

The Supreme Court of the State of Louisiana

IN RE: IRVIN JOSEPH CELESTINE, JR.

No. 2024-B-00187

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

April 30, 2024

Suspension imposed. See per curiam.

JBM

JLW

SJC

WJC

PDG

Hughes, J., dissents and would impose a lesser sanction.

Genovese, J., dissents and would impose a lesser sanction.

Supreme Court of Louisiana

April 30, 2024



Chief Deputy Clerk of Court
For the Court

SUPREME COURT OF LOUISIANA

NO. 2024-B-0187

IN RE: IRVIN JOSEPH CELESTINE, JR.

ATTORNEY DISCIPLINARY PROCEEDING

PER CURIAM

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

UNDERLYING FACTS AND PROCEDURAL HISTORY

In March 2022, the ODC filed formal charges against respondent in disciplinary board docket number 22-DB-011. In July 2022, a second set of formal charges was filed under docket number 22-DB-032. Respondent filed an answer to the first set of formal charges, but the second set of formal charges was deemed admitted upon his failure to answer. The matters were subsequently consolidated for consideration by the hearing committee, which conducted a hearing in June 2023.

22-DB-011

In November 2017, Throme Lacroix and a minor child were involved in an automobile accident. Respondent was hired to represent their legal interests, and in November 2018, he filed suit on their behalf. Attorney Leah Penny represented the defendants, Progressive Secured Insurance Company and its insureds (collectively referred to as “Progressive”), in the litigation.

In January 2019, respondent forwarded to Progressive a settlement demand, which was accepted. On February 8, 2019, Ms. Penny emailed written confirmation

of the agreement to respondent, but he did not respond. Thereafter, Ms. Penny's repeated efforts to communicate with respondent were unsuccessful.

On February 26, 2019, Ms. Penny mailed to respondent the settlement paperwork and two checks, each payable to Mr. Lacroix and respondent. The correspondence was delivered to respondent on March 6, 2019, and he confirmed that the signature on the certified mail receipt was his own. However, he did not return the executed documents to Progressive or negotiate the disbursement checks. Repeated efforts by Ms. Penny to contact respondent were futile.

The district court record reflects Progressive's efforts to resolve the matter through the filing of several motions to enforce settlement. The first motion was filed in September 2019, but respondent failed to appear in court. Successive motions were filed, with accompanying hearing dates set and re-set. Respondent could not be located for purposes of service, and he did not appear in court on behalf of his client.

In October 2020, Ms. Penny, in a continued effort to contact respondent, asked an attorney-colleague, Kyle Landrem, to attempt to contact respondent by using his own telephone. Mr. Landrem was successful and arranged for Ms. Penny and respondent to speak by phone. During their conversation, respondent verbally assured Ms. Penny that the executed documents would be forthcoming. Ms. Penny, again, forwarded the settlement documents to respondent, who confirmed receipt and further confirmed that the executed documents would be returned to Progressive by October 26, 2020.

Despite respondent's assurances, the executed documents were not returned to Progressive. In November 2020, Ms. Penny reached respondent by phone, and he requested that Progressive re-issue the disbursement checks. Progressive arranged for a FedEx delivery of the checks and settlement documents. The correspondence was delivered on December 11, 2020; however, the executed

documents were not returned to Progressive, and the settlement checks were not negotiated.

In January 2021, Progressive filed another motion to enforce the settlement agreement. Although service was perfected on Mr. Lacroix, respondent could not be located for purposes of service. Mr. Lacroix appeared in court on February 1, 2021. After being placed under oath, and in response to questioning by the court, Mr. Lacroix confirmed that he was unaware that a settlement agreement had been reached with Progressive. Indeed, Mr. Lacroix could not remember the last time that he had spoken to respondent. The matter was re-set for May 10, 2021, so that respondent might be served with notice to appear.

A private process server perfected domiciliary service on respondent, but only Mr. Lacroix appeared in court on May 10, 2021. Mr. Lacroix advised the court that he had been unable to contact respondent and further advised that respondent had sent him a \$300 check, but “never told me nothing before or after.” Mr. Lacroix added that he “definitely” did not know any details about a settlement agreement. Mr. Lacroix terminated respondent’s representation in open court.

