

Original

LOUISIANA ATTORNEY DISCIPLINARY BOARD
NUMBER 99-DB-022
IN RE: JED G GREMILLION
RULING OF THE DISCIPLINARY BOARD

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This is a disciplinary proceeding based on the filing of a petition for consent discipline by the Respondent Jed G. Gremillion of Abbeville Louisiana.

PRODECURAL HISTORY

On April 1, 1999 the Office of Disciplinary Counsel ("ODC") instituted formal charges against the Respondent, Jed G. Gremillion, alleging two counts of misconduct. The charges allege that the Respondent violated Rules 1.1(a), 1.3, 1.4(a), 1.15(b), 8.1(b)(c) of the Rules of Professional Conduct.

On July 16, 1999, the Respondent filed an answer to the formal charges, denying all allegations of misconduct as asserted in the formal charges.

On September 16, 1999, the Respondent and the ODC jointly filed a petition for consent discipline. The proposed sanction in the petition for consent is a public reprimand.

On November 18, 1999, a panel of the Disciplinary Board reviewed this matter. The Respondent was present and represented by his attorney, Gordon P. Sandoz. Deputy Counsel Julie B. White represented the ODC.

FORMAL CHARGES

Count I

The Respondent was retained and paid in full by Lori Meaux to represent her interest in a child custody dispute in 1997. On July 7, 1997, the court awarded sole custody to Ms. Meaux and noted that the appropriate judgment would be signed upon

presentation. It is alleged that the Respondent failed to draft the appropriate judgment for the judge's signature, despite many requests from his client to do so. The Respondent refused, neglected and failed to present or file the judgment, nor did he respond to his client's attempts at communication.

Count II

Count II of the charges stems from the Respondent's failure to respond to the original complaint sent by the ODC to him in February. It is alleged that the Respondent failed, refused and neglected to respond to the complaint. It is further alleged that the Respondent's conduct represented a failure to provide competent representation to a client, in violation of Rule 1.1(a) of the Rules of Professional Conduct; a failure to act with reasonable diligence and promptness in representing a client in violation of Rule 1.3; a failure to keep a client reasonably informed about the status of a matter; and a failure to promptly comply with reasonable request for information in violation of 1.4(a), 1.15(b) and 8.1.

CONSENT DISCIPLINE

A joint petition for consent discipline was filed on September 16, 1999 by the Respondent and the Office of Disciplinary Counsel. The Respondent tendered a conditional admission to violating Rules 1.3, and 8.4(g) of the Rules of Professional Conduct, as well as Rule XIX, § 9(c). The proposed sanction for the misconduct is a public reprimand.

APPLICATION OF FACTORS TO BE CONSIDERED IN IMPOSING SANCTIONS

Louisiana Supreme Court Rule XIX § 10(c) states that in imposing a sanction after a finding of lawyer misconduct, the Court or Board shall consider the following

factors:

- (1) whether the lawyer has violated a duty owed to a client, to the public, to the legal system, or to the profession;
- (2) whether the lawyer acted intentionally, knowingly, or negligently;
- (3) the amount of actual or potential injury caused by the lawyer's misconduct; and
- (4) the existence of any aggravating or mitigating factors

The Board finds that the Respondent violated a duty owed to his client by his failure to timely file the appropriate judgment to finalize her child custody order. He also violated duties owed to the profession for his failure to respond to the ODC's inquiry. We find that these actions of the Respondent were knowing and negligent, and caused potential injury and inconvenience to his client.

