

The Supreme Court of the State of Louisiana

IN RE: GREGORY JAMES SAUZER

No. 2024-B-00125

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

April 09, 2024

Suspension imposed. See per curiam.

JBM

JLW

JDH

SJC

WJC

PDG

Genovese, J., dissents finding the discipline too lenient.

Supreme Court of Louisiana

April 09, 2024



Chief Deputy Clerk of Court
For the Court

SUPREME COURT OF LOUISIANA

NO. 2024-B-0125

IN RE: GREGORY JAMES SAUZER

ATTORNEY DISCIPLINARY PROCEEDING**PER CURIAM**

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

UNDERLYING FACTS

In July 2022, respondent pleaded guilty in the United States District Court for the Eastern District of Louisiana to one count of failing to file federal income tax returns, in violation of 26 U.S.C. § 7203. In the plea agreement, respondent acknowledged that he actually failed to file federal income tax returns for the years 2015, 2016, 2017, and 2018. In October 2022, respondent was sentenced to a two-year period of probation and ordered to pay restitution of \$28,863. He was also ordered to perform 75 hours of unpaid community service.

DISCIPLINARY PROCEEDINGS

In November 2022, the ODC filed formal charges against respondent, alleging that his conduct as set forth above violated the following provisions of the Rules of Professional Conduct: Rules 8.4(a) (violation of the Rules of Professional Conduct), 8.4(b) (commission of a criminal act that reflects adversely on the lawyer’s honesty, trustworthiness, or fitness as a lawyer), and 8.4(c) (engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation). In his answer to the formal charges,

respondent admitted the factual allegations contained therein and requested the opportunity to be heard in mitigation.

Formal Hearing

The hearing committee conducted the hearing on April 5, 2023. Both parties introduced documentary evidence. The ODC called respondent to testify before the committee. Respondent called his current employers, attorneys David Salley and Stephen Resor, to testify before the committee. At the outset of the hearing, respondent confirmed his misconduct and admitted to the charged rule violations. The hearing then proceeded on the issue of sanctions.

Hearing Committee Report

After considering the evidence and testimony presented at the hearing, the hearing committee summarized the testimony as follows:

Respondent – Following his admission to the bar in 2013, respondent began a criminal practice with the Regan Law Firm in 2014. In 2015, he joined the law office of Jason Rogers Williams & Associates. During this time, respondent worked as an independent contractor for both law firms. In 2019, he quit practicing criminal law. In 2021, respondent was hired by Salley, Hite, Mercer & Resor (“the firm”), an insurance defense law firm, where he is still employed.

Respondent admitted that his failure to file taxes was willful, but noted that he had been enduring financial, professional, and emotional stress related to issues arising from his practice of criminal law. Respondent stated that he has not been subject to any prior disciplinary action or investigation. Respondent has paid the restitution amounts in full, agreed to cooperate with federal prosecutors in other matters, and complied with the conditions of his probation. Respondent also stated that he must complete 75 hours of community service, which he has yet to complete,

but indicated that he has two years from the date of sentencing to complete the requirement.

David Salley – Mr. Salley testified that respondent has demonstrated high integrity and the skills necessary to practice law. At the time respondent was hired, respondent did not disclose the potential for criminal matters related to the failure to file taxes; however, after learning of his criminal and disciplinary matters, the firm elected to retain respondent based on his exceptional job performance. Mr. Salley stated that if respondent was subject to any period of suspension, potential harm could arise to the firm and its clients.

Stephen Resor – Mr. Resor testified that respondent possessed the experience, skills, and integrity to practice law. However, Mr. Resor expressed some frustration over respondent's failure to initially disclose the criminal investigation. Mr. Resor testified that members of the firm believed respondent to be worthy of continued employment. Mr. Resor stated that respondent was well received by his clients and handled litigation matters in a competent and professional manner.

The committee accepted respondent's admissions and made the following additional findings:

1. Respondent's gross income was \$63,400 in 2015, \$38,361 in 2016, \$40,660 in 2017, and \$35,369 in 2018.
2. The failure to file tax returns was dishonest in nature.
3. Respondent is not a current public official.
4. Respondent has paid the full amount of restitution.
5. Based on the testimony of Mr. Salley and Mr. Resor, respondent has a good professional reputation.
6. Respondent expressed remorse for his actions.

7. Respondent had a dishonest or selfish motive in failing to file his tax returns, but his testimony that he was under emotional, professional, and economic stress is credible.

The committee noted that respondent has admitted to violating Rules 8.4(a), 8.4(b), and 8.4(c) of the Rules of Professional Conduct, and the record supports clear and convincing evidence of these violations.

The committee further determined that respondent violated duties owed to the public and the legal profession. He acted willfully and his misconduct caused actual harm in that his taxes were not paid on time and cast the legal profession in a negative light. Based on the ABA's *Standards for Imposing Lawyer Sanctions*, the committee determined that the baseline sanction is suspension.

The committee indicated that the only aggravating factor present is a dishonest or selfish motive but also acknowledged that the failure to file tax returns for four consecutive years reflects a pattern of misconduct. The committee determined that the following mitigating factors are present: absence of a prior disciplinary record, personal problems, timely good faith effort to make restitution, good character and reputation, and remorse. The committee added that respondent's dishonest or selfish motives were mitigated by personal, professional, and economic pressure.

After further considering the prior jurisprudence of this court in similar cases, the committee recommended that respondent be suspended from the practice of law for six months, with all but thirty days deferred, followed by one year of probation. In addition, the committee "strongly suggest[ed]" that respondent use the period of actual suspension to complete the community service hours as ordered by the plea agreement.

The ODC filed an objection to the leniency of the sanction recommended by the committee.

