

LOUISIANA ATTORNEY DISCIPLINARY BOARD

IN RE SHARON YVETTE FLORENCE

16-DB-059

RULING OF THE DISCIPLINARY BOARD

INTRODUCTION

This is an attorney discipline matter based upon the filing of formal charges by the Office of Disciplinary Counsel (“ODC”) against Sharon Yvette Florence (“Respondent”), Louisiana Bar Roll Number 31723.¹ The ODC alleged that Respondent violated the following Rules of Professional Conduct (“Rule(s)”): 1.7 (concurrent conflict of interest), 1.16 (representing a client when representation will result in violation of the Rules or other law), 8.4(a) (violation of the Rules of Professional Misconduct), 8.4(b) (criminal act adversely reflecting on honesty, trustworthiness, or fitness as a lawyer), 8.4(c) (conduct involving dishonesty, fraud, deceit, or misrepresentation), and 8.4(d) (conduct prejudicial to the administration of justice).² The hearing committee assigned to this matter concluded that Respondent violated Rules 1.16 and 8.4(a) and recommended the sanction of public reprimand.

For the following reasons, the Board adopts the committee’s findings and conclusions with the modifications discussed herein, adopts the sanction recommendation of the committee, and issues a public reprimand.

¹ Respondent was admitted to practice in Louisiana on October 23, 2008. Her current primary registration address is 4919 Jamestown Ave., Ste. 201 E, Baton Rouge, LA 70808. She is currently eligible to practice law in Louisiana.

² The text of these rules can be found in the attached Appendix.

PROCEDURAL HISTORY

The formal charges were filed on June 17, 2016. After the committee granted an extension of time by Order dated July 22, 2016, Respondent answered the formal charges on September 6, 2016 through her counsel, James E. Boren. In her answer, the Respondent admitted the majority of the allegations set forth in the formal charges. The hearing was held on December 15, 2016 before Hearing Committee No. 42.³ The committee heard testimony from Respondent, David Opperman, Stephen Babin, Tanya Irvin, Donald W. North, Arthur Stallworth, Tremel Williams, and Walter Wiles.

The committee issued its report on January 5, 2017, finding minor violations of Rules 1.16 and 8.4(a), and recommended the sanction of public reprimand. The ODC objected to the committee's recommendation on January 13, 2017, and on March 17, 2017, filed a Pre-Argument Brief. In the brief, the ODC argued that the committee erred in failing to find violations of Rules 1.7 (concurrent conflict), 8.4(b) (criminal act adversely reflecting on honesty, trustworthiness, or fitness as a lawyer), 8.4(c) (conduct involving dishonesty, fraud, deceit, or misrepresentation), and 8.4(d) (conduct prejudicial to the administration of justice). The ODC did not take issue with the committee's sanction recommendation.

Oral argument was held on April 6, 2017, before Board Panel "C".⁴ Deputy Disciplinary Counsel Karen Hayes Green appeared on behalf of ODC. Respondent appeared with counsel, Mr. Boren.

³ Hearing Committee No. 42 was composed of William Eugene Scott (Committee Chair), Jane Robert Goldsmith (Lawyer Member), and Robert S. Nelson (Public Member).

⁴ Board Panel "C" was composed of Walter D. White (Chair), Danna Elizabeth Schwab (Lawyer Member), and Sheila Elizabeth O'Leary (Public Member).

FORMAL CHARGES

The charges state, in pertinent part:

COUNT I (ODC File No. 0032185):

The Office of Disciplinary Counsel opened ODC file number 0032185, pursuant to information received from the Office of the Attorney General on or around August 28, 2014. Notice of the complaint was transmitted to the Respondent via certified registered mail on September 22, 2014, at Respondent's primary bar registered address. Respondent accepted service of the same on September 24, 2014.

Respondent was terminated from her position as Assistant Attorney General at the State of Louisiana Attorney General's Office for representing Stanley J. Lee, Jr., in a criminal matter (dog fighting), at the 7th Judicial District Court, in violation of Louisiana Code of Criminal Procedure, article 65. Respondent represented Mr. Lee on this charges in court on Wednesday, April 23, 2014 and Wednesday, April 30, 2014. Respondent submitted sick leave at the Office of Attorney General on these days.

