

SUPREME COURT OF LOUISIANA

In re Hawkins

90 So. 3d 377 (La. 2012) · Decided May 9, 2012

SUMMARY

The Louisiana Supreme Court considers disciplinary charges against attorney Edwin D. Hawkins arising from the abandonment of multiple client matters, failure to refund unearned fees, and failure to cooperate with disciplinary investigations. The court concludes that Hawkins repeatedly and intentionally converted client funds, causing substantial harm, and orders his permanent disbarment and restitution to his victims.

CASE DETAILS

COURT	Supreme Court of Louisiana
WRITING FOR THE COURT	Chief Justice Kimball; Johnson, J.; Weimer, J.
JURISDICTION	Louisiana
DECIDED	May 9, 2012
DISPOSITION	other
PROCEDURAL POSTURE	Original attorney-disciplinary proceeding before the Supreme Court of Louisiana on formal charges filed by the Office of Disciplinary Counsel. Hawkins failed to answer, so the factual allegations were deemed admitted; the hearing committee and disciplinary board recommended permanent disbarment and restitution.
STANDARD OF REVIEW	Because attorney-disciplinary matters fall within the court's original jurisdiction, the Supreme Court acts as a trier of fact and independently reviews the record to determine whether misconduct was proven by clear and convincing evidence.
PRECEDENTIAL VALUE	Published Louisiana Supreme Court opinion; precedential
PARTIES	Office of Disciplinary Counsel v. Edwin D. Hawkins

TOPICS

- remedies
- restitution
- administrative law

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the factual allegations in the formal charges were deemed admitted and proven under Supreme Court Rule XIX, § 11(E)(3).
2. Whether the admitted facts established violations of the Louisiana Rules of Professional Conduct.
3. Whether the appropriate sanction was permanent disbarment based on repeated or multiple instances of intentional conversion of client funds with substantial harm.
4. Whether Hawkins should be ordered to make restitution to his victims.

HOLDINGS

1. When a lawyer fails to answer formal charges, the factual allegations are deemed admitted and proven by clear and convincing evidence under Supreme Court Rule XIX, § 11(E)(3), but legal conclusions flowing from those facts are not automatically deemed admitted.
2. The admitted facts established that Hawkins neglected legal matters, failed to communicate with clients, failed to properly withdraw from representations, failed to refund unearned fees, and failed to cooperate with the Office of Disciplinary Counsel, violating the Rules of Professional Conduct as charged.
3. Permanent disbarment was warranted where the lawyer committed repeated or multiple instances of intentional conversion of client funds with substantial harm, as described in Guideline 1 of the permanent-disbarment guidelines.
4. Hawkins was required to make restitution to the clients whose unearned fees he retained.

KEY QUOTATIONS

“However, the language of § 11(E)(3) does not encompass legal conclusions that flow from the factual allegations.” (at 382)

“As such, we find that respondent’s conduct amounts to repeated or multiple instances of intentional conversion of client funds with substantial harm, as contemplated by Guideline 1 of the permanent disbarment guidelines set forth in Supreme Court Rule XIX, Appendix E.” (at 383)

FACTUAL BACKGROUND

Hawkins represented at least seven clients in traffic, criminal, post-conviction, appellate, and forfeiture matters between 2002 and 2006. He repeatedly abandoned or neglected the representations, failed to communicate, failed to pursue required proceedings, and failed to refund more than \$26,000 in unearned fees, effectively converting the funds to his own use. He also failed to cooperate with the Office of Disciplinary Counsel and did not participate in the disciplinary proceedings.

PROCEDURAL HISTORY

The Office of Disciplinary Counsel filed formal charges in January 2010 alleging misconduct in seven client matters. Hawkins did not answer, and the factual allegations were deemed admitted and proven by clear and

convincing evidence under Supreme Court Rule XIX, § 11(E)(3). The hearing committee recommended disbarment and restitution, and the disciplinary board recommended permanent disbarment and restitution. The Supreme Court independently reviewed the record, adopted the board's recommendation, permanently disbarred Hawkins, and ordered restitution.

DISPOSITION

other

CASES CITED

- In re: Hawkins, 974 So. 2d 1280 (La. 2008)
- In re: Banks, 18 So. 3d 57 (La. 2009)
- In re: Donnan, 838 So. 2d 715 (La. 2003)
- Louisiana State Bar Ass'n v. Chatelain, 573 So. 2d 470 (La. 1991)
- 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: Barrios, 841 So. 2d 772 (La. 2003)