

SUPREME COURT OF KENTUCKY

Kentucky Bar Ass'n v. Cartee

84 S.W.3d 460 (Ky. 2002) · Decided September 26, 2002

SUMMARY

The Kentucky Supreme Court disbarred Rita Lynn Cartee after finding her guilty of failing to file a client's bankruptcy petition, return an unearned fee, and respond to disciplinary proceedings. The court relied on her repeated prior misconduct and ordered her to pay \$64.04 in costs.

CASE DETAILS

COURT	Supreme Court of Kentucky
WRITING FOR THE COURT	Joseph E. Lambert, Chief Justice; Joseph E. Lambert, C.J.; Cooper, J.; Johnstone, J.; Stumbo, J.; Wintersheimer, J.; Graves, J.; Keller, J.
JURISDICTION	Kentucky
DECIDED	September 26, 2002
DISPOSITION	other
PROCEDURAL POSTURE	Attorney-discipline default proceeding in which the Kentucky Bar Association Board of Governors recommended disbarment after finding Respondent guilty on three counts of professional misconduct.
STANDARD OF REVIEW	Review of the record and the Board of Governors' disciplinary recommendation under the Kentucky Supreme Court Rules.
PRECEDENTIAL VALUE	Published Kentucky Supreme Court disciplinary opinion; precedential as to the disposition and reasoning concerning the appropriate sanction on the stated record.
PARTIES	Kentucky Bar Association v. Rita Lynn Cartee

TOPICS

administrative law

bankruptcy

PRACTICE AREAS

legal ethics and professional responsibility

attorney discipline

bankruptcy

QUESTIONS PRESENTED

1. Whether Cartee should be disbarred based on her three counts of professional misconduct, her repeated failure to respond to disciplinary proceedings, and her prior disciplinary history.
2. Whether the Board of Governors' recommendation of disbarment should be accepted rather than imposing an additional suspension.

HOLDINGS

1. Disbarment was warranted because Cartee's present misconduct, repeated similar misconduct, failure to respond to clients and disciplinary authorities, and failure to maintain a current address demonstrated an unmistakable pattern of neglect and showed that prior suspensions had not deterred her conduct.
2. The court accepted the Board of Governors' recommendation and ordered that Cartee be disbarred from practicing law in Kentucky and pay \$64.04 in costs.

KEY QUOTATIONS

"There is an unmistakable pattern of neglect by Respondent." (462)

"Not only has she failed to respond to clients' requests for information or return of unearned fees, she has also failed to respond to the Inquiry Commission in this case and in at least one past disciplinary case." (462)

FACTUAL BACKGROUND

Cartee accepted \$650 to file a client's bankruptcy petition but never filed the petition and did not return the fee. She could not be located at her Bar Roster address and did not respond to the disciplinary complaint or the Inquiry Commission's charges. The court also considered her prior disciplinary history, including suspensions for similar neglect, failure to communicate with clients, failure to return fees, and failure to respond to disciplinary proceedings.

PROCEDURAL HISTORY

A client filed a disciplinary complaint after Cartee accepted \$650 to file a bankruptcy petition, failed to file it, and failed to return the fee. Cartee did not respond to the complaint, which was served through the Secretary of State, and the matter proceeded as a default case under SCR 3.210(1). The Inquiry Commission submitted the matter to the Board of Governors, which unanimously found violations and recommended disbarment and payment of costs. The Supreme Court of Kentucky considered the record and recommendation and ordered disbarment.

DISPOSITION

other

CASES CITED

- Kentucky Bar Association v. Cartee, 39 S.W.3d 28 (Ky. 2001)
- Kentucky Bar Association v. Rita Lynn Cartee, 53 S.W.3d 69 (Ky. 2000)

OPINION

PER CURIAM.

