

SUPREME COURT OF SOUTH CAROLINA

In the Matter of Robert L. Gailliard

362 S.C. 428, 608 S.E.2d 434 (2005) · No. No. 25927 · Decided January 24, 2005

SUMMARY

The Supreme Court of South Carolina accepted an agreement for discipline by consent and indefinitely suspended Robert L. Gailliard from practicing law. The suspension followed his conviction for assault and battery of a high and aggravated nature and allegations that he practiced law while under interim suspension.

CASE DETAILS

COURT	Supreme Court of South Carolina
WRITING FOR THE COURT	Chief Justice Toal; Justice Moore; Justice Waller; Justice Burnett; Justice Pleicones
JURISDICTION	South Carolina
DECIDED	January 24, 2005
DOCKET	No. 25927
DISPOSITION	other
PROCEDURAL POSTURE	Attorney disciplinary matter submitted to the Supreme Court of South Carolina on an Agreement for Discipline by Consent and a Petition for Rule to Show Cause.
PRECEDENTIAL VALUE	Published opinion

TOPICS

- administrative law
- agency adjudication

PRACTICE AREAS

- legal ethics
- attorney discipline
- professional responsibility

QUESTIONS PRESENTED

- Whether the court should accept the Agreement for Discipline by Consent and impose discipline for respondent's criminal misconduct.

2. Whether the court should issue a Rule to Show Cause based on the allegation that respondent practiced law while subject to an interim suspension.

HOLDINGS

1. The court accepted the Agreement for Discipline by Consent and indefinitely suspended respondent from the practice of law in South Carolina.
2. The court declined to issue the Rule to Show Cause but reminded respondent that he was prohibited from participating in any activity constituting the practice of law while suspended.

KEY QUOTATIONS

“We accept the Agreement for Discipline by Consent and indefinitely suspend respondent from the practice of law.” (362 S.C. at 429)

“Although we decline to issue a Rule to Show Cause, we remind respondent that he is prohibited from participating in any activity which constitutes the practice of law while he is suspended.” (362 S.C. at 429)

FACTUAL BACKGROUND

Respondent was convicted on August 25, 2004, of assault and battery of a high and aggravated nature after striking his teenage son with his truck. He received a four-year sentence suspended upon service of three years' probation, anger management, and additional counseling as needed. He was later placed on interim suspension, and the Office of Disciplinary Counsel alleged that he attempted to obtain a client's release from jail while suspended.

PROCEDURAL HISTORY

Respondent and the Office of Disciplinary Counsel entered into an Agreement for Discipline by Consent after respondent's criminal conviction and interim suspension. The Office of Disciplinary Counsel also filed a Petition for Rule to Show Cause alleging that respondent practiced law while suspended. The court accepted the consent agreement, imposed an indefinite suspension, and declined to issue the rule to show cause.

DISPOSITION

other

OPINION

PER CURIAM.

362 S.C. 428 (2005) 608 S.E.2d 434 In the Matter of Robert L. GAILLIARD, Respondent. No. 25927. Supreme Court of South Carolina. Submitted December 22, 2004. Decided January 24, 2005. Henry B. Richardson, Jr., Disciplinary Counsel, and Barbara M. Seymour, Senior Assistant Disciplinary Counsel, both of Columbia, for The Office of Disciplinary Counsel. Coming B. Gibbs, Jr., of Charleston, for respondent.

PER CURIAM: This attorney disciplinary matter is before the Court on an Agreement for Discipline by Consent entered into by respondent and the Office of Disciplinary Counsel (ODC) pursuant to Rule 21, RLDE, Rule 413, SCACR, and on a Petition for Rule to Show Cause pursuant to Rule 5(b)(6), RLDE, Rule 413, SCACR. AGREEMENT FOR DISCIPLINE BY CONSENT In the Agreement for Discipline by Consent, respondent admits misconduct and consents to a public reprimand, definite suspension of no more than two years, or an indefinite suspension as provided by Rule 7(b), RLDE, Rule 413, SCACR.

We accept the agreement and indefinitely suspend respondent from the practice of law in this state. The facts, as set forth in the agreement, are as follows. FACTS On August 25, 2004, respondent was convicted of assault and battery of a high an aggravated nature and sentenced to four years imprisonment, suspended upon service of three years probation and submission to anger management and additional counseling as needed.

The assault and battery occurred when respondent struck his teenage son with his truck. *429 LAW In the Agreement for Discipline by Consent, respondent admits his misconduct constitutes a violation of Rule 7, RLDE, of Rule 413, SCACR, specifically Rule 7(a)(1) (it shall be ground for discipline for lawyer to violate the Rules of Professional Conduct or any other rules of this jurisdiction regarding professional conduct of lawyers), Rule 7(a)(4) (it is ground for discipline for lawyer to be convicted of crime of moral turpitude or serious crime), Rule 7(a)(5) (it shall be ground for discipline for lawyer to engage in conduct tending to pollute the administration of justice or to bring the courts or the legal profession into disrepute or to engage in conduct demonstrating an unfitness to practice law), and Rule 7(a)(6) (it shall be ground for discipline for lawyer to violate the oath of office taken upon admission to practice law in this state).

Respondent further admits that by his misconduct he has violated the following provision of the Rules of Professional Conduct, Rule 407, SCACR: Rule 8.4(b) (it is professional misconduct for lawyer to commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects). PETITION FOR RULE TO SHOW CAUSE On October, 27, 2004, respondent was placed on interim suspension for the same conduct which is the basis of the Agreement for Discipline by Consent.

See Rule 17, RLDE, Rule 413, SCACR. ODC has filed a Petition for Rule to Show Cause alleging that, by attempting to obtain the release of a client from jail, respondent practiced law while suspended from the practice of law. CONCLUSION We accept the Agreement for Discipline by Consent and indefinitely suspend respondent from the practice of law. Respondent shall not seek to be reinstated to the practice of law until he has completed his probation.

Although we decline to issue a Rule to Show Cause, we remind respondent that he is prohibited from participating in any activity which constitutes the practice of law while he is suspended. *430 Within fifteen days of the date of this opinion, respondent shall surrender his certificate of

admission to practice law in this state to the Clerk of Court and shall file an affidavit with the Clerk of Court showing that he has complied with Rule 30, RLDE, Rule 413, SCACR.

INDEFINITE SUSPENSION. TOAL, C.J., MOORE, WALLER, BURNETT and PLEICONES, JJ., concur.