Thereafter, Progressive and Mr. Lacroix reached a settlement agreement, and checks were issued by Progressive to Mr. Lacroix. Progressive also agreed to pay all court costs associated with the dispute.

In May 2021, Ms. Penny filed a complaint against respondent with the ODC. Respondent did not respond to the complaint, necessitating the issuance of a subpoena to obtain his sworn statement. During the sworn statement, respondent assured that his initial response was forthcoming. However, he never submitted the response.

The ODC alleges that respondent’s misconduct violated the following provisions of the Rules of Professional Conduct: Rules 1.2(a) (scope of the representation), 1.3 (failure to act with reasonable diligence and promptness in

representing a client), 1.4 (failure to communicate with a client), 3.2 (failure to make reasonable efforts to expedite litigation), 8.1(b) (knowing failure to respond to a lawful demand for information from a disciplinary authority), 8.1(c) (failure to cooperate with the ODC in its investigation), 8.4(a) (violation of the Rules of Professional Conduct), and 8.4(d) (engaging in conduct prejudicial to the administration of justice). Respondent answered the formal charges in 22-DB-011 and largely denied any misconduct.

22-DB-032

In September 2021, the Lafayette Parish Public Defender's Office was appointed to represent Paul R. Kost, Jr. in a criminal matter. In January 2022, Mr. Kost was notified that the representation had been reassigned to respondent. Mr. Kost and his sister began efforts to contact respondent to discuss the pending legal matter, but repeated phone calls and emails were unsuccessful. In April 2022, Mr. Kost filed a complaint against respondent with the ODC. Respondent did not respond to the complaint and failed to cooperate with the ODC in its investigation.

Ultimately, a May 19, 2022 court date was set in the criminal matter. Respondent appeared in court on that date and spoke with Mr. Kost for the first time. Following their brief discussion, Mr. Kost entered a guilty plea.

The ODC alleges that respondent's misconduct violated the following provisions of the Rules of Professional Conduct: Rules 1.1(c) (failure to comply with the Supreme Court's rules regarding annual registration, including timely notification of changes of address), 1.3, 1.4, 8.1(b), 8.1(c), and 8.4(a).

Respondent failed to file an answer to the formal charges in 22-DB-032. Accordingly, the factual allegations contained therein were deemed admitted and proven by clear and convincing evidence pursuant to Supreme Court Rule XIX, § 11(E)(3).

Hearing Committee Report

After considering the evidence and testimony presented at the hearing, the hearing committee found that in 22-DB-011, respondent failed to stay in touch with his client, Mr. Lacroix, and settled the case without his client's knowledge or consent. Respondent also avoided and intentionally did not cooperate with the ODC when the complaint was brought to his attention.

With respect to 22-DB-032, the facts as alleged by the ODC were properly deemed admitted. Respondent essentially ignored the allegations and the ODC's efforts to investigate same. His client, Mr. Kost, sat in jail for four months without hearing from his appointed lawyer, despite repeated attempts by the family to contact respondent. It is possible that had respondent consulted with his client immediately, Mr. Kost might have been able to plead guilty at an earlier date and thus serve less time in jail.

Based on these findings, the committee determined that respondent violated the Rules of Professional Conduct as charged.

Respondent violated duties owed to his clients. He acted in a negligent and knowing manner when he failed to give his cases the attention they deserved and misrepresented facts to opposing counsel. Without question, he intentionally failed to cooperate with the ODC in the investigation and prosecution of the complaints. Respondent's conduct caused at least the potential for harm to his clients. Relying on the ABA's *Standards for Imposing Lawyer Sanctions*, the committee determined the applicable baseline sanction is suspension.

The committee found no mitigating factors present.¹ The committee considered respondent's lack of cooperation in these proceedings to be an aggravating factor.

¹ Although respondent suggested that he has issues with depression, he provided no medical records or documentation of any kind to support his claim. The committee therefore declined to

Based on these findings, the committee recommended respondent be suspended from the practice of law for one year and one day. The committee also recommended respondent be assessed with the costs and expenses of these proceedings.

Respondent filed an objection to the committee's report, asserting that the recommended sanction is unduly harsh.

