

SUPREME COURT OF LOUISIANA

In re Brown

939 So. 2d 1241 (La. 2006) · Decided October 17, 2006

SUMMARY

The Louisiana Supreme Court vacated an order deeming attorney disciplinary charges admitted against Willard James Brown, Sr. The court held that, because Brown had indicated a desire to respond and participate, the hearing committee should have allowed him to present a defense, and it remanded the matter for a formal hearing and a new disciplinary recommendation.

CASE DETAILS

COURT	Supreme Court of Louisiana
JURISDICTION	Louisiana
DECIDED	October 17, 2006
DISPOSITION	vacated
PROCEDURAL POSTURE	Respondent attorney objected to the disciplinary board's recommendation of a six-month suspension with all but three months deferred after the hearing committee deemed the formal charges admitted because he had not filed an answer.
PRECEDENTIAL VALUE	Published Louisiana Supreme Court opinion; precedential.
PARTIES	Willard James Brown, Sr. v. Office of Disciplinary Counsel

TOPICS

- post-conviction relief
- pleadings
- civil procedure

PRACTICE AREAS

- attorney discipline
- legal ethics
- post-conviction relief
- civil procedure

QUESTIONS PRESENTED

- Whether the hearing committee abused its discretion or otherwise erred by allowing the formal charges to be deemed admitted and by failing to permit Brown to answer and participate in a formal hearing after he communicated a good-faith desire to defend against the charges.

HOLDINGS

1. The hearing committee should have recalled the deemed-admitted order and allowed Brown to file an answer, participate in a formal hearing, and present evidence.

KEY QUOTATIONS

“Under these circumstances, we find the committee should have recalled the deemed admitted order and allowed respondent the benefit of a full hearing.” (1244)

“The impact of the committee’s error is particularly glaring in this case, because the sole basis for the Rule 1.4 violation is the allegation in the formal charges that respondent did not communicate with his client.” (1244)

FACTUAL BACKGROUND

The ODC charged Brown with neglecting a client's post-conviction relief matter and failing to communicate with the client. Brown did not file a formal answer, but he sent the ODC a letter stating that he believed the matter had already been resolved by consent discipline and disputing some factual allegations. After the charges were deemed admitted, he again objected and specifically disputed the allegation that he failed to communicate with the client, asserting that he had sent the client a copy of the post-conviction relief application.

PROCEDURAL HISTORY

The Office of Disciplinary Counsel filed formal charges alleging that Brown neglected a post-conviction relief matter and failed to communicate with his client. After Brown failed to file an answer, the hearing committee granted the ODC's motion to deem the allegations admitted, and both the hearing committee and disciplinary board recommended a six-month suspension with all but three months deferred. Brown objected to the board's recommendation in the Louisiana Supreme Court, which vacated the deemed-admitted order and remanded for a formal hearing.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The deemed-admitted order is vacated. The formal charges are remanded to the hearing committee for a formal hearing at which Brown must be allowed to participate and present evidence. The committee must file a report with the disciplinary board, and the board must submit a new recommendation of discipline to the Supreme Court. The remand does not foreclose the parties from entering into consent discipline if appropriate.

CASES CITED

- In re: Tosh, 98-2152 (La. 10/9/98), 719 So. 2d 396
- In re: Gardner, 98-1476 (La. 10/9/98), 719 So. 2d 400