OPINION AND ORDER The KBA Board of Governors has recommended that Rita Lynn Cartee, of Olive Hill, Kentucky KBA number 10810, be disbarred. She is currently on suspension from the practice of law due to a previous disciplinary action discussed below. Ms. Cartee, Respondent, was admitted to the bar in 1979 and practiced- law in Paducah. A client filed a disciplinary complaint against her in December, 2001.

The complaint arose because Respondent was paid \$650.00 to file a bankruptcy petition. She never filed the petition and she failed to return the fee. The KBA Office of Bar Counsel was unable to locate Respondent at her Bar Roster address and the complaint was served on Respondent through the Office of the Secretary of State pursuant to KRS 454.210. She did not respond to the complaint.

She has been charged with violations of SCR 3.130-8.3(e), SCR 3.130-1.16(d), and SCR 3.130-1.3. The matter was treated as a default case pursuant to SCR 3.210(1) and the Inquiry Commission submitted the case to the Board of Governors. Upon examination of the case, the Board reviewed past disciplinary actions against Respondent.

In *Kentucky Bar Association v. Cartee, Ky.*, 39 S.W.3d 28 (2001), a client hired Respondent and paid her a \$500.00 fee to represent him in a bankruptcy action. The client repeatedly questioned Respondent about the progress of the case. Without giving acceptable reasons for delay of the case, Respondent closed her office and moved out of town, leaving no new address.

She did not refund the \$500.00 or respond to the complaints against her. She was suspended for thirty days. In *Kentucky Bar Association v. Rita Lynn Cartee, Ky.*, 53 S.W.3d 69 (2000), Respondent was suspended from the practice of law for two years beginning on March 22, 2001 for violations of SCR 3.130-8.3(c), SCR 3.130-1.16(d), and SCR 3.130-1.3. She was suspended pursuant to this matter at the time the present action was taken against her.

A client hired Respondent to appeal from a judgment. Respondent filed a brief but the Court of Appeals ruled against her client. She never informed him of this result despite repeated attempts by the client to contact her. Due to her failure to inform her client, the client owed back child support and a criminal proceeding was filed against him.

The client's new counsel requested the client's files from Respondent but she did not produce the files or respond to the requests. The client filed a bar complaint but Respondent failed to file a response or to respond to the Inquiry Commission's charges against her. Respondent was also suspended in April, 2000 for non-payment of dues and in August, 2000 for violation of SCR 3.130-1.4(a) for failing to keep a client reasonably informed.

The Board of Governors unanimously found Respondent guilty on all three counts and recommends that she be disbarred from the practice of law and pay \$64.04 for the costs of the proceedings. Thirteen members of the Board voted for disbarment and six voted to add five years to her current suspension.

In view of Respondent's history of professional misconduct, failure to respond to disciplinary actions, and failure to update her address with the KBA, we cannot conclude that suspending Respondent from the ' practice of law for additional time would sufficiently impress upon her the unacceptability of her actions. Her previous suspensions have not led to a more *462conscientious practice of law.

She has been found guilty of three counts of professional misconduct in the present case as well as similar counts of misconduct in past proceedings. There is an unmistakable pattern of neglect by Respondent. Not only has she failed to respond to clients' requests for information or return of unearned fees, she has also failed to respond to the Inquiry Commission in this case and in at least one past disciplinary case.

Upon consideration of the record and the recommendation of the Board of Governors, it is ordered that: 1. Respondent, Rita Lynn Cartee, is hereby disbarred from the practice of law in the Commonwealth of Kentucky. 2. Respondent is directed to pay \$64.04 in costs to the Kentucky Bar Association. LAMBERT, C.J., and COOPER, JOHNSTONE, STUMBO, and WINTERSHEIMER, JJ., concur.

GRAVES and KELLER, JJ., dissent and, pursuant to SCR 3.370(9), would accept review of the Board's recommendation with the intention of imposing a five-year suspension to run consecutive to Respondent's other suspension. ENTERED: September 26, 2002. /s/ Joseph E. Lambert Chief Justice