

COURT OF APPEALS OF MARYLAND

Attorney Grievance Comm'n v. Brown, 426 Md. 298

44 A.3d 344 (2012) · No. Misc. Docket AG No. 1, Sept. Term, 2011 · Decided April 23, 2012

SUMMARY

The Maryland Court of Appeals reviewed an attorney disciplinary proceeding involving Barry S. Brown's representation of four clients. The court upheld findings that Brown violated multiple Maryland Lawyers' Rules of Professional Conduct, including duties of competence, diligence, communication, and honesty, and ordered his disbarment. The court declined to treat Brown's untimely or improperly filed motions as exceptions.

CASE DETAILS

COURT	Court of Appeals of Maryland
WRITING FOR THE COURT	Harrell, J.; Bell, C.J.; Battaglia, J.; Greene, J.; Adkins, J.; Barbera, J.; McDonald, J.
JURISDICTION	Maryland
DECIDED	April 23, 2012
DOCKET	Misc. Docket AG No. 1, Sept. Term, 2011
DISPOSITION	other
PROCEDURAL POSTURE	Attorney disciplinary proceeding initiated by the Attorney Grievance Commission. A circuit court hearing judge found, by clear and convincing evidence, that Brown violated multiple Maryland Lawyers' Rules of Professional Conduct and recommended disbarment. Neither party filed timely exceptions, and the Court of Appeals independently reviewed the legal conclusions and determined the sanction.
STANDARD OF REVIEW	The Court of Appeals has original and complete jurisdiction over attorney discipline proceedings. It accepts the hearing judge's factual findings as prima facie correct unless clearly erroneous; when no exceptions are filed, it may treat those findings as established for purposes of determining sanctions. It reviews the hearing judge's conclusions of law without deference.
PRECEDENTIAL VALUE	Published opinion of the Maryland Court of Appeals; precedential.
PARTIES	Attorney Grievance Commission of Maryland v. Barry S. Brown

TOPICS

sanctions

appellate procedure

standard of review

civil procedure

motions to dismiss

PRACTICE AREAS

attorney discipline

legal ethics

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civil procedure

QUESTIONS PRESENTED

1. Whether Brown's post-hearing motions could be treated as timely exceptions to the hearing judge's findings and conclusions.
2. Whether the hearing judge's factual findings and legal conclusions established violations of MLRPC 1.1, 1.2(a), 1.3, 1.4(a) and (b), 1.16(d), 3.2, 8.1(b), and 8.4(c) and (d).
3. What sanction was appropriate for Brown's repeated neglect, failure to communicate, misrepresentations, failure to provide client files, and failure to respond to Bar Counsel.

HOLDINGS

1. Brown's motion for a new trial was improperly filed in the circuit court because the Court of Appeals alone had authority to order a remand or new hearing, and his motion to dismiss filed in the Court of Appeals was untimely under Maryland Rule 16-758(b) and (c). Neither motion was treated as an exception.
2. When no exceptions are filed, the Court may treat the hearing judge's factual findings as established for purposes of determining sanctions, while reviewing the hearing judge's conclusions of law without deference.
3. Brown violated MLRPC 1.1, 1.2(a), 1.3, 1.4(a) and (b), 1.16(d), 3.2, 8.1(b), and 8.4(c) and (d), but did not violate MLRPC 1.6(a) or 8.1(a).
4. Disbarment was required because Brown engaged in severe and pervasive misconduct affecting four clients, including neglect, failure to communicate, misrepresentations, failure to provide client files, and failure to respond to Bar Counsel.

KEY QUOTATIONS

"This Court has original and complete jurisdiction over attorney discipline proceedings in Maryland." (426 Md. at 354)

"Given the gravity and pervasiveness of Respondent's misconduct, we must disbar Respondent to protect the public and the integrity of the legal profession in this State." (426 Md. at 362)

FACTUAL BACKGROUND

Brown represented four clients in civil and medical-malpractice matters but repeatedly failed to prosecute claims, respond to discovery, communicate material case developments, provide requested files, or respond to Bar Counsel's information requests. His neglect resulted in discovery sanctions, default judgment, dismissals for

lack of prosecution, and expiration of statutes of limitations. He also misrepresented or concealed the status of clients' claims, including telling one client that a claim remained pending when it had been dismissed.

PROCEDURAL HISTORY

Bar Counsel filed a petition for disciplinary or remedial action under Maryland Rule 16-751(a)(1). The Court designated Judge Patrick Cavanaugh of the Circuit Court for Baltimore County to conduct a hearing. After a September 2011 hearing, Judge Cavanaugh found violations of all charged rules except MLRPC 1.6(a) and 8.1(a) and recommended disbarment. The Court declined to treat Brown's motions for a new trial, dismissal, or remand as exceptions because one was filed in the wrong court and the other was untimely.