Respondent's actions constitute a violation or attempted violation of the Rules of Professional Conduct, in violation of Rule 1.7 (Represented a client where such representation involved a concurrent conflict of interest); Rule 1.16 (Represented a client when such representation resulted in violation of the rules of professional conduct and other laws); Rule 8.4 (a) (Violated or attempted to violate the Rules of Professional Conduct); Rule 8.4(b) (Committed a criminal act especially one that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects); Rule 8.4 (c) (Engaged in conduct involving dishonesty, fraud, deceit or misrepresentation); and Rule 8.4 (d) (Engaged in conduct that is prejudicial to the administration of justice).

HEARING COMMITTEE REPORT

The committee found that Respondent, who was employed as an Assistant Attorney General assigned to the Civil Division in New Orleans, enrolled as counsel on a *pro bono* basis to represent a client on a criminal dog fighting charge in Concordia Parish.⁵ The committee noted that Respondent's representation in the criminal matter consisted of her brief appearance in court; working with the Assistant District Attorney ("ADA) to continue the arraignment on a

⁵ Hearing Committee Report, p. 2.

couple of occasions; and providing the ADA with exculpatory evidence which resulted in his decision not to prosecute the matter.”⁶

La. C. Cr. P. Art. 65 makes it “unlawful” for any assistant attorney general “to defend or assist in the defense of any person charged with an offense in any parish of the state.”⁷ Respondent acknowledged that she violated Article 65 and that the representation was “unlawful” but denied that it constituted criminal conduct under Rule 8.4(b) as charged by ODC.⁸ The committee found that she violated the provision, as she had admitted, but concluded she did not knowingly do so. It found that while Respondent had been informed by Attorney General officials that she, and others similarly employed, were free to engage in the private practice of law in lieu of salary increases, the evidence did not clearly establish that she was provided with her employer’s Private Practice Policy, which addressed the prohibition.

The committee also considered the allegation that Respondent claimed sick leave at the Attorney General’s office for two of the three days she made appearances in court in Concordia Parish (April 23, 2014 and June 11, 2014) and her failure to make any entry for time away from the office on a third day (April 30, 2014). After considering Respondent’s testimony, which indicated that on two occasions, she mistakenly entered the wrong code into the Attorney General’s litigation time and billing program and then failed to submit the proper paperwork which would have corrected the error, and that, in fact, she had worked 7.5 hours as claimed on

⁶ *Id.*

⁷ The full text of the article provides:

Art. 65. Defense of prosecution unlawful

It is unlawful for the following officers or their law partners to defend or assist in the defense of any person charged with an offense in any parish of the state:

(1) Any district attorney or assistant district attorney; or

(2) The attorney general or any assistant attorney general, provided that the provisions of this article shall not apply to the law partners of any assistant attorney general not employed to handle criminal matters for the attorney general, when any such law partner is judicially appointed to defend an indigent defendant.

Amended by Acts 1974, No. 220, §1.

⁸ Hearing Committee Report, p. 3.

April 30, 2014, the committee found a lack of clear and convincing evidence to establish that misconduct had occurred.⁹

The committee then discussed the Rule violations, first concluding that the ODC did not prove a violation of Rule 1.7, finding that the ODC “has not shown a concurrent conflict of interest existed when Respondent, an employee of the Attorney General's Civil Division in New Orleans, appeared on behalf of a criminal defendant arrested for dog fighting.”¹⁰ In considering Rule 1.16, the committee found that, “Likewise, there was insufficient proof of a violation of Rule 1.16, except to the extent Respondent violated Art. 65.”¹¹ The committee then stated that there was insufficient proof that Respondent violated Rule 8.4(a), “except to the extent Respondent’s violation of Art. 65 was a violation of ‘other laws’ (as noted in Rule 1.16),” which the committee found to be “a venial infraction.”¹²

As to Rule 8.4(b), the committee found no misconduct. It stated:

