

SUPREME COURT OF LOUISIANA

In re Mark V. Marinoff

819 So. 2d 305 (La. 2002) · No. 2001-B-2584 · Decided June 7, 2002

SUMMARY

The Supreme Court of Louisiana reviewed attorney disciplinary charges arising from Mark V. Marinoff's conviction for negligent injuring after an intoxicated automobile accident. The court found that Marinoff's post-accident statements constituted conduct involving dishonesty, fraud, deceit, or misrepresentation under Rule 8.4(c), rejecting his claim that a head injury excused the conduct. The court imposed a six-month suspension from the practice of law.

CASE DETAILS

COURT	Supreme Court of Louisiana
WRITING FOR THE COURT	Per Curiam; Retired Justice Walter F. Marcus, Jr., assigned as Justice ad hoc
JURISDICTION	Louisiana
DECIDED	June 7, 2002
DOCKET	2001-B-2584
DISPOSITION	other
PROCEDURAL POSTURE	The Office of Disciplinary Counsel sought review of the disciplinary board's recommendation that formal charges against Marinoff be dismissed. The Supreme Court of Louisiana independently reviewed the disciplinary record and imposed a six-month suspension.
STANDARD OF REVIEW	The Supreme Court of Louisiana independently reviews the record and determines whether misconduct has been proven by clear and convincing evidence. Factual findings of the hearing committee are reviewed for manifest error.
PRECEDENTIAL VALUE	Published Louisiana Supreme Court opinion; precedential
PARTIES	Office of Disciplinary Counsel v. Mark V. Marinoff

TOPICS

- appellate procedure
- criminal procedure
- municipal law

PRACTICE AREAS

legal ethics and attorney discipline

professional responsibility

appellate procedure

criminal procedure

QUESTIONS PRESENTED

1. Whether Marinoff's post-accident statements constituted conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Louisiana Rule of Professional Conduct 8.4(c).
2. Whether Marinoff's claimed head injury relieved him of culpability for the statements.
3. What sanction was appropriate for the proven misconduct.

HOLDINGS

1. The criminal conviction conclusively established Marinoff's guilt of negligent injuring, but it did not preclude evidence concerning intentional deceit because intent to deceive was not an essential element of negligent injuring.
2. Marinoff violated Louisiana Rule of Professional Conduct 8.4(c) by making post-accident statements that involved dishonesty, deceit, or misrepresentation.
3. A six-month suspension from the practice of law was the appropriate sanction for Marinoff's deceitful post-accident conduct.

KEY QUOTATIONS

"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." (311)

"In the absence of any evidence which would prove respondent's injury was significant enough to impair his consciousness, we find the hearing committee erred when it automatically assumed that respondent's head injury completely absolved him of any responsibility for his statements." (312)

"Considering the facts of this case, we conclude the appropriate sanction for respondent's misconduct is a suspension from the practice of law for a period of six months." (313)

FACTUAL BACKGROUND

Marinoff, an assistant city/parish attorney, drove after consuming a significant amount of alcohol and crashed his vehicle, severely injuring his passenger. At the scene, he made conflicting statements, including that everyone in the vehicle was dead and later that he was the sole occupant, and he repeatedly sought to leave without attracting attention or obtaining assistance. He was later convicted of negligent injuring, and disciplinary charges alleged that his post-accident statements involved dishonesty, deceit, or misrepresentation.

PROCEDURAL HISTORY

Marinoff self-reported a misdemeanor conviction for negligent injuring. The hearing committee recommended dismissal of the disciplinary charges, and the disciplinary board accepted that recommendation. The Office of Disciplinary Counsel sought review in the Louisiana Supreme Court, which ordered briefing and oral argument, found a violation of Rule 8.4(c), and imposed a six-month suspension.

DISPOSITION

other

CASES CITED

- In re: Quaid, 646 So. 2d 343 (La. 1994)
- Louisiana State Bar Ass'n v. Boutall, 597 So. 2d 444 (La. 1992)
- In re: Caulfield, 683 So. 2d 714 (La. 1996)
- In re: Pardue, 633 So. 2d 150 (La. 1994)
- In re: Huddleston, 595 So. 2d 1141 (La. 1992)
- In re: Vaughan, 772 So. 2d 87 (La. 2000)
- In re: Lain, 760 So. 2d 1152 (La. 2000)
- Louisiana State Bar Ass'n v. Levy, 400 So. 2d 1355 (La. 1981)
- In re: Redd, 660 So. 2d 839 (La. 1995)
- Louisiana State Bar Ass'n v. Whittington, 459 So. 2d 520 (La. 1984)
- In re: Naccari, 705 So. 2d 734 (La. 1997)
- In re: Huckaby, 694 So. 2d 906 (La. 1997)
- In re: Bankston, 810 So. 2d 1113 (La. 2002)
- State v. Marinoff, 749 So. 2d 668 (La. 1999)
- In re: Marinoff, 805 So. 2d 131 (La. 2002)