

SUPREME COURT OF LOUISIANA

In re Benge

100 So. 3d 818 (La. 2012) · Decided October 16, 2012

SUMMARY

The Louisiana Supreme Court considered disciplinary charges against Joan S. Benge arising from misconduct committed while she served as a district judge. The court found violations of Rules of Professional Conduct 8.4(a), 8.4(c), and 8.4(d), and imposed a three-year suspension from the practice of law, retroactive to the date of her interim suspension.

CASE DETAILS

COURT	Supreme Court of Louisiana
WRITING FOR THE COURT	Per Curiam; Retired Judge Frank Foil, assigned as Justice ad hoc; Johnson, J.
JURISDICTION	Louisiana
DECIDED	October 16, 2012
DISPOSITION	other
PROCEDURAL POSTURE	Original lawyer-disciplinary proceeding before the Supreme Court of Louisiana following formal charges, a hearing committee recommendation, and a disciplinary board recommendation of disbarment. Both respondent and the Office of Disciplinary Counsel objected to the disciplinary board's recommendation.
STANDARD OF REVIEW	The Supreme Court of Louisiana exercises original jurisdiction and independently reviews the record to determine whether misconduct was proven by clear and convincing evidence; factual findings of the hearing committee are reviewed under the manifest error standard, although the court is not bound by the committee's or disciplinary board's recommendations.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Office of Disciplinary Counsel v. Joan S. Benge

TOPICS

administrative law

PRACTICE AREAS

legal ethics

professional discipline

judicial misconduct

QUESTIONS PRESENTED

1. Whether Bengé's judicial misconduct was proven by clear and convincing evidence and constituted violations of Rules of Professional Conduct 8.4(a), 8.4(c), and 8.4(d).
2. What sanction was appropriate for Bengé's ethical misconduct in light of the baseline sanction and aggravating and mitigating factors.

HOLDINGS

1. The record supported the finding that Bengé's judicial misconduct violated Rules of Professional Conduct 8.4(a), 8.4(c), and 8.4(d).
2. A three-year suspension from the practice of law, retroactive to the date of Bengé's interim suspension, was the appropriate sanction.

KEY QUOTATIONS

“Bar disciplinary matters fall within the original jurisdiction of this court. Consequently, we act as triers of fact and conduct an independent review of the record to determine whether the alleged misconduct has been proven by clear and convincing evidence.” (100 So. 3d at 821)

“In this case, the baseline sanction for respondent’s misconduct is clearly disbarment.” (100 So. 3d at 821)

FACTUAL BACKGROUND

While serving as a district judge, Joan S. Bengé conducted a bench trial and awarded damages based not on the evidence presented but on her relationship with and bias toward other individuals. The Supreme Court had previously removed her from judicial office for willful misconduct and reserved the Office of Disciplinary Counsel's right to bring lawyer-disciplinary proceedings. In the disciplinary proceeding, the hearing committee and disciplinary board found that the conduct violated Rules of Professional Conduct 8.4(a), 8.4(c), and 8.4(d).

PROCEDURAL HISTORY

The Office of Disciplinary Counsel filed formal charges in June 2010 alleging that Bengé's misconduct as a district judge violated Rules of Professional Conduct 8.4(a), 8.4(c), and 8.4(d). After a formal hearing, the hearing committee recommended an eighteen-month suspension retroactive to Bengé's interim suspension, while the disciplinary board recommended disbarment. The Supreme Court independently reviewed the record and imposed a three-year suspension retroactive to February 10, 2010.

DISPOSITION

other

CASES CITED

- In re: Bengé, 10-0262 (La. 2/10/10), 27 So. 3d 272
- In re: Bengé, 09-1617 (La. 11/6/09), 24 So. 3d 822
- In re: Banks, 09-1212 (La. 10/2/09), 18 So. 3d 57
- In re: Caulfield, 96-1401 (La. 11/25/96), 683 So. 2d 714
- In re: Pardue, 93-2865 (La. 3/11/94), 633 So. 2d 150
- 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)

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