

SUPREME COURT OF SOUTH CAROLINA

In re Gamble

405 S.C. 436 (2013) · Decided September 4, 2013

SUMMARY

The South Carolina Supreme Court accepted an Agreement for Discipline by Consent in an attorney disciplinary matter. The court suspended the respondent from practicing law for eighteen months, retroactive to his interim suspension, based on admitted violations involving supervision, professional misconduct, and conduct reflecting adversely on his fitness to practice law.

CASE DETAILS

COURT	Supreme Court of South Carolina
WRITING FOR THE COURT	Per Curiam; Chief Justice Toal; Justice Pleicones; Justice Beatty; Justice Kittredge; Justice Hearn
JURISDICTION	South Carolina
DECIDED	September 4, 2013
DISPOSITION	other
PROCEDURAL POSTURE	Attorney disciplinary matter submitted to the Supreme Court of South Carolina under an Agreement for Discipline by Consent pursuant to Rule 21 of the Rules for Lawyer Disciplinary Enforcement.
PRECEDENTIAL VALUE	Published South Carolina Supreme Court disciplinary opinion

TOPICS

administrative law

PRACTICE AREAS

legal ethics attorney discipline

QUESTIONS PRESENTED

- Whether the court should accept the Agreement for Discipline by Consent.
- What disciplinary sanction should be imposed for respondent's admitted violations of the Rules of Professional Conduct and the Rules for Lawyer Disciplinary Enforcement.

HOLDINGS

1. The court accepted the Agreement for Discipline by Consent after respondent admitted misconduct and violations of the applicable professional-conduct and lawyer-discipline rules.
2. Respondent was suspended from the practice of law in South Carolina for eighteen months, retroactive to August 24, 2011, the date of his interim suspension.

KEY QUOTATIONS

“We accept the Agreement for Discipline by Consent and suspend respondent from the practice of law in this state for eighteen months, retroactive to the date of his interim suspension.” (438)

FACTUAL BACKGROUND

Respondent, while serving as Circuit Defender for the Anderson County Public Defender's Office, was charged with misconduct in office based on alleged neglect of duties, misuse of county and state funds for personal gain, and improper supervision and approval of fraudulent or exorbitant expense reimbursements. He entered and successfully completed the Pre-Trial Intervention Program, after which the criminal charge was nolle prossed and the related records were expunged. Respondent had previously received a public reprimand for failing to timely file a federal income tax return.

PROCEDURAL HISTORY

Respondent and the Office of Disciplinary Counsel entered into an Agreement for Discipline by Consent in which respondent admitted misconduct and consented to a sanction ranging from a public reprimand to an eighteen-month definite suspension. The Supreme Court accepted the Agreement and imposed an eighteen-month suspension, retroactive to respondent's interim suspension date of August 24, 2011, with additional reinstatement and compliance requirements.

DISPOSITION

other

CASES CITED

- In re Gamble, 278 S.C. 651, 300 S.E.2d 737 (1983)
- In re Gamble, 396 S.C. 215, 721 S.E.2d 767 (2011)

OPINION

In re Gamble 405 S.C. 436

PER CURIAM.

PER CURIAM. In this attorney disciplinary matter, respondent and the Office of Disciplinary Counsel have entered into an Agreement for Discipline by Consent (Agreement) pursuant to Rule 21 of the Rules for Lawyer Disciplinary Enforcement (RLDE) contained in Rule 413 of the South Carolina Appellate Court Rules (SCACR). In the Agreement, respondent admits misconduct and consents to a sanction ranging from the issuance of a public reprimand to the imposition of a

definite suspension not to exceed eighteen months. We accept the Agreement and suspend respondent from the practice of law in this state for eighteen months, retroactive to August 24, 2011, the *437date of his interim suspension.¹ The facts, as set forth in the Agreement, are as follows. Respondent was arrested on September 6, 2012, and charged with misconduct in office by a public official. The arrest warrant alleged respondent “did habitually neglect his duties as Circuit Defender for the Anderson County Public Defender’s Office. [Respondent] did so neglect by allowing misuse of County and State funds for personal gain and by improperly supervising and approving fraudulent or exhorbant [sic] expense reimbursements.” Respondent was allowed to conclude the charge by entering into the Pre-Trial Intervention Program, which required him to complete fifty hours of community service with Habitat for Humanity and pay a fine of \$350. Respondent successfully completed all of the requirements of the Pre-Trial Intervention Program. As a result, on March 6, 2013, the criminal charge was nolle prossed. In addition, on March 8, 2013, the Solicitor consented to the expungement of all records relating to the charge. According to the Office of Disciplinary Counsel, respondent has cooperated with that office throughout this process. Respondent previously received a public reprimand after he pled guilty to one count of willfully and knowingly failing to timely file a federal income tax return for the year 1978. In re Gamble, 278 S.C. 651, 300 S.E.2d 737 (1983). Law Respondent admits that by his conduct he has violated the following provisions of the Rules of Professional Conduct, Rule 407, SCACR: Rule 5.1 (a lawyer having direct supervisory authority over another lawyer shall make reasonable efforts to ensure the other lawyer conforms to the Rules of Professional Conduct); Rule 8.4(a)(it is professional misconduct for a lawyer to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another); and Rule 8.4(b)(it is professional misconduct for a lawyer to commit a criminal act that reflects adversely on the lawyer’s honesty, trustworthiness or fitness as a lawyer in other respects). *438Respondent also admits he has violated the following provisions of the Rules for Lawyer Disciplinary Enforcement, Rule 413, SCACR: Rule 7(a)(1)(it shall be a ground for discipline for a lawyer to violate the Rules of Professional Conduct or any other rules of this jurisdiction regarding professional conduct of lawyers) and Rule 7(a)(5)(it shall be a ground for discipline for a lawyer to engage in conduct tending to pollute the administration of justice or to bring the courts or the legal profession into disrepute or conduct demonstrating an unfitness to practice law). Conclusion We accept the Agreement for Discipline by Consent and suspend respondent from the practice of law in this state for eighteen months, retroactive to the date of his interim suspension. Respondent shall complete the Legal Ethics and Practice Program Ethics School, Trust Account School, and Advertising School within twelve months of reinstatement. Within fifteen days of the date of this opinion, respondent shall file an affidavit with the Clerk of Court showing that he has complied with Rule 30 of Rule 413, SCACR. DEFINITE SUSPENSION. TOAL, C.J., PLEICONES, BEATTY, KITTREDGE and HEARN, JJ., concur. . In re Gamble, 396 S.C. 215, 721 S.E.2d 767 (2011).