The committee does not find it necessary to conclude, as a matter of law, whether the unlawful act committed by Respondent in violation of Art. 65 constituted a "criminal act" proscribed by Rule 8.4(b). The committee is not convinced a "criminal act" was committed; and, even if Art. 65 was construed otherwise, ODC has not proved Respondent's act (representation of the defendant in Concordia Parish) was "...one that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects...", as outlined in Rule 8.4(b).¹³

The committee found no violation of Rule 8.4(c), noting that the three-digit codes for sick leave and annual leave had only a one-digit difference, and evidence that the incorrect entry was merely a mistake was uncontroverted, e.g.: no contrary testimony from a witness in the Attorney

⁹ *Id.*

¹⁰ Hearing Committee Report, p. 4.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*, p. 3.

General's office was offered, nor was there evidence that forensic examination of the billing records was performed.

Lastly, the committee addressed Rule 8.4(d), finding:

Any violation of Rule 8.4(d) must be based, in this set of facts, upon Respondent's representation of the criminal defendant. The committee acknowledges and respects the necessity for Art. 65, which is undoubtedly intended to prohibit conduct prejudicial to the administration of justice. On the other hand, Respondent's *pro bono* representation of the criminal defendant in this dog fighting case was effective; and the ADA who testified on Respondent's behalf confirmed he was uneasy from the outset about prosecuting the case. Respondent violated the law. Respondent also performed a public service in representing a client on a *pro bono* basis.¹⁴

In summary, the committee ultimately concluded that "Respondent violated Art. 65, an unlawful act which was a minor violation of Rule 1.16 and 8.4(a)."¹⁵

As to sanction, the committee found Respondent's conduct resulted in no actual harm and emphasized that it was impressed with the "sincerity and conviction of Respondent's witnesses."¹⁶ It found no aggravating factors but multiple mitigating factors: full and free disclosure, a cooperative attitude toward the proceedings, remorse, lack of a selfish motive and the fact that "Respondent was relatively inexperienced in the practice of law and had no experience whatsoever in criminal prosecution or defense."¹⁷ The committee stated that private admonition "would have been an appropriate sanction," but to the extent that a private admonition cannot be imposed after Formal Charges have been issued, the committee recommended a public reprimand.¹⁸

¹⁴ *Id.*

¹⁵ *Id.*, p. 5.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

ANALYSIS OF THE RECORD BEFORE THE BOARD

I. Standard of Review

The powers and duties of the Disciplinary Board are defined in §2 of Louisiana Supreme Court Rule XIX. Rule XIX, §2(G)(2)(a) states that the Board is “to perform appellate review functions, consisting of review of the findings of fact, conclusions of law, and recommendations of hearing committees with respect to formal charges ... and petitions for reinstatement, and prepare and forward to the court its own findings, if any, and recommendations.” Inasmuch as the Board is serving in an appellate capacity, the standard of review applied to findings of fact is that of “manifest error.” *Arceneaux v. Domingue*, 365 So. 2d 1330 (La. 1978); *Rosell v. ESCO*, 549 So. 2d 840 (La. 1989). The Board conducts a *de novo* review of the hearing committee’s application of the Rules of Professional Conduct. *In re Hill*, 90-DB-004, Recommendation of the Louisiana Attorney Disciplinary Board (1/22/92).

A. The Manifest Error Inquiry

The factual findings of the committee are not manifestly erroneous, are supported by the record and are adopted by the Board. The Respondent admitted the allegations set forth in the formal charges, except as they related to criminal conduct.

B. De Novo Review

While the committee correctly determined that Respondent violated Rule 1.16 (representing a client when representation will result in violation of the Rules or other law) and 8.4(a) (misconduct), it erred in failing to find violations of Rules 1.7 (concurrent conflict), and 8.4(d) (conduct prejudicial to the administration of justice). Each rule alleged by ODC in the Formal Charges is outlined below.