The Respondent is currently under suspension for two prior instances of misconduct.¹ The prior misconduct involved some of the same rule violations as in the instant case; (1.3 lack of due diligence; 1.4 failure to comply with reasonable request for information; 1.5(b) failure to refund and account for client funds; and 8.1(c) failure to cooperate with disciplinary authority). Pursuant to the ABA Standards for Imposing Lawyer Sanctions, Standard 8.1 suggests, "disbarment is generally appropriate when a lawyer has been suspended for the same or similar misconduct, and intentionally or knowingly engages in further acts of misconduct that causes injury or potential injury to a client, the public, the legal system, or the profession." The Respondent's failure to file the judgment in the child custody matter for his client interfered with her award of sole

¹ See In Re Jed G. Gremillion, 715 So2d 397 (La. 1998) attached

custody. Additionally, his client paid him in full, and he failed to complete the work. However, he did provide an accounting and a refund to his client.

In reviewing the jurisprudence, the proposed consent would appear be too lenient. In the case *In Re: Terrance J. Powers*, 98-2826 (La.1/29/99); ____ So2d ____, 1999 WL 41820, Mr. Powers was suspended for one year and one day for neglecting to complete a matter in which he was retained and paid in full. Mr. Powers was also ordered to pay restitution to his client. Additionally, Mr. Powers, as in the instant case, failed to communicate with his client, and failed to cooperate with the disciplinary authorities. However, in the instant matter, the ODC noted that this case should have been consolidated with the earlier case against the Respondent, since the misconduct occurred during the same period of time, and the cases were investigated during the same period of time. The ODC could not clearly explain what caused the delay in prosecuting this case, but the Respondent should not be penalized for the delay of ODC.

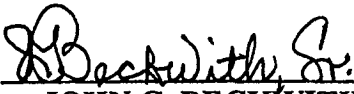
In view of the facts and circumstances of this matter, the proposed consent discipline of a public reprimand is appropriate to address the misconduct. The Respondent's prior discipline should not be a factor in determining the sanction since this matter should have been considered with the prior case.

RULING

Based on the foregoing, it is ordered that the petition for consent discipline be accepted, and that a public reprimand be issued against the Respondent for his violations of the Rules of Professional Conduct. It is further ordered that the Respondent be assessed the costs and expenses of these proceedings, with legal interest to commence running thirty days from the date of finality of this ruling until paid.

LOUISIANA ATTORNEY DISCIPLINARY BOARD

Donald R. Brown
Reginald R. Brown, Sr.
Clare Juptier
James L. Pate
Jack O. Whitehead, Jr.

BY: 
JOHN G. BECKWITH, SR.
FOR THE ADJUDICATIVE COMMITTEE

Judy Barrasso-Dissents.
Robert E. Leake, Jr.-Dissents w/reasons.
David R. Frohn-Recused.

Docket No. 99-DB-022
Jed D. Gremillion

Dissent:

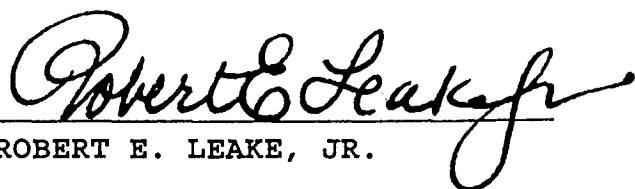
I respectfully dissent from the hearing panel's recommendation that consent discipline of Respondent by public reprimand be accepted. The sanction is too lenient.

Respondent's misconduct on Count I occurred after July 7, 1997, which was not contemporaneous with his conduct in the matters subject of discipline in 98-B-0818 and 98-B-0819 but was subsequent not only to the conduct but also to a motion for consent discipline (in 0818).

Respondent's misconduct on Court II (failure to cooperate with the disciplinary process) occurred in February, 1999, which was subsequent not only to the motion for consent discipline in 0818 but subsequent by almost one year to the Board's recommendation of disbarment in 0819. Both 0818 and 0819 involved failure to cooperate with the disciplinary process. The Supreme Court reduced the 0819 sanction to a three-year suspension because conduct in 0818 and 0819 was contemporaneous.

It is apparent that Respondent's contempt for the disciplinary process was not tempered by these prior proceedings.

I vote to reject the proposed consent discipline as too lenient.


ROBERT E. LEAKE, JR.