

SUPREME COURT OF LOUISIANA

In re Willis

8 So. 3d 548 (La. 2009) · Decided May 13, 2009

SUMMARY

The Louisiana Supreme Court reviewed attorney disciplinary proceedings against Michael Shane Willis arising from neglect of a bankruptcy representation, unauthorized practice while ineligible, failure to cooperate with disciplinary authorities, and violent conduct. The court adopted the disciplinary board's recommendation, disbarred Willis, revoked his Louisiana law license, and ordered restitution to the client.

CASE DETAILS

COURT	Supreme Court of Louisiana
WRITING FOR THE COURT	Per curiam
JURISDICTION	Louisiana
DECIDED	May 13, 2009
DISPOSITION	other
PROCEDURAL POSTURE	Original attorney-disciplinary proceeding arising from formal charges filed by the Office of Disciplinary Counsel. The respondent failed to answer, the factual allegations were deemed admitted, and the Supreme Court independently reviewed the record and imposed discipline.
STANDARD OF REVIEW	The Supreme Court has original jurisdiction over attorney-discipline matters and acts as the trier of fact, conducting an independent review of the record to determine whether misconduct was proven by clear and convincing evidence. When formal charges are not answered, factual allegations are deemed admitted, but legal conclusions flowing from those facts are not automatically deemed admitted.
PRECEDENTIAL VALUE	Published precedential opinion

TOPICS

- appellate procedure
- remedies
- restitution

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the deemed-admitted facts established violations of the Louisiana Rules of Professional Conduct.
2. Whether disbarment was the appropriate sanction for the respondent's multiple instances of professional misconduct, unauthorized practice, failure to cooperate, and violent conduct.
3. Whether the respondent should be ordered to make full restitution to the client.

HOLDINGS

1. When a lawyer fails to answer formal charges, the factual allegations are deemed admitted under Supreme Court Rule XIX, § 11(E)(3), but legal conclusions are not deemed admitted unless they are established by the facts or additional evidence.
2. The deemed-admitted facts established that Willis violated Rules 1.1(c), 1.3, 1.4(a), 1.16(d), 5.5(a), 8.1(c), and 8.4(b) of the Louisiana Rules of Professional Conduct.
3. Disbarment was warranted because Willis knowingly and intentionally violated duties owed to his client, the public, and the legal profession, caused actual harm, practiced law while ineligible, and presented numerous aggravating factors with little mitigation.
4. Willis was required to make full restitution to Johnson for unearned fees and unused costs.

KEY QUOTATIONS

“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.” (at 553)

“However, the language of § 11(E)(3) does not encompass legal conclusions that flow from the factual allegations.” (at 553)

“Accordingly, we will adopt the disciplinary board’s recommendation and disbar respondent. We further order respondent to make full restitution to Mr. Johnson.” (at 554)

FACTUAL BACKGROUND

Michael Shane Willis was ineligible to practice law because he had not paid bar dues and the disciplinary assessment, but he accepted a bankruptcy representation from Johnny Milton Johnson and received \$1,074 in fees and costs. Willis performed no work, failed to communicate, failed to refund unearned fees or return Johnson's documents, and did not cooperate with the disciplinary investigation. In a separate incident, Willis physically assaulted his girlfriend, Destinee Slayter, including striking her with a beer bottle, failed to surrender after being instructed to do so, and failed to appear for arraignment.

PROCEDURAL HISTORY

The Office of Disciplinary Counsel filed two sets of formal charges alleging neglect of a bankruptcy representation, unauthorized practice while ineligible, failure to refund fees and return documents, failure to cooperate with the investigation, and violent criminal conduct. Respondent failed to answer, so the factual allegations were deemed admitted under Supreme Court Rule XIX, § 11(E)(3). The hearing committee and disciplinary board recommended disbarment and restitution, and neither respondent nor the ODC objected. The Supreme Court adopted the recommendation, disbarred respondent, and ordered full restitution.

DISPOSITION

other

CASES CITED

- In re: Quaid, 94-1316 (La. 11/30/94), 646 So. 2d 343
- Louisiana State Bar Ass'n v. Boutall, 597 So. 2d 444 (La. 1992)
- In re: Donnan, 01-3058 (La. 1/10/03), 838 So. 2d 715
- Louisiana State Bar Ass'n v. Reis, 513 So. 2d 1173 (La. 1987)
- Louisiana State Bar Ass'n v. Whittington, 459 So. 2d 520 (La. 1984)