

The Supreme Court of the State of Louisiana

IN RE: MYLES JULIAN JOHNSON

No. 2023-B-00480

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IN RE: Office of Disciplinary Counsel - Applicant Other; Notice of Discipline in  
Another Jurisdiction Pursuant to Rule XIX, Section 21 and Motion to Initiate  
Reciprocal Discipline Proceedings;  
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**June 26, 2023**

Reciprocal discipline imposed. See per curiam.

JBM

JLW

JDH

SJC

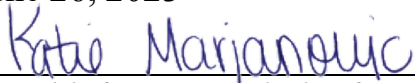
JTG

WJC

PDG

Supreme Court of Louisiana

June 26, 2023



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Chief Deputy Clerk of Court  
For the Court

SUPREME COURT OF LOUISIANA

NO. 2023-B-0480

IN RE: MYLES JULIAN JOHNSON

ATTORNEY DISCIPLINARY PROCEEDING

PER CURIAM

This matter arises from a Petition to Initiate Reciprocal Discipline Proceedings filed by the Office of Disciplinary Counsel (“ODC”) against respondent, Myles Julian Johnson, an attorney licensed to practice law in Louisiana and Washington, based upon discipline imposed by the Supreme Court of Washington.

**UNDERLYING FACTS AND PROCEDURAL HISTORY**

*The Scholoff Matter*

On March 7, 2022, the Washington State Bar Association’s Office of Disciplinary Counsel (“WODC”) received a grievance from respondent’s former client Donald Scholoff. According to the grievance, Mr. Scholoff paid respondent \$15,000 for representation in a federal criminal matter. Thereafter, respondent neglected the matter, eventually withdrew due to health reasons, and failed to refund the unearned fee after promising to do so.

The WODC sent respondent notice of the grievance, but respondent failed to timely respond. When respondent finally did respond, he claimed he had earned the entire fee. On April 27, 2022, the WODC requested additional information and documents to support this contention, but respondent failed to provide any of the requested information or documents.

On June 15, 2022, the WODC issued a subpoena to respondent to provide a deposition and to produce the previously-requested records. Respondent accepted service of the subpoena and appeared for the deposition on August 3, 2022, but he did not produce any records. The deposition ended early when respondent requested an opportunity to hire counsel. After numerous continuances, respondent finally obtained counsel. Although his counsel advised the WODC respondent would provide the requested records by December 16, 2022, respondent failed to do so.

On December 21, 2022, respondent's counsel informed the WODC that respondent would not be providing the requested records due to health reasons and would provide a letter from his doctor. The WODC never received a letter from respondent's doctor. On February 3, 2023, respondent informed the WODC he planned to hire new counsel and would sign medical release forms. Respondent failed to do either.

### *The Simms Matter*

On September 26, 2022, the WODC received a grievance from respondent's former client Keon Simms. According to the grievance, respondent accepted payment and agreed to represent Mr. Simms in two separate criminal matters but then neglected the matters. Mr. Simms further alleged that respondent failed to disclose his suspension from the practice of law<sup>1</sup> and failed to provide Mr. Simms with a refund or a copy of his client file.

The WODC sent respondent two notices of the grievance, but he failed to respond. On November 15, 2022, the WODC issued a subpoena to respondent to

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<sup>1</sup> Respondent was under reciprocal discipline in Washington for discipline imposed in Louisiana in *In re: Johnson*, 21-1558 (La. 1/26/22), 331 So. 3d 902, wherein he was suspended from the practice of law for six months for neglecting a legal matter, failing to communicate with a client, failing to properly withdraw from a representation, failing to fulfill his professional obligations, and failing to cooperate with the ODC in its investigation. Respondent's Louisiana suspension ended on November 9, 2022.

provide a deposition on January 5, 2023 and to produce all records related to his representation of Mr. Simms. Although respondent accepted service of the subpoena on December 7, 2022, he emailed the WODC on January 4, 2023 to advise he would be unable to appear for his deposition the next day due to health issues. Respondent also indicated he would provide the WODC with a letter from his doctor. The WODC requested that respondent sign medical release forms. Respondent failed to provide the WODC with any medical records from his doctor or signed medical release forms. On February 3, 2023, respondent informed the WODC he intended to hire counsel and would sign the medical release forms. The WODC never received a notice of appearance from an attorney on respondent's behalf, and respondent never answered Mr. Simms' grievance or signed the requested medical release forms.