DISPOSITION

other

CASES CITED

- Atty. Griev. Comm'n v. Stern, 419 Md. 525, 556-57, 19 A.3d 904, 925 (2011)
- Atty. Griev. Comm'n v. James, 385 Md. 637, 646, 870 A.2d 229, 234 (2005)
- Atty. Griev. Comm'n v. Muhammad, 395 Md. 676, 690 n.13, 912 A.2d 588, 596 n.13 (2006)
- Atty. Griev. Comm'n v. Blum, 373 Md. 275, 293-94, 818 A.2d 219, 230-31 (2003)
- Atty. Griev. Comm'n v. McLaughlin, 372 Md. 467, 494, 813 A.2d 1145, 1161 (2002)
- Atty. Griev. Comm'n v. Brady, 422 Md. 441, 458, 30 A.3d 902, 911 (2011)
- Atty. Griev. Comm'n v. Bleecker, 414 Md. 147, 168-75, 994 A.2d 928, 940-45 (2010)
- Atty. Griev. Comm'n v. Kwarteng, 411 Md. 652, 658, 984 A.2d 865, 868-69 (2009)
- Atty. Griev. Comm'n v. Reinhardt, 391 Md. 209, 218, 892 A.2d 533, 538 (2008)
- Atty. Griev. Comm'n v. Angst, 369 Md. 404, 409-10, 800 A.2d 747, 750-51 (2002)
- Atty. Griev. Comm'n v. Culver, 381 Md. 241, 276, 849 A.2d 423, 444 (2004)
- Atty. Griev. Comm'n v. Gisriel, 409 Md. 331, 370-71, 974 A.2d 331, 354 (2009)
- Atty. Griev. Comm'n v. McCulloch, 404 Md. 388, 397-401, 946 A.2d 1009, 1014-17 (2008)
- Atty. Griev. Comm'n v. Patterson, 421 Md. 708, 737, 28 A.3d 1196, 1213 (2011)
- Atty. Griev. Comm'n v. Hodgson, 396 Md. 1, 6, 912 A.2d 640, 643-44 (2006)
- Atty. Griev. Comm'n v. Harris, 371 Md. 510, 522, 810 A.2d 457, 464 (2002)
- Atty. Griev. Comm'n v. Edib, 415 Md. 696, 715-17, 4 A.3d 957, 969-70 (2010)
- Atty. Griev. Comm'n v. De La Paz, 418 Md. 534, 554, 16 A.3d 181, 193-94 (2011)
- Atty. Griev. Comm'n v. Steinberg, 395 Md. 337, 366, 910 A.2d 429, 446 (2006)
- Atty. Griev. Comm'n v. West, 378 Md. 395, 405-07, 836 A.2d 588, 594-95 (2003)
- Atty. Griev. Comm'n v. Queen, 407 Md. 556, 565-66, 967 A.2d 198, 203-04 (2009)
- Atty. Griev. Comm'n v. Maignan, 423 Md. 191, 204, 31 A.3d 467, 474 (2011)
- Atty. Griev. Comm'n v. Kreamer, 404 Md. 282, 333-34, 946 A.2d 500, 530-31 (2008)

- Atty. Griev. Comm'n v. Rose, 391 Md. 101, 111, 892 A.2d 469, 475 (2006)
- Atty. Griev. Comm'n v. Paul, 423 Md. 268, 283-86, 31 A.3d 512, 521-23 (2011)
- Atty. Griev. Comm'n v. Palmer, 417 Md. 185, 205-06, 9 A.3d 37, 49 (2010)
- Atty. Griev. Comm'n v. Wallace, 368 Md. 277, 293, 793 A.2d 535, 545 (2002)
- Atty. Griev. Comm'n v. Payer, 425 Md. 78, 93, 38 A.3d 378, 387 (2012)
- Atty. Griev. Comm'n v. Shaw, 363 Md. 1, 10-11, 766 A.2d 1028, 1033 (2001)
- Atty. Griev. Comm'n v. Hollis, 347 Md. 547, 559, 702 A.2d 223, 229 (1997)
- Atty. Griev. Comm'n v. Harris, 366 Md. 376, 388-89, 391, 784 A.2d 516, 523, 525 (2001)
- Atty. Griev. Comm'n v. Mininsohn, 380 Md. 536, 576, 846 A.2d 353, 377 (2004)
- Atty. Griev. Comm'n v. Bereano, 357 Md. 321, 342-43, 744 A.2d 35, 46-47 (2000)

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