

The Supreme Court of the State of Louisiana

IN RE: JEANANNE ROY SELF

No. 2021-B-00518

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

November 10, 2021

Suspension imposed. See per curiam.

JLW

JDH

SJC

PDG

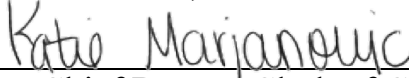
Genovese, J., concurs in part, dissents in part and assigns reasons.

Crain, J., concurs in part, dissents in part for reasons assigned by Justice Genovese.

McCallum, J., concurs in part, dissents in part for reasons assigned by Justice Genovese.

Supreme Court of Louisiana

November 10, 2021



Chief Deputy Clerk of Court
For the Court

SUPREME COURT OF LOUISIANA

NO. 2021-B-0518

IN RE: JEANANNE ROY SELF

ATTORNEY DISCIPLINARY PROCEEDING

PER CURIAM

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

PRIOR DISCIPLINARY HISTORY

Before we address the current matter, we find it helpful to review respondent’s prior disciplinary history. Respondent was admitted to the practice of law in Louisiana in 2008. On October 9, 2012, respondent was interimly suspended for threat of harm to the public. *In re: Self*, 12-2170 (La. 10/9/12), 99 So. 3d 17. On November 15, 2013, the court accepted a joint petition for consent discipline in which respondent stipulated that she had failed to promptly refund an unearned fee and commingled client funds with personal funds in her trust account. For this misconduct, the court suspended respondent for two years, retroactive to the date of her interim suspension, with one year deferred, and followed by a two-year period of supervised probation with conditions. *In re: Self*, 13-2361 (La. 11/15/13), 129 So. 3d 1229 (“*Self I*”). Respondent satisfied the requirements for reinstatement to the practice of law effective January 17, 2014.

Against this backdrop, we now turn to a consideration of the misconduct at issue in the present proceeding.

UNDERLYING FACTS

Count I

On October 15, 2015, respondent was arrested for possession of marijuana. On June 2, 2016, she pleaded guilty in Caddo Parish District Court to one count of simple possession of marijuana. Respondent was sentenced to serve fifteen days in jail, suspended, and payment of a \$300 fine and court costs.

Count II

On October 16, 2013, while under an order of interim suspension, respondent assisted attorney Mark Frederick in a pending adoption proceeding in Caddo Parish Juvenile Court. She provided counseling and legal advice to the biological parents who were surrendering parental rights.

DISCIPLINARY PROCEEDINGS

In May 2019, the ODC filed formal charges against respondent, alleging that she violated Rules 5.5 (engaging in the unauthorized practice of law) and 8.4(b) (commission of a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer) of the Rules of Professional Conduct. The ODC specifically charged that respondent's conduct in both counts was knowing. Respondent answered the formal charges, admitted the allegations of both counts, and requested a hearing in mitigation.

Hearing Committee Report

After considering the evidence and testimony presented at the mitigation hearing, the hearing committee found that respondent violated Rules 5.5 and 8.4(b) of the Rules of Professional Conduct, as charged in the formal charges.

Regarding Count I, respondent testified that her arrest was politically motivated by an adversary of her client. Respondent explained that she represented a client in a lawsuit involving Danny Lawler and his publication, "The Inquisitor." Mr. Lawler had threatened retaliation against respondent if she did not dismiss the lawsuit, which she refused to do. On October 15, 2015, while respondent was representing a client in court, Mr. Lawler, upon the realization that respondent had an outstanding motor vehicle violation, encouraged the City Marshal to have her taken out of the courtroom and brought to a holding cell. While respondent was in holding, the City Marshal obtained a search warrant and had her vehicle searched. The search revealed .2 grams of marijuana in the center console of the vehicle. Respondent indicated that she never knowingly possessed the marijuana, which belonged to her brother. Respondent pleaded guilty to protect her brother, and she was the only person injured by her plea.

Regarding Count II, respondent believed that the active portion of her suspension in *Self I* was for one year, retroactive to October 9, 2012, the date her interim suspension began. Respondent believed the active portion of her suspension was therefore terminated prior to October 16, 2013, the day she provided counseling and legal advice to the biological parents in the adoption proceeding. Respondent realized her belief was unfounded when she was notified by Mr. Frederick that the presiding judge would not accept the biological parents' documents because respondent was still shown as being interinely suspended. Believing the judge was incorrect, respondent called this court on that day to see if the order approving the petition for consent discipline had been signed. The order was not signed until November 15, 2013. She immediately informed the ODC of her negligent unauthorized practice of law.

With regard to Count I, the committee found that respondent caused no harm and violated no duty to a client. There was no evidence adduced at either the hearing

in this matter or in the criminal proceeding to show that respondent knew the marijuana was in her vehicle. No evidence was adduced to indicate that respondent was in any manner negligent by not knowing that her younger brother had placed the marijuana in her vehicle.

With regard to Count II, the committee found that respondent negligently violated duties owed to a client, the public, the legal system, and the legal profession. Respondent would have never agreed to counsel the surrendering parents if she believed that she was still under interim suspension. Although there was a potential for harm, no client was injured. There was no damage to the client because the adoption would have been delayed had respondent not stepped in to help Mr. Frederick. The public could have been injured, but the quick response to the violation eliminated the possible damage to the client and the public. The legal system was marginally damaged in that court personnel had to spend time reviewing and ultimately rejecting the paperwork, and the potential for harm existed in that the adoption could have been illegally granted had the court staff not determined that respondent was ineligible to practice.

