

SUPREME COURT OF MINNESOTA

In re Disciplinary Action Against Oyen

791 N.W.2d 129 (Minn. 2010) · Decided December 3, 2010

SUMMARY

The Minnesota Supreme Court approved a stipulated disposition disciplining attorney Kristian Lee Oyen for professional misconduct, including an improper sexual relationship with a client, neglect of client matters, inadequate communication, and delay in returning a client file. The court imposed a 60-day suspension, two years of supervised probation upon reinstatement, completion of the professional responsibility portion of the state bar examination, and \$900 in costs.

CASE DETAILS

COURT	Supreme Court of Minnesota
WRITING FOR THE COURT	Alan C. Page
JURISDICTION	Minnesota
DECIDED	December 3, 2010
DISPOSITION	other
PROCEDURAL POSTURE	Attorney-discipline proceeding in which the Director of the Office of Lawyers Professional Responsibility filed an amended petition, the respondent waived procedural rights and admitted the allegations, and the parties jointly recommended discipline.
STANDARD OF REVIEW	The court independently reviewed the file, records, and proceedings before approving the recommended disciplinary disposition.
PRECEDENTIAL VALUE	published disciplinary order

TOPICS

appellate procedure

PRACTICE AREAS

legal ethics

attorney discipline

professional responsibility

QUESTIONS PRESENTED

1. Whether the court should approve the parties' jointly recommended discipline for the respondent's admitted professional misconduct.

2. What conditions should govern the respondent's suspension, reinstatement, supervised probation, continuing professional responsibility examination, and payment of costs.

HOLDINGS

1. The court approved the jointly recommended disposition after independently reviewing the file, records, and proceedings, and suspended Kristian Lee Oyen from the practice of law for 60 days followed by two years of supervised probation.
2. Reinstatement was conditioned on compliance with notice, continuing legal education, affidavit, supervised-probation, professional-responsibility examination, and other requirements, and the respondent was required to pay \$900 in costs.

KEY QUOTATIONS

“The court has independently reviewed the file and approves the recommended disposition.” (at 130)

“Respondent Kristian Lee Oyen is suspended from the practice of law, effective upon the date of filing of this order, for a period of 60 days.” (at 130)

“Failure to do so shall result in automatic re-suspension, pending successful completion of the examination, pursuant to Rule 18(e)(3), RLPR.” (at 131)

FACTUAL BACKGROUND

Kristian Lee Oyen admitted having sexual relations with a client, failing to diligently handle three client matters, failing to communicate with two clients, and delaying the return of a client's files after termination of representation. The misconduct was alleged to violate Minnesota Rules of Professional Conduct 1.8(j), 1.7(a)(2), 1.3, 1.4(a)(3) and (4), and 1.16(d). The parties jointly recommended a 60-day suspension followed by two years of supervised probation.

PROCEDURAL HISTORY

The Director filed an amended petition alleging multiple violations of the Minnesota Rules of Professional Conduct. Kristian Lee Oyen waived his procedural rights under Rule 14 of the Rules on Lawyers Professional Responsibility and admitted the allegations. The Minnesota Supreme Court independently reviewed the record and approved the jointly recommended discipline.

DISPOSITION

other

OPINION

ALAN, J.

ORDER On November 3, 2010, the Director of the Office of Lawyers Professional Responsibility filed an amended petition for disciplinary action alleging that respondent Kristian Lee Oyen

committed professional misconduct warranting public discipline, namely, having sexual relations with a client in violation of Minn. R. Prof. Conduct 1.8(j) and 1.7(a)(2); failing to diligently handle three client matters in violation of Minn. R. Prof.

Conduct 1.3; failing to communicate with two clients in violation of Minn. R. Prof. Conduct 1.4(a) (3) and (4); and delaying the return of a client's files upon termination of representation in violation of Minn. R. Prof. Conduct 1.16(d). *130 Respondent waives his procedural rights under Rule 14, Rules on Lawyers Professional Responsibility (RLPR), and admits the allegations of the amended petition.

The parties jointly recommend that the appropriate discipline is a 60-day suspension, followed by two years of supervised probation. The court has independently reviewed the file and approves the recommended disposition. Based upon all the files, records, and proceedings therein, IT IS HEREBY ORDERED THAT: 1. Respondent Kristian Lee Oyen is suspended from the practice of law, effective upon the date of filing of this order, for a period of 60 days.

Respondent shall comply with Rule 26, RLPR (requiring notice of suspension to clients, opposing counsel, and tribunals). 2. Respondent may be reinstated to the practice of law upon the expiration of the suspension period pursuant to Rule 18(f), RLPR, provided that, no less than 15 days prior to the expiration of the suspension period, he files with the Clerk of Appellate Courts and serves upon the Director an affidavit attesting that he has complied with Rules 24 and 26, RLPR, is current in continuing legal education requirements, and has complied with all other conditions for reinstatement imposed by this order.

3. Upon reinstatement, respondent shall be subject to supervised probation for a period of two years upon the following terms and conditions: a. Respondent shall cooperate fully with the Director's Office in its efforts to monitor compliance with this probation. Respondent shall provide the Director with a current mailing address and shall immediately notify the Director of any change of address.

Respondent shall promptly respond to the Director's correspondence by the due date. Respondent shall cooperate with the Director's investigation of any allegations of unprofessional conduct that may come to the Director's attention. Upon the Director's request, respondent shall authorize the release of information and documentation to verify compliance with the terms of this probation. b. Respondent shall be supervised by a licensed Minnesota attorney appointed by the Director to monitor compliance with the terms of this probation.

At the same time respondent files the affidavit required by Rule 18(f), RLPR, respondent shall provide the Director with the names of four attorneys who have agreed to be nominated as respondent's supervisor. If, after diligent effort, respondent is unable to locate a supervisor acceptable to the Director, the Director will seek to appoint a supervisor. Until a supervisor has

signed a consent to supervise, respondent shall on the first day of each month provide the Director with an inventory of active client files, as described in paragraph c below.

Respondent shall make active client files available to the Director upon request. c. Respondent shall cooperate fully with the supervisor's efforts to monitor compliance with probation. Respondent shall contact the supervisor and schedule a minimum of one in-person meeting per calendar quarter. By the first day of each month during probation, respondent shall provide the supervisor with an inventory of all active client files.

With respect to each active file, the inventory shall disclose the client name, type of representation, date opened, most recent activity, next anticipated action, and anticipated closing date. Respondent's supervisor shall file written reports with the Director at least quarterly, or at *131such more frequent intervals as the Director may reasonably request, d. Upon reinstatement, respondent shall initiate and maintain office procedures that ensure that there are prompt responses to correspondence, telephone calls, and other important communications from clients, courts, and other persons with an interest in matters that respondent is handling, and that will ensure that respondent regularly reviews each and every file and completes legal matters on a timely basis.

4. Within one year of the date of filing of this order, respondent shall file with the Clerk of Appellate Courts and serve upon the Director proof that respondent has successfully completed the professional responsibility portion of the state bar examination. Failure to do so shall result in automatic re-suspension, pending successful completion of the examination, pursuant to Rule 18(e)(3), RLPR.

5. Respondent shall pay \$900 in costs pursuant to Rule 24, RLPR. BY THE COURT: /s/Alan C. Page Associate Justice