondent neglected a legal matter, failed to communicate with a client, failed to refund an unearned fee, committed criminal conduct, engaged in conduct prejudicial to the administration of justice, engaged in dishonest and deceitful conduct, and failed to cooperate with the ODC in its investigations. This conduct violates the Rules of Professional Conduct as charged.

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 violated duties owed to his clients, the public, the legal system, and the legal profession. He acted knowingly and intentionally, and his conduct caused actual harm. The applicable baseline sanction is disbarment. In addition to the aggravating factors found by the hearing committee, the record supports the aggravating factor of a prior disciplinary record

(2015 admonition for engaging in a conflict of interest). No mitigating factors are present.

In a prior case with somewhat similar facts to those at issue in Count I, we imposed a three-year suspension with all but one year and one day deferred. *In re: Ellis*, 98-0078 (La. 5/1/98), 710 So. 2d 794. In *Ellis*, a lawyer prepared a series of falsified court judgments in an attempt to pacify a client who was pressuring him to move his case along. At the time of his misconduct, Mr. Ellis was undergoing treatment for cancer, which was found to have limited his judgment and abilities. In imposing an actual period of suspension of one year and one day, we stated:

... [W]e conclude that respondent's conduct represents a serious breach of the ethical rules. Ordinarily, the sanction for such conduct would be disbarment or a substantial suspension. However, we agree there are considerable mitigating factors present in this case, including respondent's medical condition and the fact that his actions, although improper, did not cause serious harm to his client. Based on all these factors, we conclude a suspension from the practice of law for a period of three years, with all but one year and one day deferred, is appropriate discipline under the circumstances.

In *Ellis*, we found that the attorney's misconduct was serious, but we took into consideration that no serious client harm occurred and that compelling mitigating circumstances were also present, including the attorney's medical condition. In the instant matter, respondent's misconduct resulted in actual harm to his clients and none of the mitigating factors which supported leniency in *Ellis* have been proven. Moreover, this matter involves additional counts of misconduct that were not present in *Ellis*. Therefore, disbarment is appropriate.

DECREE

Upon review of the findings and recommendations of the hearing committee, and considering the record, it is ordered that Donovan Kenneth Hudson, Louisiana Bar Roll number 20873, be and he hereby is disbarred, retroactive to June 23, 2022,

the date of his interim suspension. His name shall be stricken from the roll of attorneys and his license to practice law in the State of Louisiana shall be revoked. It is further ordered that respondent shall make full restitution to Shuamanda Papillion and/or the Louisiana State Bar Association's Client Assistance Fund, 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.