

INDIANA SUPREME COURT

In re Hong-Min Jun

78 N.E.3d 1100 (Ind. 2017) · Decided March 28, 2017

SUMMARY

The Indiana Supreme Court found that attorney Hong-Min Jun violated Indiana Professional Conduct Rule 1.2(d) by counseling or assisting a client in conduct involving false statements to obtain expedited immigration processing. The Court imposed a public reprimand, assessed costs against the respondent, and discharged the hearing officer.

CASE DETAILS

COURT	Indiana Supreme Court
WRITING FOR THE COURT	Robert D. Rucker, Acting Chief Justice
JURISDICTION	Indiana
DECIDED	March 28, 2017
DISPOSITION	other
PROCEDURAL POSTURE	Original attorney-discipline proceeding arising from the Indiana Supreme Court Disciplinary Commission's verified complaint and the hearing officer's report.
STANDARD OF REVIEW	The Court conducts a de novo examination of matters presented in disciplinary cases, while giving emphasis to the hearing officer's findings because of the hearing officer's opportunity to observe witnesses directly. The Commission bears the burden of proving attorney misconduct by clear and convincing evidence.
PRECEDENTIAL VALUE	published and precedential

TOPICS

- immigration
- administrative law
- agency adjudication

PRACTICE AREAS

- attorney discipline
- immigration law
- professional responsibility

QUESTIONS PRESENTED

1. Whether the respondent counseled or assisted a client in conduct the respondent knew to be criminal or fraudulent, in violation of Indiana Professional Conduct Rule 1.2(d).
2. What discipline was appropriate for the respondent's professional misconduct.

HOLDINGS

1. The respondent violated Indiana Professional Conduct Rule 1.2(d) by counseling or assisting his client to engage in conduct he knew to be criminal or fraudulent.
2. A public reprimand was an appropriate sanction for the respondent's misconduct.

KEY QUOTATIONS

“Upon careful review of the materials before us, we find sufficient support for the hearing officer’s findings and conclusions, including her ultimate conclusion that Respondent counseled or assisted his client to engage in conduct he knew to be criminal or fraudulent.” (78 N.E.3d at 1100)

“The balance of considerations persuades us that a public reprimand is an appropriate sanction.” (78 N.E.3d at 1101)

FACTUAL BACKGROUND

The respondent advised a United States citizen seeking to bring his South Korean wife to the United States that she could enter on a nonimmigrant visa or visa waiver and then seek permanent residence, rather than use consular processing. The respondent knew that this alternative would require the wife to make false or misleading statements concerning her intent to depart, her marital status, or other immigration matters, and knew that such conduct could constitute a federal crime. After the wife entered the United States, she was denied admission because of false statements to customs officials and returned to South Korea, making future admission or permanent residence more difficult.

PROCEDURAL HISTORY

The Indiana Supreme Court appointed a hearing officer to hear evidence on the Disciplinary Commission's verified complaint. After reviewing the hearing officer's report and the parties' briefs, the Court independently examined the record, found professional misconduct, and imposed a public reprimand.

DISPOSITION

other

CASES CITED

- Matter of Campanella, 56 N.E.3d 631, 633 (Ind. 2016)
- Matter of Scionti, 630 N.E.2d 1358 (Ind. 1994)

OPINION

RUCKER, J.

Published Order Finding Misconduct and Imposing Discipline Robert D. Rucker, Acting Chief Justice of Indiana Upon review of the report of the hearing officer, the Honorable Amy M. Jones, who was appointed by this Court to hear evidence on the Indiana Supreme Court Disciplinary Commission's "Verified Complaint for Disciplinary Action," and the briefs of the parties, the Court finds that Respondent engaged in professional misconduct and imposes discipline on Respondent.

Facts: In 2012, Respondent was hired by a United States citizen living in New Jersey to assist his wife, a citizen and resident of South Korea, in immigrating to the United States to live here permanently. Respondent advised his client that the lawful method to gain permanent residency involved a process known as consular processing to obtain an immigrant visa, but that this process could take upward of ten months.

Respondent alternatively proposed a quicker process—for the client's wife to enter the United States on a non-immigrant visa or visa waiver and then seek a permanent residency status once she was physically present in the country. Respondent's client chose this method over consular processing. Federal regulations create a presumption that spouses of United States citizens enter the country with the intent to remain permanently.

Respondent knew that to obtain the non-immigrant visa or visa waiver, his client's wife would have to state falsely on her application that she intended to leave at the expiration of her non-immigrant visa period, fail to reveal her marital status to a United States citizen, or make other false or misleading statements. Making such a false statement of intent is a federal criminal offense.

Respondent also knew his client's wife likely would need to buy a round-trip ticket as evidence of her intent to return to South Korea. When the client's wife arrived in the United States, she was denied entry based on false statements to customs officials and forced to take the next return flight to South Korea.

Because of these false statements, it will be significantly more difficult in the future for the client's wife to enter or become a permanent resident of the United States. Violation: The Commission carries the burden of proof to demonstrate attorney misconduct by clear and convincing evidence. See Indiana Admission and Discipline Rule 23(14)(i) (2016). And while the review process in disciplinary cases involves a de novo examination of all matters presented to the Court, a hearing officer's findings nevertheless receive emphasis due to the unique opportunity for direct observation of witnesses.

See *Matter of Campanella*, 56 N.E.3d 631, 633 (Ind. 2016). Upon careful review of the materials before us, we find sufficient support for the hearing officer's findings and conclusions, including

her ultimate conclusion that Respondent counseled or assisted his client to engage in conduct he knew to be criminal or fraudulent.

Accordingly, we find that Respondent violated Indiana Professional Conduct Rule 1.2(d). Discipline: The harm caused by Respondent's misconduct was significant, and as an experienced lawyer Respondent either knew or should have known the risks *1101involved for his client and his wife.

On the other hand, Respondent has no prior discipline, he was cooperative with the Commission, and his misconduct was not due to selfish motives but rather a desire to expedite the immigration process for his client's wife.

The balance of considerations persuades us that a public reprimand is an appropriate sanction. See *Matter of Scionti*, 630 N.E.2d 1358 (Ind. 1994). Accordingly, for Respondent's professional misconduct, the Court imposes a public reprimand.

The costs of this proceeding are assessed against Respondent. The hearing officer appointed in this case is discharged. All Justices concur.