#### *The Morrison Matter*

On September 24, 2022, the WODC received a grievance from Robert Morrison. According to the grievance, respondent agreed to represent Mr. Morrison in a civil matter but then neglected the matter, failed to communicate with him, and lied to him. Mr. Morrison further alleged that respondent failed to disclose his suspension from the practice of law.

The WODC sent respondent two notices of the grievance, but he failed to respond. On November 15, 2022, the WODC issued a subpoena to respondent to provide a deposition on January 5, 2023 and to produce certain records. Although respondent accepted service of the subpoena on December 7, 2022, he emailed the WODC on January 4, 2023 to advise he would be unable to appear for his deposition the next day due to health issues. Respondent also indicated he would provide the WODC with a letter from his doctor. The WODC requested that respondent sign medical release forms. Respondent failed to provide the WODC with any medical

records from his doctor or signed medical release forms. On February 3, 2023, respondent informed the WODC he intended to hire counsel and would sign the medical release forms. The WODC never received a notice of appearance from an attorney on respondent's behalf, and respondent never answered Mr. Morrison's grievance or signed the requested medical release forms.

#### *Additional Matters*

A review committee of the Washington State Bar Association's Disciplinary Board has ordered a public hearing on four other grievances involving allegations that respondent failed to cooperate with a disciplinary investigation. In each matter, respondent failed to respond to the WODC's requests for information and records, necessitating the issuance of a subpoena to take his deposition. In each matter, respondent failed to comply with the subpoena to produce records. In two of the matters, respondent failed to appear for his deposition.

#### *Disciplinary Proceedings*

On February 9, 2023, the WODC filed with the Supreme Court of Washington a petition for respondent's interim suspension, pursuant to Rule 7.2(a)(3) of the Rules for Enforcement of Lawyer Conduct.<sup>2</sup> Upon respondent's failure to appear for a show cause hearing on March 14, 2023, the Supreme Court of Washington considered the WODC's petition without oral argument and interimsly suspended respondent from the practice of law.

After receiving notice of the Washington order of discipline, the ODC filed a motion to initiate reciprocal discipline proceedings in Louisiana, pursuant to Supreme Court Rule XIX, § 21. A certified copy of the decision issued by the

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<sup>2</sup> Under Washington's Rule 7.2(a)(3), a respondent lawyer may be immediately suspended from the practice of law when the lawyer fails without good cause to comply with a request from the WODC for information or documents or fails without good cause to comply with a subpoena.

Supreme Court of Washington was attached to the motion. On April 3, 2023, this court rendered an order giving respondent thirty days to demonstrate why the imposition of identical discipline in this state would be unwarranted. Respondent filed an opposition to the ODC's motion to initiate reciprocal disciplinary proceedings in Louisiana.

## **DISCUSSION**

The standard for imposition of discipline on a reciprocal basis is set forth in Supreme Court Rule XIX, § 21(D). That rule provides:

Discipline to be Imposed. Upon the expiration of thirty days from service of the notice pursuant to the provisions of paragraph B, this court shall impose the identical discipline ... unless disciplinary counsel or the lawyer demonstrates, or this court finds that it clearly appears upon the face of the record from which the discipline is predicated, that:

- (1) The procedure was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or
- (2) Based on the record created by the jurisdiction that imposed the discipline, there was such infirmity of proof establishing the misconduct as to give rise to the clear conviction that the court could not, consistent with its duty, accept as final the conclusion on that subject; or
- (3) The imposition of the same discipline by the court would result in grave injustice or be offensive to the public policy of the jurisdiction; or
- (4) The misconduct established warrants substantially different discipline in this state; ...

