

SUPREME COURT OF LOUISIANA

In re Moorman

217 So. 3d 316 (La. 2017) · Decided April 24, 2017

SUMMARY

The Louisiana Supreme Court considered disciplinary charges against James E. Moorman, III, involving client neglect, conversion or mishandling of client funds, failure to return unearned fees, and inadequate supervision of nonlawyer staff. The court imposed a three-year suspension, retroactive to October 21, 2013, and ordered restitution to affected clients or reimbursement of the Louisiana State Bar Association's Client Assistance Fund.

CASE DETAILS

COURT	Supreme Court of Louisiana
JURISDICTION	Louisiana
DECIDED	April 24, 2017
DISPOSITION	other
PROCEDURAL POSTURE	Attorney disciplinary proceeding arising from formal charges filed by the Office of Disciplinary Counsel. The parties stipulated to ten counts of misconduct, and neither respondent nor the ODC objected to the disciplinary board's recommended sanction.
STANDARD OF REVIEW	The Louisiana Supreme Court independently reviews the record in attorney disciplinary matters and acts as the trier of fact, requiring misconduct to be proven by clear and convincing evidence. The court applies manifest-error review to the hearing committee's factual findings.
PRECEDENTIAL VALUE	precedential
PARTIES	Office of Disciplinary Counsel v. James E. Moorman, III

TOPICS

administrative law

PRACTICE AREAS

legal ethics and professional responsibility

attorney discipline

QUESTIONS PRESENTED

1. What sanction was appropriate for Moorman's stipulated misconduct, including neglect of client matters, failure to refund unearned fees, conversion of client funds, and failure to supervise nonlawyer staff?
2. How should Moorman's severe depression, restitution efforts, lack of prior discipline, and other mitigating factors affect the sanction?

HOLDINGS

1. A three-year suspension from the practice of law was the appropriate sanction for Moorman's neglect of client matters, failure to return unearned fees, conversion of client funds, and related violations, given the misconduct and compelling mitigating factors.
2. In attorney disciplinary matters, the Louisiana Supreme Court independently reviews the record and requires misconduct to be proven by clear and convincing evidence, while applying manifest-error review to the hearing committee's factual findings.

KEY QUOTATIONS

“In a typical case of disbarment for violation of [Rule 1.15], one or more of the following elements are usually present: the lawyer acts in bad faith and intends a result inconsistent with his client’s interest; the lawyer commits forgery or other fraudulent acts in connection with the violation; the magnitude or the duration of the deprivation is extensive; the magnitude of the damage or risk of damage, expense and inconvenience caused the client is great; the lawyer either fails to make full restitution or does so tardily after extended pressure of disciplinary or legal proceedings.” (322-323)

“Applying the guidelines of Hinrichs, we agree that the appropriate sanction in this case is a three-year suspension.” (323)

FACTUAL BACKGROUND

Over approximately three months in 2013, while experiencing severe depression, Moorman neglected multiple client matters, failed to return unearned fees, converted client funds, and failed to supervise nonlawyer staff who mishandled client payments. He stipulated to violations involving ten client matters, made full restitution to some clients, and continued making payments to others and to the Louisiana State Bar Association's Client Assistance Fund. Expert testimony supported that his depression caused the misconduct, and the record showed no prior disciplinary record and substantial mitigating evidence.

PROCEDURAL HISTORY

The ODC filed eleven counts of formal charges against Moorman. After the parties stipulated to ten counts, a hearing committee accepted the stipulation and recommended a three-year suspension. The disciplinary board determined that disbarment was the baseline sanction but recommended a three-year suspension retroactive to Moorman's interim suspension, along with restitution and costs. The Louisiana Supreme Court independently reviewed the record and adopted that recommendation.

DISPOSITION

other

CASES CITED

- In re: Moorman, 13-2430 (La. 10/21/13), 128 So. 3d 268
- In re: Banks, 09-1212 (La. 10/2/09), 18 So. 3d 57
- In re: Caulfield, 96-1401 (La. 11/26/96), 683 So. 2d 714
- In re: Pardue, 93-2866 (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)
- Louisiana State Bar Ass'n v. Hinrichs, 486 So. 2d 116 (La. 1986)
- In re: Scott, 09-2364 (La. 4/5/10), 32 So. 3d 789
- In re: Stoller, 04-2758 (La. 5/24/05), 902 So. 2d 981

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