After considering the ABA's *Standards for Imposing Lawyer Sanctions*, the committee determined the baseline sanction is public reprimand. The committee determined that the following aggravating factors are present: a prior disciplinary record and multiple offenses. The committee determined the following mitigating factors are present: absence of a dishonest or selfish motive, personal and emotional problems, full and free disclosure to the disciplinary board and a cooperative attitude toward the proceedings, inexperience in the practice of law,¹ imposition of other penalties or sanctions, and remorse.

¹ Respondent had been admitted seven years at the time of the arrest in Count I and five years at the time of the unauthorized practice of law in Count II.

Turning to the issue of an appropriate sanction, the committee determined that respondent should not be sanctioned for a negligent “technical violation” of Rule 5.5, and thus recommended that Count II be dismissed. As to the violation of Rule 8.4(b) at issue in Count I, the committee recommended respondent be publicly reprimanded.

The ODC filed an objection to the committee’s report, alleging several errors by the committee and arguing that the baseline sanction for the misconduct is a period of actual suspension, with perhaps some portion deferred. Respondent did not object to the committee’s report, but she did file a reply brief wherein she urged the disciplinary board to adopt the recommendation of the committee.

Disciplinary Board Recommendation

After review, the disciplinary board noted that respondent filed an answer to the formal charges admitting the allegations therein. As such, the hearing committee erred in finding that respondent’s conduct in violation of Rule 8.4(b) in Count I and in violation of Rule 5.5 in Count II was not knowing. The board explained:

In Count I of the formal charges ODC alleged that Respondent knowingly violated Rule 8.4(b). In Count II, ODC alleged that she knowingly violated Rule 5.5. In her answer to the formal charges, Respondent admitted all of the allegations of Count I and Count II and requested a hearing only on mitigation. Therefore, she admitted on the record that her misconduct in both counts was knowing.

Regarding Count I, the crime to which respondent pleaded guilty requires that the person knowingly or intentionally possess the marijuana. For the committee to now find that respondent’s conduct was not knowing is inconsistent with the essential elements of the crime for which she was convicted.

Regarding Count II, the ODC alleged a knowing violation of Rule 5.5, which allegation was admitted by respondent in her answer. Effect must therefore be given to her admission, and she must be bound by same. Furthermore, respondent knew

that she was on interim suspension and that there was no guarantee that the court would accept the proposed consent discipline which had been jointly proposed by the ODC and respondent. The record is clear that when she met at the offices of the ODC to sign the petition for consent discipline, she was affirmatively advised that the matter was solely at the discretion of the court and that they were free to either accept or reject the proposed discipline. Nonetheless, respondent engaged in the practice of law without making any attempt to determine whether the petition had been granted. The only true knowledge that she had when she acted as counsel for parents surrounding their child for adoption was that she was on interim suspension.

Respondent violated duties owed to her clients, the public, the legal system, and the legal profession. As discussed above, her misconduct was knowing. Her criminal activity caused harm to the public as her conduct required the expenditure of resources by law enforcement, the district attorney's office, and the court system. Her criminal conduct also harmed the legal profession as the fact of the criminal conviction of an attorney and the publicity which her conviction received tarnish the public image of the profession. By engaging in the unauthorized practice of law, respondent caused harm to the clients, the surrendering parents, and the adopting parents in that the adoption was delayed, although the evidence shows that some delay would have occurred if she had not participated on the day in question as there would have been no lawyer for the surrendering parents. Respondent's misconduct caused the potential for serious harm to the parties to the adoption, which could have been deemed illegal and subject to challenge had the judge's office not identified the problem before the adoption order was signed. This conduct also caused some harm to the legal system as court personnel expended time in reviewing the pleadings and determining that respondent was not qualified to act as an attorney and the judge expended additional time in filing the complaint with the ODC.

After considering the ABA's *Standards for Imposing Lawyer Sanctions*, the board determined the appropriate sanction for respondent's misconduct ranges from a suspension to disbarment. The board determined the following aggravating factors are present: a prior disciplinary record, multiple offenses, and illegal conduct, including that involving the use of controlled substances. The board determined the following mitigating factors are present: personal or emotional problems, full and free disclosure to the disciplinary board and a cooperative attitude toward the proceedings, inexperience in the practice of law, character or reputation, imposition of other penalties or sanctions, and remorse. Additionally, the board found respondent's lack of selfish or dishonest motive to be particularly significant.

After further considering this court's prior jurisprudence addressing similar misconduct, the board recommended respondent be suspended from the practice of law for thirty days, subject to a one-year period of supervised probation with the condition that "any misconduct during the probationary period may be grounds for imposing additional discipline." It further recommended she be assessed with the costs and expenses of this proceeding.

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. 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 of this matter supports a finding that respondent engaged in the unauthorized practice of law and was arrested for possession of marijuana. As such, she has violated Rules 5.5 and 8.4(b) of the Rules of Professional Conduct.

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 her clients, the public, the legal system, and the legal profession. Her conduct caused actual harm as well as the potential for harm. The applicable baseline sanction in this matter is suspension. The record supports the aggravating and mitigating factors found by the disciplinary board.

We cannot say that the board's recommended sanction is wholly unreasonable for respondent's misconduct. There are several significant mitigating factors present in this matter, and like the board, we find respondent's lack of selfish or dishonest motive to be particularly significant. Accordingly, we will adopt the board's recommendation and suspend respondent from the practice of law for thirty days, followed by a one-year period of probation.

DECREE

Upon review of the findings and recommendations of the hearing committee and disciplinary board, and considering the record, it is ordered that Jeananne Roy Self, Louisiana Bar Roll number 31539, be suspended from the practice of law for a period of thirty days, followed by a one-year period of unsupervised probation subject to the condition that any misconduct during the probationary period may be grounds for imposing additional discipline. The probationary period shall commence from the date respondent and the ODC execute a formal probation plan. 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.