Rule 1.7: The committee found no actual conflict of interest between Respondent’s representation of Mr. Lee in a criminal matter and her employment in the Civil Division of the

Attorney General's Office. Under the plain terms of the Rule, and Article 65, it appears Rule 1.7 was violated. The Rule disallows a concurrent conflict of interest, and requires that an attorney refrain from simultaneously representing clients whose interests are adverse, or when there is significant risk that the representation of one client would be materially limited. The record reflects that Respondent represented Mr. Lee while simultaneously representing the State of Louisiana as an Assistant Attorney General. It is notable that the Rule further provides that a concurrent conflict is waivable *except* when the representation is prohibited by law, which is the case here.

Rule 1.16: The committee found "a minor violation of Rule 1.16."¹⁹ Rule 1.16(a)(1) provides that a lawyer shall not represent a client if "the representation will result in violation of the rules of professional conduct or other law." Here, Respondent's representation of Mr. Lee violated Article 65 of the Louisiana Code of Criminal Procedure, thus violating Rule 1.16(a)(1).

Rule 8.4(a): The committee found that Rule 8.4(a) was violated due to the violation of Rule 1.16. This is a correct conclusion.

Rule 8.4(b): Rule 8.4(b) states that it is professional misconduct for a lawyer to "commit a criminal act especially one that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects." Article 65 states that it is unlawful for an Assistant Attorney General to represent a defendant charged with an offense in any parish of the state. (emphasis added). In the instant matter, the committee found that under the specific circumstances involved, Respondent's conduct did not amount to a violation of 8.4(b) because the conduct involved was not a criminal act that reflected adversely on her trustworthiness or fitness as a lawyer. The Board will not disturb this finding.

¹⁹ Hearing Committee Report, p. 5.

Rule 8.4(c): The committee declined to find a violation of this rule, which applies when an attorney engages in conduct involving dishonesty, fraud, deceit or misrepresentation. Considering its determination that the evidence failed to establish that Respondent's entry of the wrong codes, submitting sick time rather than leave time, was anything other than an error, the committee's finding relative to the Rule is correct.

Rule 8.4(d): The committee found no violation of Rule 8.4(d). It acknowledged that Article 65 "is undoubtedly intended to prohibit conduct prejudicial to the administration of justice," nevertheless, it found no violation. This finding is in error. By representing a client in violation of Article 65, Respondent engaged in conduct prejudicial to the administration of justice.

To summarize, the Board finds that Respondent violated Rules 1.7 (concurrent conflict), 1.16 (representing a client when representation will result in violation of the Rules or other law), 8.4(a) (violation of the Rules of Professional Misconduct) and 8.4(d) (conduct prejudicial to the administration of justice).

II. The Appropriate Sanction

A. Rule XIX, §10(C) Factors

Louisiana Supreme Court Rule XIX, §10(C) states that when 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.

Here, Respondent violated duties to a client, the legal system, and as a professional in representing a client against the State while employed as an Assistant Attorney General.

Respondent's conduct was negligent.²⁰ There was no evidence of actual injury, however, the potential for injury exists when government attorneys fail to follow proper procedures or rules. Given Respondent's employment in the Civil Division of the Attorney General's office in Orleans Parish and her representation of a criminal defendant in Concordia Parish, the potential for injury was minimal. There are no aggravating factors present. Several mitigating factors exist, including: absence of a prior disciplinary record, absence of a dishonest or selfish motive, full and free disclosure to the disciplinary board and a cooperative attitude towards the proceedings, inexperience in the practice of law,²¹ character and reputation, imposition of other penalties or sanctions, and remorse. In addition, the Board finds the mitigating factor of a timely good faith effort to rectify the consequences of the misconduct.

The evidence in this case shows that the mitigating factors are substantial. Respondent took up the defense of a criminal defendant on a *pro bono* basis. By all accounts, she did a good job in representing her client, resulting in the prosecutor's decision not to pursue the criminal matter. In reporting on the case to his supervisor, Mr. Opperman, the ADA in the Lee case, related that she had done a good job. It was during this conversation that he first learned of the Article 65 prohibition as it related to Assistant Attorneys General. It was this discussion that led to a communication to the Attorney General's office that Respondent had represented the criminal defendant, which ultimately led to the termination of Respondent's employment. After Mr. Opperman called Respondent to tell her of the revelation, and immediately upon recognizing that she had violated Article 65, Respondent went to directly to her supervisor to report her

²⁰The committee rejected any argument that Respondent's conduct may have been knowing, accepting Respondent's testimony that she did not receive training or other information relative to Attorney General's policy limiting outside practice. Furthermore, the committee found that because she was assigned to the Civil Division, it was not unreasonable for her to be unfamiliar with the Louisiana Code of Criminal Procedure Article prohibiting Assistant Attorneys General from representing criminal defendants. Hearing Transcript, p. 9-10, 33-35, 115.

