

COURT OF APPEALS OF MARYLAND

Attorney Grievance Commission v. Gray

433 Md. 516 (2013) · Decided August 15, 2013

SUMMARY

The Maryland Court of Appeals reviewed disciplinary proceedings against Melissa D. Gray arising from her representation of two divorce clients and her failure to respond to Bar Counsel. The court found violations involving diligence, communication, safekeeping client property, and cooperation with disciplinary authorities, and imposed a 60-day suspension from the practice of law.

CASE DETAILS

COURT	Court of Appeals of Maryland
WRITING FOR THE COURT	Cathell, J.
JURISDICTION	Maryland
DECIDED	August 15, 2013
DISPOSITION	other
PROCEDURAL POSTURE	Attorney disciplinary proceeding in which the Attorney Grievance Commission petitioned for disciplinary or remedial action. After an evidentiary hearing before a circuit court judge, the matter was transmitted to the Court of Appeals of Maryland for final disposition.
STANDARD OF REVIEW	The Court independently reviews attorney-discipline proceedings. It accepts the hearing judge's factual findings as prima facie correct unless clearly erroneous and independently reviews the hearing judge's conclusions of law pursuant to Maryland Rule 16-759(b)(1).
PRECEDENTIAL VALUE	published precedential opinion of the Court of Appeals of Maryland
PARTIES	Attorney Grievance Commission of Maryland v. Melissa D. Gray

TOPICS

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PRACTICE AREAS

[legal ethics and attorney discipline](#)[professional responsibility](#)[trust and escrow accounts](#)[family law](#)

QUESTIONS PRESENTED

1. Whether the hearing judge erred in concluding that Gray did not violate Maryland Rule 1.15(e) by failing to promptly distribute undisputed client funds held in a jointly administered escrow account.
2. What sanction was appropriate for Gray's violations of the Maryland Lawyers' Rules of Professional Conduct, including failures of diligence, communication, and cooperation with Bar Counsel.

HOLDINGS

1. Maryland Rule 1.15 applies to funds held in a trust or escrow account for a client or third person even when the account is created and administered by multiple attorneys for a single transaction. Each attorney with fiduciary responsibility for the account has a duty to manage the account and ensure that the other responsible attorneys fulfill their duties.
2. A sixty-day suspension from the practice of law was the appropriate sanction for Gray's violations, particularly her failure to cooperate with Bar Counsel, considered together with her prior disciplinary matters and the comparable sanctions imposed in prior cases.

KEY QUOTATIONS

"A lawyer's fiduciary responsibilities to a trust or escrow account do not depend upon whether the responsibility is shared with other lawyers (or other persons)." (524-525)

"In light of the violations committed by Respondent, especially in respect to her failure to cooperate with Bar Counsel and her prior disciplinary matters and in light of our prior cases aforesaid, in which we have sanctioned attorneys for somewhat similar violations (as to severity of conduct), we hold that the proper sanction in the present case is a 60 day suspension." (533-534)

FACTUAL BACKGROUND

Gray represented Magdalene Foard in a divorce matter in which a qualified domestic relations order was needed to transfer one-half of David Foard's retirement benefits to Foard. The order was delayed for several years, although the hearing judge did not find clear and convincing evidence of a lack of diligence or communication in that matter; Gray did, however, fail to respond to repeated letters from Bar Counsel. Gray also represented Hillary Figinski in connection with escrowed proceeds from the sale of a home, but failed for years to ensure that Figinski received funds to which she was entitled and failed to respond to repeated communications from opposing counsel and Bar Counsel. The escrow account had been established and jointly administered by Gray and opposing counsel Bradford Carney.

PROCEDURAL HISTORY

The Court ordered an evidentiary hearing under Maryland Rule 16-757 before Judge Susan Souder of the Circuit Court for Baltimore County. The hearing judge found that Gray violated Maryland Lawyers' Rules of Professional Conduct 8.1(b) in both client matters and violated Rules 1.3 and 1.4 in the Figinski matter, but rejected several other alleged violations, including the alleged Rule 1.15 violation. Bar Counsel filed an exception to the Rule 1.15 conclusion and recommended an indefinite suspension; Gray filed no exceptions. The Court sustained Bar Counsel's exception and imposed a sixty-day suspension.

DISPOSITION

other

CASES CITED

- Attorney Grievance Commission of Maryland v. Chapman, 430 Md. 238, 273, 60 A.3d 25, 46 (2013)
- Attorney Grievance Commission v. Johnson, 409 Md. 470, 976 A.2d 245 (2009)
- Attorney Grievance Commission v. Kendrick, 403 Md. 489, 943 A.2d 1173 (2008)
- Attorney Grievance Commission v. Sullivan, 369 Md. 650, 801 A.2d 1077 (2002)
- Attorney Grievance Commission v. Clark, 363 Md. 169, 767 A.2d 865 (2001)
- Attorney Grievance Commission of Maryland v. Walker-Turner, Sr., 428 Md. 214, 233-235, 51 A.3d 553, 564-565 (2012)
- Attorney Grievance Commission v. Taylor, 405 Md. 697, 720-721, 955 A.2d 755, 768-769 (2008)
- Attorney Grievance Commission v. Ruddy, 411 Md. 30, 76-77, 981 A.2d 637, 664 (2009)
- Attorney Grievance Commission of Maryland v. Butler, Jr., 426 Md. 522, 526, 538-539, 44 A.3d 1022, 1025 (2012)
- Attorney Grievance Commission of Maryland v. Brown, 415 Md. 269, 281, 999 A.2d 1040, 1046-1048 (2010)
- Attorney Grievance Commission v. Gordon, 413 Md. 46, 991 A.2d 51 (2010)
- Attorney Grievance Commission v. Tanko, Jr., 408 Md. 404, 426, 969 A.2d 1010, 1023-1024 (2009)
- Attorney Grievance Commission v. Vanderlinde, 364 Md. 376, 418, 773 A.2d 463, 488 (2001)
- Attorney Grievance Commission v. Floyd, 400 Md. 236, 239, 250, 929 A.2d 61, 69 (2007)
- Attorney Grievance Commission v. Logan, 390 Md. 313, 319, 888 A.2d 359, 363 (2005)
- Attorney Grievance Commission v. Hill, 398 Md. 95, 97, 105, 919 A.2d 1194, 1198 (2007)
- Attorney Grievance Commission v. Obi, 393 Md. 643, 648-649, 660-661, 904 A.2d 422, 425, 431 (2006)
- Attorney Grievance Commission v. McClain, 373 Md. 196, 212, 817 A.2d 218, 228 (2003)
- Attorney Grievance Commission v. Oswinkle, 364 Md. 182, 772 A.2d 267 (2001)
- Attorney Grievance Commission v. Fezell, 361 Md. 234, 760 A.2d 1108 (2000)
- Attorney Grievance Commission v. Harris-Smith, 356 Md. 72, 737 A.2d 567 (1999)
- Attorney Grievance Commission v. Adams, 349 Md. 86, 99, 706 A.2d 1080, 1086 (1998)