

APPELLATE DIVISION OF THE SUPREME COURT OF THE STATE OF NEW YORK, THIRD DEPARTMENT

In re Hogan

286 A.D.2d 546 (N.Y. App. Div. 2001) · Decided August 17, 2001

SUMMARY

The New York Appellate Division, Third Department, found an attorney guilty of multiple acts of professional misconduct, including neglect of client matters, inadequate communication, failure to return a client file, misleading conduct, and failure to cooperate with disciplinary authorities. The court imposed an additional six-month suspension, effective immediately, and denied the respondent’s request to modify a prior suspension order to permit clerking at a law firm.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, Third Department
WRITING FOR THE COURT	Per Curiam; Crew III, J.P.; Peters, J.; Spain, J.; Carpinello, J.; Rose, J.
JURISDICTION	New York
DECIDED	August 17, 2001
DISPOSITION	other
PROCEDURAL POSTURE	Attorney-discipline proceeding on a supplemental petition of charges. The court reviewed motions by the petitioner and respondent to confirm or disaffirm portions of a referee's report.
STANDARD OF REVIEW	The court independently determined which charged acts of professional misconduct were established and whether the referee's report should be confirmed or disaffirmed in part.
PRECEDENTIAL VALUE	Published appellate decision
PARTIES	Petitioner v. Hogan

TOPICS

- administrative law
- appellate procedure

PRACTICE AREAS

- attorney discipline
- professional responsibility
- appellate procedure

QUESTIONS PRESENTED

1. Whether the specified charges of professional misconduct were established and should be sustained.
2. Whether the referee's report should be confirmed or disaffirmed in part.
3. What discipline was appropriate in light of the sustained misconduct and Hogan's existing suspension.
4. Whether Hogan's prior suspension order should be modified to permit him to clerk at a law firm.

HOLDINGS

1. Hogan was found guilty of the misconduct charged under charge I, specification 2; charge II; charge III, specification 2; charge IV; charge VI; and charge VII. The remaining charges and specifications were found not proven.
2. Hogan was suspended from the practice of law for an additional six months, effective immediately.
3. Hogan's motion to modify the prior suspension order to permit him to clerk at a law firm was denied.

KEY QUOTATIONS

“an approach to the law that was sloppy, shoddy, shabby” (286 A.D.2d at 547)

“evidenced a casual and cavalier attitude towards representation of various clients in serious matters.” (286 A.D.2d at 547)

FACTUAL BACKGROUND

Hogan neglected a client's vehicle-and-traffic matter, resulting in suspension of the client's driver's license. He also failed to comply with domestic-relations retainer and billing requirements, failed to communicate with an estate client, failed to return that client's file, attempted to mislead the petitioner concerning bills allegedly sent to two clients, and failed to cooperate with the petitioner. The misconduct was similar to conduct underlying Hogan's existing six-month suspension.

PROCEDURAL HISTORY

Hogan had previously been suspended from practicing law for six months by the same court. In this supplemental disciplinary proceeding, the referee sustained some charges and found other charges unproven. The court granted and denied the parties' motions to confirm or disaffirm the referee's report accordingly, imposed an additional six-month suspension effective immediately, and denied Hogan's motion to modify the prior suspension to permit clerking at a law firm.

DISPOSITION

other

CASES CITED

- Matter of Hogan, 277 A.D.2d 869

OPINION

PER CURIAM.

Respondent was admitted to practice by this Court in 1987 and maintained a law office in the City of Saratoga Springs, Saratoga County. By decision dated November 28, 2000, we suspended respondent from practice for a period of six months, a suspension which continues to date (Matter of Hogan, 277 AD2d 869).

As set forth in a supplemental petition of charges, we find that respondent neglected a client's vehicle and traffic matter, resulting in a suspension of her driver's license (see, Code of Professional Responsibility DR 6-101 [a] [3] [22 NYCRR 1200.30 (a) (3)]), failed to have a domestic relations client execute a written retainer agreement and sign a receipt for a Statement of Client's Rights and Responsibilities and failed to bill the client at least every 60 days (see, DR 2-106 [c] [2] [b]; [f] [22 NYCRR 1200.11 (c) (2) (ii); (f)]; 22 NYCRR part 1400), failed to communicate with a client who retained him in an estate matter (see, DR 1-102 [a] [5] [22 NYCRR 1200.3 (a) (5)]), failed to return the estate client's file to her as requested (see, DR 9-102 [c] [4] [22 NYCRR 1200.46 (c) (4)]), attempted to mislead and deceive petitioner with respect to bills he allegedly sent to two clients (see, DR 1-102 [a] [4], [5], [7] [22 NYCRR 1200.3 (a) (4), (5), (7)]), and failed to cooperate with petitioner (see, DR 1-102 [a] [5] [22 NYCRR 1200.3 (a) (5)]).

In accordance with such findings, we grant and deny the motions by petitioner and respondent to confirm and disaffirm, in part, the Referee's report. The sustained charges are similar to those which led to respondent's current suspension from practice.

The Referee *547stated that respondent showed "an approach to the law that was sloppy, shoddy, shabby" and that he "evidenced a casual and cavalier attitude towards representation of various clients in serious matters." We are especially troubled by the attempt to mislead and deceive petitioner.

Under the circumstances presented, we conclude that respondent should be suspended from practice for an additional period of six months, effective immediately. In addition, we deny respondent's motion to amend the prior order which suspended him to allow him to clerk at a law firm. Crew III, J. P., Peters, Spain, Carpinello and Rose, JJ., concur. Ordered that respondent is found guilty of the professional misconduct set forth in the supplemental petition under charge I, specification 2; charge II; charge III, specification 2; charge IV; charge VI; and charge VII; and the remaining charges and specifications are found not proven; and it is further ordered that the motion and cross motion to confirm and disaffirm in part the Referee's report are granted and denied accordingly; and it is further ordered that respondent is suspended from practice for an additional period of six months, effective immediately; and it is further ordered that respondent's motion to modify the prior order which suspended him from practice is denied; and it is further

ordered that, for the period of his suspension, respondent is commanded to desist and refrain from the practice of law in any form, either as principal or as agent, clerk or employee of another; and he is forbidden to appear as an attorney or counselor-at-law before any court, Judge, Justice, board, commission or other public authority, or to give to another any opinion as to the law or its application, or any advice in relation thereto; and it is further ordered that respondent shall comply with the provisions of this Court's rules (see, 22 NYCRR 806.9) regulating the conduct of suspended attorneys.

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/new-york-appellate-division-of-the-supreme-court-of-the-state-of-new-york-third-department/2001/in-re-hogan-6h6g3u9s>