

SUPREME COURT OF MINNESOTA

In re Disciplinary Action Against Villanueva

931 N.W.2d 816 (Minn. 2019) · Decided July 31, 2019

SUMMARY

The Minnesota Supreme Court disbarred Israel Esquivel Villanueva, a foreign legal consultant, based on admitted allegations of misappropriating client funds, failing to return unearned fees, unauthorized practice of law, client neglect, noncommunication, inadequate supervision, forgery, misrepresentation, and failure to cooperate with disciplinary investigations. The court found that the misconduct affected eight clients over five years and ordered Villanueva to pay \$900 in costs and comply with post-disbarment notice requirements.

CASE DETAILS

COURT	Supreme Court of Minnesota
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Minnesota
DECIDED	July 31, 2019
DISPOSITION	other
PROCEDURAL POSTURE	The Director of the Office of Lawyers Professional Responsibility petitioned for disciplinary action against Villanueva. Villanueva failed to answer, so the allegations were deemed admitted, and the court determined the appropriate discipline.
STANDARD OF REVIEW	The court independently determines the appropriate discipline and has ultimate responsibility for imposing the sanction.
PRECEDENTIAL VALUE	Published precedential decision of the Supreme Court of Minnesota
PARTIES	Office of Lawyers Professional Responsibility v. Israel Esquivel Villanueva

TOPICS

sanctions

civil procedure

PRACTICE AREAS

legal ethics

attorney discipline

professional responsibility

QUESTIONS PRESENTED

1. What discipline is appropriate for the extensive professional misconduct alleged against Villanueva and deemed admitted after his failure to answer?
2. Whether the cumulative misconduct, including intentional misappropriation of client funds, unauthorized practice, client neglect, forgery, and failure to cooperate, warrants disbarment.
3. Whether failure to cooperate in the public disciplinary proceeding may be considered as an aggravating factor without impermissible double counting.

HOLDINGS

1. Because Villanueva failed to respond to the petition, its allegations were deemed admitted, leaving the appropriate level of discipline as the only question before the court.
2. Disbarment is warranted where an attorney intentionally misappropriates client funds and engages in extensive cumulative misconduct over a substantial period, absent substantial mitigating circumstances.
3. A lawyer's failure to cooperate after the disciplinary petition is filed may be considered as an aggravating factor, so long as the same conduct is not double counted as both substantive misconduct and an aggravating factor.

KEY QUOTATIONS

“The purpose of discipline for professional misconduct is not to punish the attorney but to protect the public and the judicial system, and to deter future misconduct by the disciplined attorney and other attorneys.” (at 822)

“Here, based on the intentional misappropriation of client funds alone, our precedent supports the sanction of disbarment.” (at 825)

FACTUAL BACKGROUND

Villanueva was licensed in Mexico and became licensed in Minnesota as a foreign legal consultant in 2014, with periods during which his Minnesota license lapsed. Over approximately five years and eight client matters, he misappropriated client funds, failed to return unearned fees, practiced beyond the scope of his foreign legal consultant authorization, neglected matters, failed to communicate, failed to supervise nonlawyer assistants, forged a client's signature on a court filing, and made false representations concerning his authorization to practice. He also failed to cooperate with the Director's investigation and did not respond to the disciplinary petition.

PROCEDURAL HISTORY

The Director filed and personally served a petition alleging extensive professional misconduct. After Villanueva failed to respond, the court deemed the allegations admitted under Rule 13(b) of the Rules on Lawyers Professional Responsibility and directed briefing on the appropriate sanction. Only the Director filed a brief, and Villanueva did not appear.

DISPOSITION

other

CASES CITED

- In re Voss, 830 N.W.2d 867, 874, 877-80 (Minn. 2013)
- In re Lundeen, 811 N.W.2d 602, 608-09 (Minn. 2012)
- In re Nathanson, 812 N.W.2d 70, 78-79 (Minn. 2012)
- In re Tigue, 900 N.W.2d 424, 431-32 (Minn. 2017)
- In re Lochow, 469 N.W.2d 91, 96 (Minn. 1991)
- In re Sayaovong, 909 N.W.2d 575, 578-79, 582-84 (Minn. 2018)
- In re De Rycke, 707 N.W.2d 370, 375 (Minn. 2006)
- In re Rooney, 709 N.W.2d 263, 270 (Minn. 2005)
- In re Kaszynski, 620 N.W.2d 708, 712 (Minn. 2001)
- In re Westby, 639 N.W.2d 358, 370 (Minn. 2002)
- In re Jones, 834 N.W.2d 671, 680 n.9 (Minn. 2013)
- In re Hulstrand, 910 N.W.2d 436, 444 (Minn. 2018)
- In re Taplin, 837 N.W.2d 306, 313 (Minn. 2013)
- In re Matson, 889 N.W.2d 17, 25 (Minn. 2017)
- In re Rambow, 874 N.W.2d 773, 778 (Minn. 2016)