

SUPREME COURT OF IOWA

Iowa Supreme Court Attorney Disciplinary Board v. Ronald F. Walker

Iowa Supreme Court Attorney Disciplinary Board v. Walker · No. 31 / 05-1989 · Decided April 14, 2006

SUMMARY

The Iowa Supreme Court reviewed a Grievance Commission report concerning Ronald F. Walker’s neglect of three estate matters and another client matter, misrepresentations, and failure to respond to disciplinary inquiries. The court found violations of multiple Iowa disciplinary rules and suspended Walker’s license indefinitely, with no possibility of reinstatement for six months, subject to specified reinstatement conditions. Costs were taxed against Walker.

CASE DETAILS

COURT	Supreme Court of Iowa
JURISDICTION	Iowa
DECIDED	April 14, 2006
DOCKET	31 / 05-1989
DISPOSITION	other
PROCEDURAL POSTURE	On review of the report of the Iowa Supreme Court Grievance Commission in an attorney-discipline proceeding.
STANDARD OF REVIEW	The record made before the Grievance Commission is reviewed de novo. The Board must prove ethical violations by a convincing preponderance of the evidence; the Commission's factual findings and discipline recommendations are considered but are not binding.
PRECEDENTIAL VALUE	Published opinion; precedential Iowa Supreme Court decision
PARTIES	Iowa Supreme Court Attorney Disciplinary Board v. Ronald F. Walker

TOPICS

- estate administration
- probate
- appellate procedure
- remedies

PRACTICE AREAS

- attorney discipline
- legal ethics
- probate and estate administration

QUESTIONS PRESENTED

1. Whether the stipulated facts established violations of Iowa's professional-conduct rules.
2. What discipline was appropriate for Walker's repeated neglect, misrepresentations, failure to carry out client matters, and failure to respond to the Attorney Disciplinary Board.
3. What conditions should govern any reinstatement of Walker's law license.

HOLDINGS

1. Walker violated DR 1-102(A)(1), DR 1-102(A)(4), DR 1-102(A)(5), DR 1-102(A)(6), DR 6-101(A)(3), DR 7-101(A)(1), DR 7-101(A)(2), and DR 7-101(A)(3) through neglect of estate and client matters, misrepresentations to the court and a client, and failure to carry out client objectives and respond to the Board.
2. Walker's license to practice law must be suspended indefinitely, with no possibility of reinstatement for six months, because his repeated neglect was compounded by misrepresentations, failure to respond to the Board, and harm to clients.
3. Before reinstatement, Walker must establish that he did not practice law during the suspension and complied with Iowa Court Rule 35.13, provide a licensed-health-care-professional evaluation verifying his fitness to practice law after prior approval of the evaluator and evaluation by the Board, and comply with Iowa Court Rule 35.21.

KEY QUOTATIONS

"The record made before the Commission is reviewed de novo." (at 2)

"When deciding on an appropriate sanction for an attorney's misconduct, we consider 'the nature of the violations, protection of the public, deterrence of similar misconduct by others, the lawyer's fitness to practice, and [the court's] duty to uphold the integrity of the profession in the eyes of the public.'" (at 5)

"In light of the above facts and circumstances surrounding Walker's conduct, we suspend Walker's license to practice law in this state indefinitely with no possibility of reinstatement for six months." (at 7)

FACTUAL BACKGROUND

Walker neglected three separate estate matters, resulting in repeated delinquency notices and inaccurate representations in final reports that statutory state and federal tax requirements had been satisfied. One estate incurred penalties and interest, for which Walker made restitution, and the district court eventually removed him as attorney for each estate. In a separate client matter, Walker failed to record a contract and deed or update the abstract and repeatedly misrepresented the status of those tasks. Walker also failed twice to respond to the Board's disciplinary inquiries.

PROCEDURAL HISTORY

The Attorney Disciplinary Board charged Walker with multiple violations of Iowa's professional-conduct rules. The parties stipulated to the facts, violations, and a proposed four-month suspension, and the Grievance Commission recommended an indefinite suspension with no reinstatement for four months. The Supreme Court

of Iowa reviewed the record de novo, found the violations established, and imposed a six-month suspension with conditions for reinstatement.

DISPOSITION

other

CASES CITED

- Iowa Supreme Ct. Attorney Disciplinary Bd. v. Moonen, 706 N.W.2d 391 (Iowa 2005)
- Iowa Supreme Ct. Bd. of Prof'l Ethics & Conduct v. Honken, 688 N.W.2d 812 (Iowa 2004)
- Iowa Supreme Ct. Bd. of Prof'l Ethics & Conduct v. Moorman, 683 N.W.2d 549 (Iowa 2004)
- Iowa Supreme Ct. Bd. of Prof'l Ethics & Conduct v. Pracht, 656 N.W.2d 123 (Iowa 2003)
- Iowa Supreme Ct. Bd. of Prof'l Ethics & Conduct v. Bernard, 653 N.W.2d 373 (Iowa 2002)
- Iowa Supreme Ct. Bd. of Prof'l Ethics & Conduct v. Rylaarsdam, 636 N.W.2d 90 (Iowa 2001)
- Iowa Supreme Ct. Bd. of Prof'l Ethics & Conduct v. Hohenadel, 634 N.W.2d 652 (Iowa 2001)
- Iowa Supreme Ct. Bd. of Prof'l Ethics & Conduct v. Sullins, 613 N.W.2d 656 (Iowa 2000)
- Iowa Supreme Ct. Bd. of Prof'l Ethics & Conduct v. Stein, 586 N.W.2d 523 (Iowa 1998)
- Comm. on Prof'l Ethics & Conduct v. Horn, 379 N.W.2d 6 (Iowa 1985)
- Iowa Supreme Ct. Bd. of Prof'l Ethics & Conduct v. Rauch, 650 N.W.2d 574 (Iowa 2002)
- Comm. on Prof'l Ethics & Conduct v. Nadler, 467 N.W.2d 250 (Iowa 1991)

OPINION

PER CURIAM.