Disciplinary Board Recommendation

After review, the disciplinary board noted that respondent has admitted, and the record supports, the factual allegations of the formal charges. The board added that the factual findings of the hearing committee do not appear to be manifestly erroneous and are supported by the record. The board adopted those findings with the following limited revisions:

1. Respondent's gross income for the four years in question totaled \$178,060 (\$63,300 in 2015, \$38,631 in 2016, \$40,660 in 2017, and \$35,469 in 2018).
2. Respondent is not a current or former public official.
3. Respondent has paid the full amount of restitution ordered by the federal court in the criminal proceeding.

The board also made the following additional findings of fact:

1. Respondent's total federal tax liability, not including penalties and interest, was \$36,266 (\$13,273 for 2015, \$8,613 for 2016, \$9,160 for 2017, and \$5,220 for 2018).
2. Prior to the hearing, respondent paid all federal taxes, penalties, interest, and restitution.
3. As a special condition of his criminal probation, respondent was ordered to perform 75 hours of unpaid community service, as directed by the United States Probation Officer, during the two-year probation period.

Based on these factual findings, the board determined respondent's conduct violated the Rules of Professional Conduct as stipulated.

The board determined that respondent violated duties owed to the public and the legal profession. His conduct was knowing and willful. He caused harm to the government in violating the system of truthful disclosure of income and in delaying tax payments. His criminal behavior reflects adversely on the legal profession. The board agreed with the committee that the baseline sanction is suspension.

The board determined that the following aggravating factors are present: a dishonest or selfish motive, a pattern of misconduct, and illegal conduct. The board determined that the following mitigating factors are present: absence of a prior disciplinary record, personal or emotional problems, timely good faith effort to make restitution or to rectify the consequences of the misconduct, 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.

After further considering the court's prior jurisprudence addressing similar misconduct, a majority of the board recommended that respondent be suspended from the practice of law for six months, with all but thirty days deferred, followed by a one-year period of probation. The board also recommended that any failure by respondent to comply with the conditions of probation, or any misconduct by respondent from the date of the court's imposition of sanction through completion of his probationary period, will be grounds for making the deferred suspension executory or imposing additional discipline, as appropriate. The board further recommended respondent be assessed with the costs and expenses of this matter.

One board member concurred with the recommendations of the majority and would further recommend that respondent be required to complete the community service ordered in the federal criminal proceeding by the end of the active suspension period recommended by the board. One board member dissented, on the ground that the recommended sanction is too lenient.

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.

The underlying facts of this matter are not in dispute, as respondent has admitted that he willfully failed to file four years of federal income tax returns. He has also admitted to violating the Rules of Professional Conduct as charged, and the record supports those rule violations. Therefore, the sole question presented for our consideration is the appropriate sanction for this misconduct.

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).

The record also supports a finding that respondent violated duties owed to the public and the legal profession. His conduct was knowing, if not intentional, and caused actual harm. The record supports the aggravating and mitigating factors found by the disciplinary board. The baseline sanction is suspension.

In *In re: Cook*, 10-0092 (La. 4/16/10), 33 So. 3d 155, we held that four principal factors have influenced the determination of an appropriate sanction in cases involving the misdemeanor offense of failure to file an income tax return: whether there is a pattern of failure to file over a number of years, the amount of money involved, whether the attorney's actions were selfish or dishonest in nature,

and whether the attorney is held to a higher standard as a result of having a position as a public official. In *Cook*, an attorney failed to file tax returns for two years, and his combined gross income for those years was \$277,243.¹ Mr. Cook was not a public official. The federal judge in his criminal case commented that Mr. Cook's actions did not appear to be motivated by greed or other selfish motives but related to a period of financial pressure and family problems. For his misconduct, we imposed a six-month suspension, with three months deferred, followed by a one-year period of supervised probation.

By comparison, and applying the factors set forth in *Cook*, we note that respondent failed to file a tax return for four years, as opposed to two years in *Cook*, but that his income and taxes for the four-year period were substantially less than that in *Cook*. (Mr. Cook's total gross income in two years was approximately \$100,000 higher than respondent's total gross income in four years.) Unlike Mr. Cook, respondent did act with a dishonest or selfish motive; however, the committee found his testimony – that he was under emotional, professional, and economic stress – to be credible. Like Mr. Cook, respondent was not a public official. After further considering the numerous mitigating factors present in this matter, we agree that a six-month suspension from the practice of law, with all but thirty days deferred, followed by one year of probation, is an appropriate sanction in this matter.

Accordingly, we will adopt the recommendation of the hearing committee and the disciplinary board and impose a six-month suspension from the practice of law, with all but thirty days deferred, followed by a one-year period of probation. Prior to seeking reinstatement, respondent shall show evidence that he has completed the community service ordered in the federal criminal proceeding.

¹ Mr. Cook pleaded guilty to two counts of misdemeanor failure to file a tax return and was sentenced to five years of supervised probation on each count, to run concurrently. He was also ordered to pay \$121,233 in restitution, a \$50 assessment, and \$1,704 in prosecutorial costs.

DECREE

Upon review of the findings and recommendation of the hearing committee and the disciplinary board, and considering the record, it is ordered that Gregory James Sauzer, Louisiana Bar Roll number 34972, be and he hereby is suspended from the practice of law for a period of six months. It is further ordered that all but thirty days of this suspension shall be deferred. Prior to seeking reinstatement, respondent shall show evidence that he has completed the community service ordered in the federal criminal proceeding.

Following reinstatement, respondent shall be placed on probation for a period of one year. The probationary period shall commence from the date respondent and the ODC execute a formal probation plan. Any failure of respondent to comply with the conditions of probation, or any misconduct by respondent from the date of the court's imposition of sanction through completion of his probationary period, will be grounds for making the deferred suspension executory or imposing additional discipline, as appropriate. 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.