Disciplinary Board Recommendation

After reviewing the consolidated matters, the disciplinary board determined that the hearing committee's findings in 22-DB-011 do not appear to be manifestly erroneous and are supported by the record. With respect to 22-DB-032, the board acknowledged that the factual allegations in the formal charges had been deemed admitted and were proven by clear and convincing evidence.

Regarding 22-DB-011, the board determined that the committee correctly found that respondent violated the Rules of Professional Conduct as charged, and that its conclusions are supported by the clear and convincing evidence presented at the hearing. Regarding 22-DB-032, the board determined that the record in the deemed admitted matter, including the factual allegations and additional evidence presented, supports a finding that respondent violated the rules as charged.

The board determined that respondent violated duties owed to his clients, the legal system, and the legal profession. His misconduct in 22-DB-011 may initially have been negligent, but later communications with defense counsel were knowing or intentional. His failure to expedite the case and maintain communication with his client to confirm acceptance of the settlement terms caused significant delay in the resolution of the claim, impacting his client and the defendant. His misconduct

find that any mental health issues caused his misconduct or should be considered as a mitigating factor.

unnecessarily consumed the time of his client, defense counsel, and the court. Multiple hearings had to be set on the defendant's motion to enforce settlement, resulting in additional costs for the defendant. In 22-DB-032, respondent's prolonged lack of attention to the case was grossly negligent if not knowing. His lack of diligence and failure to communicate at all with his client before trial caused concern to the client as well as his family and may have resulted in a delay to the resolution of the charges and his client's release from prison. Respondent's failure to respond to the ODC and lack of cooperation in these disciplinary matters was knowing and, in some respects, intentional. Such failures damage the legal profession and the disciplinary system, and in this matter, caused additional use of disciplinary resources and delayed the investigations. After considering the ABA's *Standards for Imposing Lawyer Sanctions*, the board determined that the baseline sanction is suspension.

In aggravation, the board found a pattern of misconduct, multiple offenses, bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with the rules or orders of the disciplinary agency, vulnerability of the victim, and substantial experience in the practice of law (admitted 2007). In mitigation, the board found the absence of a prior disciplinary record.²

After considering this court's jurisprudence addressing similar misconduct, the board agreed that the sanction recommended by the committee is appropriate. Accordingly, the board recommended that respondent be suspended from the practice of law for one year and one day. The board also recommended that respondent be assessed with the costs and expenses of this proceeding.

Neither respondent nor the ODC filed an objection to the disciplinary board's report and recommendation.

² The board agreed with the committee that respondent did not meet his burden of proving personal or emotional problems or mental disability in mitigation.

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 record of these consolidated matters, one of which has been deemed admitted, supports a finding that respondent failed to fulfill his professional obligations, failed to communicate with clients, neglected legal matters, failed to expedite litigation, caused the unnecessary delay and use of court resources in a proceeding, failed to cooperate with the ODC in its investigations, and engaged in conduct prejudicial to the administration of justice. Based on these facts, respondent has violated the Rules of Professional Conduct as charged by the ODC.

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).

The record establishes that respondent violated duties owed to his clients, the legal system, and the legal profession. He acted negligently, knowingly, and intentionally, and his conduct caused potential and actual harm. The applicable baseline sanction is suspension. The aggravating and mitigating factors found by the disciplinary board are supported by the record.

Turning to the issue of an appropriate sanction, the board cited two cases addressing similar misconduct for which we imposed a one year and one day suspension from the practice of law. We agree these cases provide guidance here. In *In re: Montgomery*, 18-0637 (La. 8/31/18), 251 So. 3d 401, an attorney neglected two legal matters, failed to communicate with two clients, failed to account for fees, and failed to cooperate with the ODC in two investigations. In *In re: Brown-Manning*, 15-2342 (La. 3/4/16), 185 So. 3d 728, an attorney neglected two legal matters, failed to communicate with two clients, failed to refund unearned fees, and failed to cooperate with the ODC in two investigations. Based on this case law, the board's recommended sanction is appropriate.

Accordingly, we will accept the disciplinary board's recommendation and suspend respondent from the practice of law for one year and one day.

DECREE

Upon review of the findings and recommendation of the hearing committee and the disciplinary board, and considering the record, it is ordered that Irvin Joseph Celestine, Jr., Louisiana Bar Roll number 30871, be and he hereby is suspended from the practice of law for a period of one year and one day. 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.