

COURT OF APPEALS OF MARYLAND

Attorney Grievance Commission of Maryland v. Alphonzo Jerome
Butler, 395 Md. 1

909 A.2d 226 (2006) · No. Misc. Docket AG No. 27, September Term, 2005 · Decided October 16, 2006

SUMMARY

The Court of Appeals of Maryland held that Alphonzo Jerome Butler violated multiple Maryland professional-conduct rules, Maryland attorney-trust-account rules, and statutory provisions by intentionally misappropriating client funds, using the trust account for personal and business expenses, and failing to respond to Bar Counsel. Finding no exceptions or compelling mitigating circumstances, the court imposed disbarment and assessed costs against Butler.

CASE DETAILS

COURT	Court of Appeals of Maryland
WRITING FOR THE COURT	Greene, J.; Bell, C.J.; Raker, J.; Wilner, J.; Cathell, J.; Harrell, J.; Battaglia, J.
JURISDICTION	Maryland
DECIDED	October 16, 2006
DOCKET	Misc. Docket AG No. 27, September Term, 2005
DISPOSITION	other
PROCEDURAL POSTURE	The Attorney Grievance Commission petitioned the Court of Appeals of Maryland for disciplinary or remedial action against Butler. The matter was referred to a circuit court judge for an evidentiary hearing and findings of fact and conclusions of law. No exceptions were filed, and the Court of Appeals independently reviewed the record and imposed discipline.
STANDARD OF REVIEW	The Court accepts a hearing judge's factual findings unless clearly erroneous and reviews conclusions of law essentially de novo. When no timely exceptions are filed, the findings of fact may be treated as established for purposes of determining the appropriate sanction.
PRECEDENTIAL VALUE	Published precedential opinion of the Court of Appeals of Maryland
PARTIES	Attorney Grievance Commission of Maryland v. Alphonzo Jerome Butler

TOPICS

appellate procedure

standard of review

administrative law

remedies

PRACTICE AREAS

legal ethics and attorney discipline

professional responsibility

appellate procedure

trust-account regulation

administrative law

QUESTIONS PRESENTED

1. Whether the hearing judge's findings of fact and conclusions of law should be accepted when neither party filed exceptions.
2. Whether Butler violated Maryland professional-conduct rules, Maryland attorney-trust-account rules, and the Maryland Business Occupations and Professions Article by misappropriating client funds, using the trust account for personal and business expenses, and failing to respond to Bar Counsel.
3. What sanction was appropriate for Butler's intentional misappropriation of client funds and related misconduct.

HOLDINGS

1. When no timely exceptions are filed, the Court may treat the hearing judge's factual findings as established for purposes of determining the appropriate sanction; the Court reviews legal conclusions essentially de novo.
2. An attorney violates MRPC 1.15(a), Maryland Rules 16-607 and 16-609, and Maryland Business Occupations and Professions Article § 10-306 by failing to maintain client funds in an attorney trust account and using those funds for personal or unauthorized purposes.
3. A lawyer violates MRPC 8.1(b) by knowingly failing to respond to lawful demands for information from a disciplinary authority.
4. Intentional misappropriation of client funds constitutes professional misconduct involving dishonesty and conduct prejudicial to the administration of justice, violating MRPC 8.4(a), (b), (c), and (d).
5. Intentional misappropriation of client funds, absent compelling extenuating circumstances, warrants disbarment.

KEY QUOTATIONS

"The primary objective of this Court, in matters of attorney discipline, is "to protect the public, promote general and specific deterrence, and maintain the integrity of the legal profession." (232)

"Misappropriation of funds by an attorney is an act infected with deceit and dishonesty and ordinarily will result in disbarment in the absence of compelling extenuating circumstances justifying a lesser sanction." (234)

"In light of the totality of the circumstances, and the severity of Respondent's misconduct, we conclude that disbarment is the appropriate sanction." (235)

FACTUAL BACKGROUND

Butler maintained an attorney trust account into which he deposited \$675 entrusted by a client to pay child support to the client's former spouse. He issued the payment check but withdrew or allowed funds to be withdrawn so that the account lacked sufficient funds when the check was presented, producing an overdraft. The account also was used for personal and business expenses, and Butler repeatedly failed to respond to Bar Counsel's requests for information concerning the overdrafts and account records.

PROCEDURAL HISTORY

The Commission filed its disciplinary petition on July 22, 2005. The Court referred the matter to Judge Nelson W. Rupp, Jr., of the Circuit Court for Montgomery County, who conducted an evidentiary hearing and found that Butler violated multiple Maryland professional-conduct rules, Maryland attorney-trust-account rules, and statutory provisions. Butler failed to participate meaningfully in discovery, failed to appear at the hearing, and filed no exceptions. The Court accepted the established factual findings, agreed with the legal conclusions, and imposed disbarment.

DISPOSITION

other

CASES CITED

- Attorney Griev. Comm'n v. Lee, 393 Md. 546, 558, 903 A.2d 895 (2006)
- Attorney Griev. Comm'n v. Roberts, 394 Md. 137, 904 A.2d 557 (2006)
- Attorney Griev. Comm'n v. Clark, 363 Md. 169, 184, 767 A.2d 865, 873 (2001)
- Attorney Griev. Comm'n v. DiCicco, 369 Md. 662, 802 A.2d 1014 (2002)
- Attorney Griev. Comm'n v. Herman, 380 Md. 378, 844 A.2d 1181 (2004)
- Attorney Griev. Comm'n v. Sheridan, 357 Md. 1, 741 A.2d 1143 (1999)
- Attorney Griev. Comm'n v. Cherry-Mahoi, 388 Md. 124, 159-160, 879 A.2d 58, 80 (2005)
- Attorney Griev. Comm'n v. Williams, 335 Md. 458, 644 A.2d 490 (1994)
- Attorney Griev. Comm'n v. Vanderlinde, 364 Md. 376, 406, 773 A.2d 463, 480 (2001)
- Attorney Griev. Comm'n v. Sabghir, 350 Md. 67, 84, 710 A.2d 926, 934 (1998)