

The Supreme Court of the State of Louisiana

IN RE: RUDY W. GORRELL, JR.

No.2020-B-00993

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IN RE: Disciplinary Counsel - Applicant Other; Findings and Recommendations  
(Formal Charges);  
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November 10, 2020

Public reprimand ordered. See per curiam.

BJJ

JLW

JDH

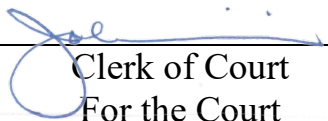
JTG

JHB

Crichton, J., dissents and assigns reasons.

Crain, J., dissents, finding the discipline imposed too lenient.

Supreme Court of Louisiana  
November 10, 2020

  
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Clerk of Court  
For the Court

11/10/20

SUPREME COURT OF LOUISIANA

NO. 2020-B-0993

IN RE: RUDY W. GORRELL, JR.

ATTORNEY DISCIPLINARY PROCEEDING

PER CURIAM

This disciplinary matter arises from formal charges filed by the Office of Disciplinary Counsel (“ODC”) against respondent, Rudy W. Gorrell, Jr., an attorney licensed to practice law in Louisiana.

**UNDERLYING FACTS**

Respondent represented Brienne Russ in two separate custody cases in Orleans Civil District Court. One case was against her former husband, Wendell Russ, and the second was against her former husband, Michael Hughes. Both fathers were represented by New Orleans attorney Terrance Prout.

Mr. Prout subpoenaed expert witness Dr. Lisa Tropez-Arceneaux, a pediatric psychologist, to provide testimony in both cases, and she appeared at Orleans Civil District Court on three separate occasions to provide expert testimony. Each time, respondent approached her, either in court or outside the courtroom, and made statements to her that made her feel intimidated.

On the first occasion, on October 27, 2016, respondent approached Dr. Tropez-Arceneaux and told her the following: “I’m coming for you;” “You’re not needed here;” “You’re not going to get on the stand;” and “I’m going to make you sit here all day.”

The hearing was continued to November 3, 2016. That morning before the hearing started, respondent approached Dr. Tropez-Arceneaux again, stating the following: “I’m not sure why you’re here” and “You’re not going to testify again today.” When Dr. Tropez-Arceneaux advised respondent that she had been subpoenaed to testify and intended to comply, respondent answered by saying, “Well, you can’t testify to the child’s anxiety, and I am going to get you.” Respondent also once again told her, “I don’t know why you are coming up, because we don’t need you to come up here [to testify].”

The hearing was again continued, this time to January 5, 2017. On that date, respondent again approached Dr. Tropez-Arceneaux and said, “You better stop messing with me, I will get you.” Mr. Hughes was sitting next to Dr. Tropez-Arceneaux when respondent made this statement.

### **DISCIPLINARY PROCEEDINGS**

In April 2019, the ODC filed formal charges against respondent, alleging his conduct violated the following provisions of the Rules of Professional Conduct: Rules 3.5(d) (engaging in conduct intended to disrupt a tribunal), 4.4(a) (in representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person), 8.4(a) (violation of the Rules of Professional Conduct), and 8.4(d) (engaging in conduct prejudicial to the administration of justice). Respondent, through counsel, answered the formal charges and denied any misconduct. Accordingly, the matter proceeded to a formal hearing on the merits.

### **DR. LISA TROPEZ-ARCENEUX’S TESTIMONY**

Dr. Tropez-Arceneaux testified that the October 27, 2016 encounter with respondent occurred in the courtroom while she was waiting to testify. Respondent

told her that she did not need to be there and that he was coming to get her. Then he told her she was probably going to sit there all day because he was not going to allow her to testify. The exchange confused her because she could not tell whether respondent was joking.

The November 3, 2016 incident occurred in the courthouse parking lot while she and respondent were walking to the building. Respondent approached her and asked why she was there, telling her she did not need to be there. She told respondent that she was subpoenaed. He again told her she did not need to be there because she was not going to testify. He also told her that, even if she testified, she would not be able to talk about the child's anxiety, which is when she began to get uncomfortable. When she saw Mr. Prout, she told him what had just happened with respondent.

On January 5, 2017, respondent approached her while she was sitting on a bench outside of the courtroom with Mr. Hughes. Respondent told her that he was going to get her. When she said, "Excuse me?" to respondent, Mr. Hughes looked up. When respondent noticed Mr. Hughes, he changed the subject. She took respondent's initial statement to mean that he was looking for something to discredit her so she would not be able to testify. Since this was the third incident with respondent, Dr. Tropez-Arceneaux did not take the statement as a joke and was shaken up. She told Mr. Prout about the incident immediately.

She believes respondent was trying to intimidate her on each of the three occasions. However, respondent's behavior never dissuaded her from testifying. She did indicate, though, that she felt physically afraid of respondent at times. After the third incident, Mr. Prout asked her to execute an affidavit describing what had occurred each time, which she did.

MICHAEL HUGHES' TESTIMONY

Mr. Hughes testified that he was sitting outside the courtroom with Dr. Tropez-Arceneaux on January 5, 2017 when respondent spoke to her. According to Mr. Hughes, respondent told Dr. Tropez-Arceneaux to stop messing with him and that he was going to get her. When respondent noticed Mr. Hughes sitting there, respondent changed the subject as if he were uncomfortable. Respondent's whole mannerism changed, and then respondent walked away. Mr. Hughes also indicated that respondent's statement to Dr. Tropez-Arceneaux shocked him.