²¹ Respondent was admitted to practice law in 2008.

infraction. Shortly thereafter, upon her termination, she sent written apologies to all of her supervisors, apologizing for any embarrassment her conduct may have caused. She also self-reported the incident to the ODC and to the Board of Ethics.²²

After she lost her job, Respondent struggled with finances, had difficulty finding a job, and had to leave Louisiana and return to live with her parents in Kansas. She was forced to tap her retirement savings earned during her five years at the Attorney General's office. She eventually found work as a substitute teacher in the Baton Rouge public school system and moved back to Louisiana. She then found work as an attorney, working for another lawyer, but when the disciplinary proceedings were initiated, she left that job, so as not to cause any negative impact on her employer. After that, she started a solo practice and has been able to maintain that practice to date.²³

B. The ABA Standards and Case Law

The *ABA Standards for Imposing Lawyer Sanctions* indicate that admonition is the baseline sanction for an isolated incident of misconduct that causes little or no actual or potential injury to a client, or the legal process or proceeding.²⁴ Indeed, the committee expressed its opinion that an admonition would have been the appropriate sanction but noted that once formal

²² Hearing Transcript pp., 24-26.

²³ Id., pp. 27-31, 38.

²⁴ The following ABA Standards apply:

- 4.34 Admonition is generally appropriate when a lawyer engages in an isolated instance of negligence in determining whether the representation of a client may be materially affected by the lawyer's own interests, or whether the representation will adversely affect another client, and causes little or no actual or potential injury to a client.
- 5.24 Admonition is generally appropriate when a lawyer in an official or governmental position engages in an isolated instance of negligence in not following proper procedures or rules, and causes little or no actual or potential injury to a party or to the integrity of the legal process.
- 6.24 Admonition is generally appropriate when a lawyer engages in an isolated instance of negligence in complying with a court order or rule, and causes little or no actual or potential injury to a party, or causes little or no actual or potential interference with a legal proceeding.
- 7.4 Admonition is generally appropriate when a lawyer engages in an isolated instance of negligence that is a violation of a duty owed as a professional, and causes little or no actual or potential injury to a client, the public, or the legal system.

charges have been filed, admonition, a private form of discipline, is no longer available.²⁵ Accordingly, public reprimand is the baseline sanction.

A Louisiana case with somewhat similar facts is *In re Smith*, 2009-2447 (La. 3/5/10); 29 So.3d 1232. In *Smith*, a lawyer accepted a job as an Assistant District Attorney in Orleans Parish and then failed to withdraw from the representation of clients who were criminal defendants in that same parish.²⁶ After being hired, he appeared in Orleans Criminal District Court three times on behalf of two clients.²⁷ Similar to Respondent, he was charged with violating Rules 1.7(a) (concurrent conflict), 1.16(a) (continuing representation in violation of the Rules), 1.16(d) (conflict: former and current government employees), 8.4(a) (misconduct), 8.4(b) (criminal acts), 8.4(c) (dishonesty, fraud, deceit or misrepresentation), 8.4(d) (conduct prejudicial to the administration of justice).²⁸ In addition, and unlike Respondent, he was charged with 3.3(a) (candor when dealing with a tribunal) and 3.4(c) (knowing disobedience of the rules of a tribunal), as well as, 1.1(b) (compliance with continuing legal education requirements) and 1.1(c) (failure to maintain current bar registration). In contrast to the current matter, Mr. Smith failed to respond to the formal charges brought against him, the factual allegations were deemed admitted, and he was found to have violated the Rules as charged. Given the numerous Rule violations, as well as his knowing conduct, the Court suspended Mr. Smith for one year and one day.²⁹

While *Smith* and the instant case share some similarities, that case does not serve as an appropriate guideline for the sanction in this matter. It is important to note that the attorney in

²⁵ Hearing Committee Report, p. 5; La. Sup. Ct. Rule XIX, Sec. 10(A)(5).