If this court determines that any of those elements exists, this court shall enter such other order as it deems appropriate. The burden is on the party seeking different discipline in this jurisdiction to demonstrate that the imposition of the same discipline is not appropriate.

In the instant case, respondent's sole objection to reciprocal discipline rests on his contention that the interim suspension ordered by the Supreme Court of

Washington is not a disciplinary sanction. Therefore, he submits this court should not impose reciprocal discipline.

Rule 7.2(a)(3) of the Washington Rules for Enforcement of Lawyer Conduct provides for an interim suspension when a lawyer fails to cooperate in a disciplinary investigation:

Failure To Cooperate with Investigation. When any lawyer fails without good cause to comply with a request under rule 5.3(g) or rule 15.2(a) for information or documents, or with a subpoena issued under rule 5.3(h) or rule 15.2(b), or fails to comply with disability proceedings as specified in rule 8.2(d), **disciplinary counsel may petition the Court for an order suspending the lawyer pending compliance with the request or subpoena.** A petition may not be filed if the request or subpoena is the subject of a timely objection under rule 5.5(e) and the hearing officer has not yet ruled on that objection. If a lawyer has been suspended for failure to cooperate and thereafter complies with the request or subpoena, the lawyer may petition the Court to terminate the suspension on terms the Court deems appropriate. [emphasis added].

Notably, nothing in this rule expressly provides that the suspension for failure to cooperate is not deemed to be a disciplinary suspension, as respondent argues. Instead, respondent relies on a notice issued by the Washington State Bar Association, which states:

PLEASE TAKE NOTICE that by order of the Washington Supreme Court entered the 14th day of March 2023, a copy of which is attached, lawyer Myles Julian Johnson, who practices in the City of Tukwila, WA, was suspended from the practice of law in the State of Washington, pursuant to ELC 7.2(a)(3), effective March 14, 2023 Myles Julian Johnson is suspended from the practice of law pending compliance with the request or subpoena. **This suspension is not a disciplinary sanction.** [emphasis added].

Despite the Washington State Bar Association's characterization, we believe the suspension is in fact in the nature of a disciplinary sanction. While it is not final discipline, it is similar to the sanction of civil contempt insofar as it has the effect of removing respondent from practice unless and until he complies with the

disciplinary counsel's request. From a reciprocal discipline standpoint, we believe it would undermine the Washington Supreme Court's order if we were to allow respondent to continue to practice in Louisiana while he flouts the authority of the Washington Supreme Court. *See, e.g., In re Zdravkovich*, 831 A. 2d 964, 968-69 (D.C. 2003) ("there is merit in according deference, for its own sake, to the actions of other jurisdictions with respect to the attorneys over whom we share supervisory authority").

Moreover, Rule 7.2(a)(3) of the Washington Rules for Enforcement of Lawyer Conduct provides that if the lawyer "complies with the request or subpoena, the lawyer may petition the Court to terminate the suspension on terms the Court deems appropriate." In the event the Washington Supreme Court terminates the suspension, respondent may file notice in this court and seek reinstatement in Louisiana pursuant to the provisions of Supreme Court Rule XIX, § 24(K).

In sum, we find it is appropriate to defer to the Washington judgment imposing discipline upon respondent. Accordingly, we will impose reciprocal discipline and interimly suspend respondent from the practice of law.

### **DECREE**

Considering the Petition to Initiate Reciprocal Discipline Proceedings filed by the Office of Disciplinary Counsel, respondent's opposition filed thereto, and the record filed herein, it is ordered that respondent, Myles Julian Johnson, Louisiana Bar Roll number 29921, be and he hereby is suspended from the practice of law on an interim basis pending further orders of this court. Pursuant to Supreme Court Rule XIX, § 26(E), this order is effective immediately.