#### RESPONDENT'S TESTIMONY

Respondent testified that the only thing he said to Dr. Tropez-Arceneaux on October 27, 2016 was that she could be on call instead of sitting around waiting to testify. He never said anything to her about coming for her, about her not needing to be there, or about how he was going to make her sit there all day. He denied threatening or harassing her. Regarding the November 3, 2016 exchange, respondent indicated that he told Dr. Tropez-Arceneaux that the child's anxiety she was going to testify about occurred two years prior. Finally regarding the January 5, 2017 incident, respondent denied making the statement to Dr. Tropez-Arceneaux and indicated he was baffled by the accusation. Respondent also indicated that Dr. Tropez-Arceneaux never expressed to him that he was making her uncomfortable or intimidating her.

Respondent also testified that he believes the formal charges stem from the contentiousness between him and Mr. Prout regarding the custody cases. He denied ever doing anything unethical in the cases and denied threatening Dr. Tropez-Arceneaux. He also indicated that he cannot reconcile the differences between his version of events and Dr. Tropez-Arceneaux's because he cannot "defend the falsities." He could not think of any reason why Dr. Tropez-Arceneaux would lie about him.



### *Hearing Committee Report*

After considering the evidence and testimony presented at the hearing, the hearing committee indicated that its findings and conclusions rest primarily on its credibility determinations. The committee then determined that Dr. Tropez-Arceneaux was credible but respondent was not credible. Based on these credibility determinations, the committee found that respondent made the alleged statements to Dr. Tropez-Arceneaux, which caused her to feel intimidated and had no substantial purpose other than to delay or burden her. The committee noted that respondent repeatedly denied making the statements but offered no explanation or reconciliation for the polar-opposite testimony given by him versus Dr. Tropez-Arceneaux. Near the conclusion of the hearing, the committee expressly pointed out the opposing testimony and pointedly asked respondent to provide an explanation. However, respondent could not provide any explanation other than to continue to contend that he testified truthfully, thereby implying Dr. Tropez-Arceneaux had not. While the committee further found that respondent did not intentionally seek to disrupt the underlying proceeding by making his statements to Dr. Tropez-Arceneaux, it found that respondent knew or should have known that his statements were improper under the Rules of Professional Conduct.

Based on these factual findings, the committee determined respondent violated Rules 4.4(a), 8.4(a), and 8.4(d) but not Rule 3.5(d). Respondent made several statements on three, separate court dates to Dr. Tropez-Arceneaux, which statements had no purpose other than to delay, burden, and intimidate her. This conduct violated Rules 4.4(a), 8.4(a), and 8.4(d). However, the committee determined that respondent did not intend to disrupt the proceedings; thus, he did not violate Rule 3.5(d).

The committee then determined respondent knowingly violated duties owed to the legal system. Although respondent's conduct caused no actual harm, it had

the potential to cause harm in that Dr. Tropez-Arceneaux felt he was trying to intimidate her, thereby potentially affecting her expert testimony, which could have had a negative and harmful effect on the proceedings and opposing parties. Relying on the ABA's *Standards for Imposing Lawyer Sanctions*, the committee determined the baseline sanction is suspension.

In aggravation, the committee found a pattern of misconduct, refusal to acknowledge the wrongful nature of the conduct, and substantial experience in the practice of law (admitted 1991). In mitigation, the committee found the absence of a prior disciplinary record, full and free disclosure to the disciplinary board, and a cooperative attitude toward the proceedings. The committee then determined respondent's clean disciplinary record in nearly thirty years of practice caused the factors to weigh in favor of mitigation.

After further considering this court's prior jurisprudence addressing similar misconduct, the committee recommended respondent be publicly reprimanded.

Neither respondent nor the ODC filed an objection to the committee's report and recommendation. Therefore, pursuant to Supreme Court Rule XIX, § 11(G), the disciplinary board submitted the committee's report to the court for review.<sup>1</sup>

## **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

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<sup>1</sup> As amended effective May 15, 2019, Supreme Court Rule XIX, § 11(G) provides that "[i]f the parties do not file objections to the hearing committee report, the board shall promptly submit the hearing committee's report to the court."



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 of this matter supports a finding that respondent, on three occasions, made statements to Dr. Tropez-Arceneaux that were meant to delay, burden, and intimidate her. This conduct is a violation of the Rules of Professional Conduct as found by the hearing committee.

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 knowingly violated duties owed to his client, the public, the legal system, and the legal profession. Although his conduct did not cause any actual harm, it had the potential to harm respondent's client, the opposing parties, and the legal system. We agree with the committee that the baseline sanction is suspension. We also agree with the committee's determination of aggravating and mitigating factors.

Turning to the issue of an appropriate sanction, we find guidance from the case of *In re: Estiverne*, 99-0949 (La. 9/24/99), 741 So. 2d 649. After his client received an unfavorable ruling in a worker's compensation matter, Mr. Estiverne wrote a letter to the hearing officer accusing him of disregarding "all the laws in the

books to satisfy your own fantasy” and suggesting that he “refrain from continuing the kind of rape you have been perpetrating against the law.” We concluded that Mr. Estiverne’s conduct violated Rule 4.4 and warranted a public reprimand.

In light of this case law, as well as respondent’s long career with no other disciplinary issues, we will adopt the committee’s recommendation and publicly reprimand respondent.

### **DECREE**

Upon review of the findings and recommendations of the hearing committee, and considering the record, it is ordered that Rudy W. Gorrell, Jr., Louisiana Bar Roll number 20832, be and he hereby is publicly reprimanded. 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.