²⁶ *Id.*, at 1236.

²⁷ 29 So.3d at 1236-37.

²⁸ Because the lawyer was a prosecutor, there was a violation of Article V, § 26(C) of the Louisiana Constitution, which provides that “No district attorney or assistant district attorney shall appear, plead, or in any way defend or assist in defending any criminal prosecution or charge.”

²⁹ *Id.*, at 1234.

Smith failed to respond to the formal charges, therefore the factual allegations were deemed admitted. Furthermore, he was employed as a prosecutor and represented criminal defendants in the same court in which he also served as an Assistant District Attorney. The admitted facts in that case established that his conduct was knowing, and in addition to engaging in a concurrent conflict and violating constitutional and statutory provisions against doing so, he was not candid with the court, he failed to provide a client with an accounting, and failed to remain current in his bar obligations.³⁰ There were several aggravating factors including prior discipline for similar misconduct, a pattern of misconduct, multiple offenses, and vulnerability of the victims. No mitigating factors were present.³¹

Here, Respondent worked as an Assistant Attorney General in the Civil Division and represented a criminal defendant, *pro bono*, in a different parish than the one in which she worked in a non-prosecutorial role. Her conduct was negligent, and once she learned that she had violated the Rules, she immediately took steps to rectify the consequences of her misconduct. No aggravating factors are present and several very significant mitigating factors apply.

Other conflicts cases include *In re Caillouet*, 2001-2461 (11/9/01); 800 So.2d 367, and *In re Toups*, 00-0634 (La. 11/28/00); 773 So.2d 709, which involved two Assistant District Attorneys who were permitted to maintain private civil practices. As private attorneys, Mr. Caillouet represented Mr. Todd Ordoyne and Mr. Toups represented Mrs. Ellen Ordoyne in the Ordoynes' divorce and community property matters. When Mrs. Ordoyne initiated criminal simple battery charges against her husband, Mr. Caillouet and Mr. Toups failed to withdraw despite the obvious conflict of interest between their private clients and their public client, the

³⁰ *Id.*

³¹ *Id.* at 1237.

State of Louisiana. In a second count, Mr. Toups was charged with using his position as an Assistant District Attorney to continue a simple battery charge filed against another client. The Court determined that the baseline sanction for their misconduct was suspension. Recognizing several mitigating factors, including absence of a prior disciplinary record, absence of a dishonest or selfish motive, cooperative attitude toward proceedings, and good character, the Court imposed fully deferred six-month suspensions. Additionally, the Court imposed two-years' probation for Mr. Toups, and six months' probation for Mr. Caillouet.

Caillouet and *Toups* are distinguishable. First, Article 65 was not implicated, as the attorneys were prosecutors properly engaged in private civil practices. However, conflicts arose when their civil clients were criminally charged. Unlike the instant matter, Caillouet and Toups used their positions as prosecutors to benefit private clients. In contrast to the case under consideration, Caillouet and Toups were both criminal prosecutors as opposed to Respondent's civil position with the State, and the civil matters were pending in the same parish in which they were employed as prosecutors. Moreover, the Court's finding of a baseline sanction of suspension suggests the attorneys acted knowingly rather than negligently.

Considering all of the circumstances, Respondent's misconduct does not appear to be as serious as that in *Caillouet* or *Toups*, therefore a less severe sanction is justified. Under the instant facts and circumstances, and considering the baseline sanction and weight of the mitigating factors, the Board finds the committee's recommended sanction, to which the ODC has not opposed, is appropriate.

CONCLUSION

The Board adopts the committee's factual findings. As to Rule violations, in addition to Rules 1.16 and 8.4(a), the Board finds violations of Rules 1.7, and 8.4(d). As to sanction, the

Board adopts the committee's recommendation of public reprimand, and finds it appropriate to assess all costs and expenses of these proceedings to Respondent.

