

SUPREME COURT OF LOUISIANA

In re Yates

923 So. 2d 618 (La. 2006) · Decided March 10, 2006

SUMMARY

The Louisiana Supreme Court reviewed disciplinary charges against attorney James L. Yates for neglecting a personal injury matter, failing to communicate with a client, failing to refund an unearned fee, and failing to cooperate with disciplinary authorities. The court imposed a six-month suspension, followed by one year of supervised probation, and ordered ethics training, an accounting, restitution of \$2,000, and payment of costs.

CASE DETAILS

COURT	Supreme Court of Louisiana
JURISDICTION	Louisiana
DECIDED	March 10, 2006
DISPOSITION	other
PROCEDURAL POSTURE	Original attorney-discipline proceeding in which the Office of Disciplinary Counsel filed formal charges against respondent, who failed to answer; the factual allegations were deemed admitted, and the Supreme Court independently reviewed the record and disciplinary recommendations.
STANDARD OF REVIEW	The Supreme Court of Louisiana exercises original jurisdiction in attorney-disciplinary matters, acts as the trier of fact, and independently reviews the record to determine whether misconduct was proven by clear and convincing evidence.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Office of Disciplinary Counsel

TOPICS

- remedies
- restitution
- accounting

PRACTICE AREAS

- legal ethics
- attorney discipline
- professional responsibility
- fee disputes
- restitution

QUESTIONS PRESENTED

1. Whether the factual allegations in unanswered formal disciplinary charges were deemed admitted and established the alleged misconduct.
2. Whether the admitted facts established violations of Rules 1.3, 1.16(d), and 8.1(c) of the Louisiana Rules of Professional Conduct.
3. What sanction was appropriate for Yates's neglect of a client matter, failure to cooperate with the disciplinary investigation, and failure to account for or refund an unearned fee.

HOLDINGS

1. When a lawyer fails to answer formal disciplinary charges, the factual allegations are deemed admitted and require no additional evidentiary proof, but legal conclusions flowing from those facts are not automatically deemed admitted.
2. Yates violated Rules 1.3, 8.1(c), and 1.16(d) of the Louisiana Rules of Professional Conduct by neglecting the Windham matter, failing to cooperate with the ODC investigation, and failing to account for or refund an unearned fee in the Thompson matter.
3. A six-month suspension, followed by one year of supervised probation, together with ethics education, an accounting, restitution of \$2,000, and assessment of costs, was appropriate.

KEY QUOTATIONS

“However, the language of § 11(E)(3) does not encompass legal conclusions that flow from the factual allegations.” (623)

“Bar disciplinary matters fall within the original jurisdiction of this court.” (624)

FACTUAL BACKGROUND

James L. Yates was hired to represent four inmates in personal-injury claims arising from injuries during transportation, but after filing suit he took no further action, allowed the case to be dismissed, and failed to notify the clients or seek remedial relief. He also failed to provide a written response to the disciplinary complaint, requiring the Office of Disciplinary Counsel to subpoena him for sworn testimony. In a separate matter, Annie Laura Thompson paid Yates \$2,000 and \$150 in filing fees for an appeal; she terminated him before the appeal was filed, and he refunded none of the \$2,000 fee or provided an accounting of the unearned portion.

PROCEDURAL HISTORY

The Office of Disciplinary Counsel filed two counts of formal charges alleging neglect of a personal-injury matter, failure to cooperate with the disciplinary investigation, and failure to refund an unearned fee. Respondent did not answer, so the factual allegations were deemed admitted under Supreme Court Rule XIX, § 11(E)(3). The hearing committee recommended conditional requirements rather than suspension, while the disciplinary board recommended a six-month suspension, one year of supervised probation, ethics education, an accounting, restitution, and costs. Neither party objected to the board's recommendation.

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)
- In re: Colwart, 98-2303 (La. 11/6/98), 721 So. 2d 848
- In re: Jackson, 02-2764 (La. 4/9/03), 842 So. 2d 359
- In re: Fazande, 03-2210 (La. 1/21/04), 864 So. 2d 174
- In re: Pepper, 01-2119 (La. 7/2/04), 876 So. 2d 772
- In re: Renfro, 01-1947 (La. 11/9/01), 800 So. 2d 371
- In re: Holley, 01-1876 (La. 10/5/01), 797 So. 2d 46
- In re: Thornton, 04-0488 (La. 7/2/04), 876 So. 2d 781
- In re: Turnage, 01-1240 (La. 6/22/01), 790 So. 2d 620
- In re: Mathews, 02-1377 (La. 9/20/02), 827 So. 2d 1129