

SUPREME COURT OF RHODE ISLAND

In the Matter of Thomas W. Pearlman

995 A.2d 555 (R.I. 2010) · No. No. 2010-36-M.P. · Decided February 4, 2010

SUMMARY

The Supreme Court of Rhode Island imposed professional discipline on Thomas W. Pearlman for incompetently drafting wills and charging unreasonable fees in connection with estate representation and will preparation. The court ordered him to make \$1,500 in restitution to the clients and perform at least ten hours of community service.

CASE DETAILS

COURT	Supreme Court of Rhode Island
JURISDICTION	Rhode Island
DECIDED	February 4, 2010
DOCKET	No. 2010-36-M.P.
DISPOSITION	other
PROCEDURAL POSTURE	Attorney disciplinary matter submitted to the Supreme Court of Rhode Island under Article III, Rule 6(d) of the Supreme Court Rules of Disciplinary Procedure following a disciplinary board recommendation.
PRECEDENTIAL VALUE	Published Rhode Island Supreme Court disciplinary order

TOPICS

estate planning probate estate administration remedies

PRACTICE AREAS

legal ethics and professional discipline probate and estate planning

QUESTIONS PRESENTED

1. Whether Pearlman's preparation of the Sisto wills violated the professional-conduct rule requiring competent representation.
2. Whether the fees and costs Pearlman charged and received for preparing the wills and briefly representing the heirs in the probate of Richard Sisto's estate were unreasonable.

3. What sanction was appropriate for the violations, considering Pearlman's prior disciplinary history and subsequent restitution.

HOLDINGS

1. Pearlman's preparation of the wills violated Article V, Rule 1.1 of the Rhode Island Supreme Court Rules of Professional Conduct because the wills were drafted to an extreme degree of poor quality.
2. The fees and costs Pearlman charged and received for the brief estate representation and preparation of the two wills were unreasonable and violated Article V, Rule 1.5(a) of the Rhode Island Supreme Court Rules of Professional Conduct.
3. The appropriate sanction was restitution of \$1,500 to the Sistos and at least ten hours of community service.

KEY QUOTATIONS

"The purposes of professional discipline are to protect the public and maintain the integrity of the profession." (995 A.2d at 556)

"Accordingly, it is hereby ordered, adjudged, and decreed that the respondent, Thomas W. Pearlman, shall make restitution in the amount of \$1,500 to the Sistos, and shall perform no less than ten hours of community service." (995 A.2d at 556)

FACTUAL BACKGROUND

In March 2008, Pearlman received \$3,500 to prepare wills for Robert and David Sisto, but an expert testified that the one-page substantive portions of the wills were extremely poorly drafted. Pearlman also represented the heirs of Richard Sisto in probate proceedings and received \$12,000 under a fee agreement calling for a five-percent fee based on the gross estate, plus a retainer and costs. After Robert requested a partial refund and obtained other counsel, Pearlman refunded \$11,000 approximately fourteen months later and shortly before the disciplinary hearing. The disciplinary board found the fees charged for the estate representation and will preparation unreasonable and found the will drafting incompetent.

PROCEDURAL HISTORY

The disciplinary board found that Thomas W. Pearlman violated the rules governing competent representation and reasonable fees in connection with preparing two wills and representing heirs in the probate of an estate. The board recommended at least ten hours of community service or pro bono representation and \$1,500 in restitution. After hearing from Pearlman, his counsel, and disciplinary counsel at a January 21, 2010 conference, the Supreme Court adopted the recommendation.

DISPOSITION

other

CASES CITED

- Matter of Pearlman, 627 A.2d 314 (R.I. 1993)
- Lisi v. Pearlman, 641 A.2d 81 (R.I. 1994)
- Matter of Scott, 694 A.2d 732, 736 (R.I. 1997)

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