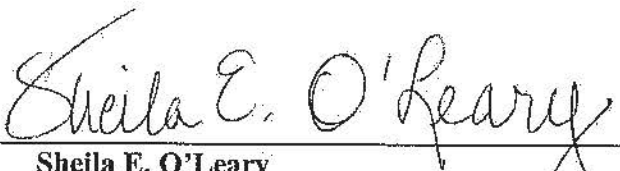
RULING

Considering the foregoing, the Board hereby issues a public reprimand to Sharon Yvette Florence. In addition, the Board orders that she pay all costs and expenses associated with these disciplinary proceedings in accordance with Rule XIX, Section 10.1(A).

LOUISIANA ATTORNEY DISCIPLINARY BOARD

**Linda G. Bizzarro
Pamela W. Carter
Danna E. Schwab
Evans C. Spiceland, Jr.
Melissa L. Theriot
Walter D. White
Charles H. Williamson, Jr.**

By:



Sheila E. O'Leary
FOR THE ADJUDICATIVE COMMITTEE

Anderson O. Dotson, III – Dissents with reason.

LOUISIANA ATTORNEY DISCIPLINARY BOARD

IN RE: SHARON YVETTE FLORENCE

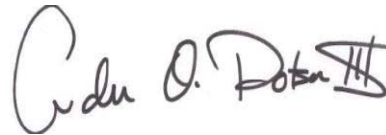
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DISSENT

I agree with the findings and conclusions of the Hearing Committee but feel like the sanction based upon those findings is a private admonition or some sort of diversionary type program.

LOUISIANA ATTORNEY DISCIPLINARY BOARD

By:

A handwritten signature in dark ink, appearing to read "Anderson O. Dotson III", written over a horizontal line.

Anderson O. Dotson, III
Adjudicative Committee Member

APPENDIX

Rule 1.7. Conflict of Interest: Current Clients

(a) Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:

- (1) the representation of one client will be directly adverse to another client; or
- (2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.

(b) Notwithstanding the existence of a concurrent conflict of interest under paragraph (a), a lawyer may represent a client if:

- (1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;
- (2) the representation is not prohibited by law;
- (3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal; and
- (4) each affected client gives informed consent, confirmed in writing.

Rule 1.16. Declining or Terminating Representation

(a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:

- (1) the representation will result in violation of the rules of professional conduct or other law;
- (2) the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client; or
- (3) the lawyer is discharged.

(b) Except as stated in paragraph (c), a lawyer may withdraw from representing a client if:

- (1) withdrawal can be accomplished without material adverse effect on the interests of the client;
- (2) the client persists in a course of action involving the lawyer's services that the lawyer reasonably believes is criminal or fraudulent;
- (3) the client has used the lawyer's services to perpetrate a crime or fraud;
- (4) the client insists upon taking action that the lawyer considers repugnant or with which the lawyer has a fundamental disagreement;
- (5) the client fails substantially to fulfill an obligation to the lawyer regarding the lawyer's services and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled;
- (6) the representation will result in an unreasonable financial burden on the lawyer or has been rendered unreasonably difficult by the client; or
- (7) other good cause for withdrawal exists.

(c) A lawyer must comply with applicable law requiring notice to or permission of a tribunal when terminating a representation. When ordered to do so by a tribunal, a lawyer shall continue representation notwithstanding good cause for terminating the representation.

(d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. Upon written request by the client, the lawyer shall promptly release to the client or the client's new lawyer the entire file relating to the matter. The lawyer may retain a copy of the file but shall not condition release over issues relating to the expense of copying the file or for any other reason. The responsibility for the cost of copying shall be determined in an appropriate proceeding.

Rule 8.4. Misconduct

It is professional misconduct for a lawyer to:

- (a) Violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- (b) Commit a criminal act especially one that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;
- (c) Engage in conduct involving dishonesty, fraud, deceit or misrepresentation;
- (d) Engage in conduct that is prejudicial to the administration of justice ...