

COURT OF APPEALS OF MARYLAND

Attorney Grievance Commission of Maryland v. Susan Myra Geller Kirwan

450 Md. 447 (2016) · No. Misc. Docket AG No. 52, September Term, 2015 · Decided November 21, 2016

SUMMARY

The Maryland Court of Appeals held that Susan Myra Geller Kirwan violated multiple Maryland Lawyers' Rules of Professional Conduct by failing to competently and diligently pursue a negligence claim, communicate with her client, protect the client's interests upon termination, and respond to Bar Counsel. The court identified several aggravating factors and no mitigating factors. It indefinitely suspended Kirwan from the practice of law and assessed costs against her.

CASE DETAILS

COURT	Court of Appeals of Maryland
WRITING FOR THE COURT	Getty, J.; Barbera, C.J.; Greene, J.; Adkins, J.; McDonald, J.; Watts, J.; Hotten, J.
JURISDICTION	Maryland
DECIDED	November 21, 2016
DOCKET	Misc. Docket AG No. 52, September Term, 2015
DISPOSITION	other
PROCEDURAL POSTURE	Attorney disciplinary proceeding in which the Court of Appeals reviewed an evidentiary hearing judge's uncontested findings of fact and recommended conclusions of law concerning alleged violations of the Maryland Lawyers' Rules of Professional Conduct.
STANDARD OF REVIEW	The Court reviews recommended conclusions of law without deference to the hearing judge. Because neither party filed exceptions, the hearing judge's factual findings were treated as established under Maryland Rule 16-759(b)(2)(A).
PRECEDENTIAL VALUE	published precedential opinion of the Court of Appeals of Maryland
PARTIES	Attorney Grievance Commission of Maryland v. Susan Myra Geller Kirwan

TOPICS

remedies

appellate procedure

standard of review

PRACTICE AREAS

legal ethics

attorney discipline

professional responsibility

appellate procedure

QUESTIONS PRESENTED

1. Whether Kirwan violated the Maryland Lawyers' Rules of Professional Conduct by failing to competently and diligently pursue the client's claim.
2. Whether Kirwan violated the communication duties by failing to keep the client informed, respond to reasonable requests, and explain that she would not continue as counsel.
3. Whether Kirwan violated the duties applicable upon termination or abandonment of representation by failing to protect the client's interests and cooperate with successor counsel.
4. Whether Kirwan violated the disciplinary-investigation and misconduct rules by failing to respond to Bar Counsel and by engaging in conduct prejudicial to the administration of justice.
5. What sanction was appropriate for the violations and aggravating circumstances.

HOLDINGS

1. Kirwan violated MLRPC 1.1 by failing to take the necessary steps and perform the preparation and substantive work reasonably necessary to competently pursue the client's claim, resulting in harm when the claim could no longer be pursued.
2. Kirwan violated MLRPC 1.3 by failing to act with reasonable diligence and promptness in representing the client.
3. Kirwan violated MLRPC 1.4(a)(2), 1.4(a)(3), and 1.4(b) by failing to keep the client informed, failing to respond to reasonable requests for information, and failing to explain whether she would continue representing the client.
4. Kirwan violated MLRPC 1.16(d) by abandoning the representation without reasonable notice and by failing to take reasonably practicable steps to protect the client's interests or cooperate with successor counsel.
5. Kirwan violated MLRPC 8.1(b) by knowingly failing to respond to the Commission's lawful demands for information concerning the disciplinary complaint.
6. Kirwan violated MLRPC 8.4(a) and 8.4(d) because her other professional-conduct violations constituted misconduct and her failure to pursue the claim, communicate with the client, and respond to the Commission was prejudicial to the administration of justice.
7. Indefinite suspension from the practice of law in Maryland, with the right to apply for reinstatement, was the appropriate sanction.

KEY QUOTATIONS

“It is beyond cavil that an attorney violates MLRPC 1.4 when he or she ignores client requests for information and communicates nothing to the client regarding the status of the case.” (at 8)

“Indefinite suspension ensures that Ms. Kirwan is not permitted to practice law until this Court is satisfied that she is able to do so in a manner that is consistent with the MLRPC.” (at 16)

FACTUAL BACKGROUND

Kirwan was retained in October 2013 to represent a minor child in a negligence claim arising from a broken wrist suffered on a Baltimore City elementary school playground. After maintaining contact with the child's mother for approximately two months, Kirwan took no meaningful substantive action, failed to respond to repeated telephone and email requests for information, and did not tell the client whether she intended to continue the representation. The claim was ultimately barred by the applicable limitations or notice requirements, and Kirwan also failed to respond to the Commission's repeated demands for information or to communications from successor counsel.

PROCEDURAL HISTORY

The Attorney Grievance Commission filed a Petition for Disciplinary or Remedial Action against Kirwan. The Circuit Court for Baltimore City conducted an evidentiary hearing and found, by clear and convincing evidence, that Kirwan violated the charged professional-conduct rules and that aggravating factors were present. Neither party filed exceptions. The Court of Appeals agreed with the hearing judge's conclusions and imposed an indefinite suspension.

DISPOSITION

other

CASES CITED

- Attorney Grievance Comm'n v. Garrett, 427 Md. 209 (2012)
- Attorney Grievance Comm'n v. Brown, 426 Md. 298 (2012)
- Attorney Grievance Comm'n v. Moore, 447 Md. 253 (2016)
- Attorney Grievance Comm'n v. Gisriel, 409 Md. 331 (2009)
- Attorney Grievance Comm'n v. Gelb, 440 Md. 312 (2014)
- Attorney Grievance Comm'n v. Fox, 417 Md. 504 (2010)
- Attorney Grievance Comm'n v. Stinson, 428 Md. 147 (2012)
- Attorney Grievance Comm'n v. Park, 427 Md. 180 (2012)
- Attorney Grievance Comm'n v. Hamilton, 444 Md. 163 (2015)
- Attorney Grievance Comm'n v. Rose, 391 Md. 101 (2006)
- Attorney Grievance Comm'n v. Harris, 371 Md. 510 (2002)
- Attorney Grievance Comm'n v. Green, 441 Md. 80 (2014)
- Attorney Grievance Comm'n v. Tolar, 357 Md. 569 (2000)

- Attorney Grievance Comm'n v. Kovacic, 389 Md. 233 (2005)

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