IN THE SUPREME COURT OF IOWA No. 31 / 05-1989 Filed April 14, 2006 IOWA SUPREME COURT ATTORNEY DISCIPLINARY BOARD, Complainant, vs. RONALD F. WALKER, Respondent. On review of the report of the Grievance Commission. Iowa Supreme Court Grievance Commission recommends a four- month suspension of respondent's license to practice law in this state. LICENSE SUSPENDED.

Charles L. Harrington and Teresa A. Vens, Des Moines, for complainant. Ronald F. Walker, Knoxville, pro se. 2 WIGGINS, Justice. The Iowa Supreme Court Attorney Disciplinary Board (Board) filed a complaint alleging Ronald F. Walker violated numerous rules of the Iowa Code of Professional Responsibility for Lawyers (Code). Walker acknowledged if the matter proceeded to evidentiary hearing before the Grievance Commission (Commission), he could not successfully defend against the charges.

The parties agreed to submit the matter to the Commission upon a stipulation in lieu of an evidentiary hearing. The Board and Walker stipulated to the facts of the complaint, to certain

violations of the Code, and to a recommendation of a four-month suspension of Walker's license to practice law in Iowa with conditions for reinstatement of his license.

The Commission filed its report finding the Board had proved the factual allegations of the complaint as well as violations of the Code by a convincing preponderance of the evidence. The Commission recommended that we suspend Walker's license to practice law indefinitely with no possibility of reinstatement for four months.

The Commission further recommended that, as a condition of reinstatement of his license, Walker prove he received successful treatment for his depression and after reinstatement provide semi-annual verifications he is complying with any treatment for his depression as recommended by his physician.

I. Scope of Review. The record made before the Commission is reviewed *de novo*. Iowa Supreme Ct. Attorney Disciplinary Bd. v. Moonen, 706 N.W.2d 391, 396 (Iowa 2005). We require the Board to prove any ethical violations by a convincing preponderance of the evidence. *Id.* Although we consider the Commission's factual findings and discipline recommendations, they do not bind us.

Iowa 3 Supreme Ct. Bd. of Prof'l Ethics & Conduct v. Honken, 688 N.W.2d 812, 815 (Iowa 2004). II. Factual Findings. The stipulation of the parties causes us to find Walker neglected three separate estate matters. In the first estate matter, the clerk of court issued six delinquency notices over a four-year period.

The clerk issued eleven delinquency notices over an eleven-year period in the second estate matter. Finally, in the third estate matter, the clerk issued seven delinquency notices over a four-year period. In each of the estate matters, Walker filed his final report representing to the court he complied with all the statutory requirements pertaining to the state and federal tax laws, when in fact he had not complied with all those requirements at the time he made those representations.

Walker's neglect caused one of the estates to be assessed a penalty and interest on the Iowa inheritance/estate tax. Walker did make restitution for the penalty and interest. The district court eventually removed Walker as attorney for each estate.

The Board received a complaint regarding Walker's conduct in the three estate matters. The Board sent Walker a copy of the complaint and a letter requesting a response by certified mail. Walker signed for the receipt of the items but failed to respond to the complaint.

The Board sent a second letter to Walker by certified mail informing him of the consequences of failing to respond. Walker signed for the receipt of the second letter but still failed to respond to the complaint. In another matter, a client retained Walker for the purposes of preparing a contract, preparing a deed, and updating the abstract in connection with the transaction.

In February 2002, the client signed the contract and the deed. Walker then undertook to record the contract and the deed at the Marion County courthouse and update the abstract. Over the next several months, the client repeatedly checked with Walker about the status of the recording. Walker represented to the client that he would file the contract and the deed or that he had filed them, when in fact the contract and the deed were not filed.

In April 2003, the client learned Walker had still not recorded the contract and the deed. Walker acknowledged and we agree his conduct in these matters violated DR 1-102(A)(1) (providing a lawyer shall not violate a disciplinary rule); DR 1-102(A)(4) (providing a lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation); DR 1-102(A)(5) (providing a lawyer shall not engage in conduct that is prejudicial to the administration of justice); DR 1-102(A)(6) (providing a lawyer shall not engage in any other conduct that adversely reflects on the fitness to practice law); DR 6-101(A)(3) (providing a lawyer shall not neglect a client's legal matter); DR 7-101(A)(1) (providing a lawyer shall not intentionally fail to seek the lawful objectives of a client); DR 7-101(A)(2) (providing a lawyer shall not intentionally fail to carry out a contract of employment); and DR 7-101(A)(3) (providing a lawyer shall not intentionally prejudice or damage a client during the course of the professional relationship).

III. Sanction. In determining the sanctions a lawyer must face due to his or her misconduct, we have stated: The goal of the Code of Professional Responsibility is "to maintain public confidence in the legal profession as well as to provide a policing mechanism for poor lawyering." When deciding on an appropriate sanction for an attorney's misconduct, we consider "the nature of the violations, protection of the public, deterrence of similar misconduct by others, the lawyer's fitness to practice, and [the court's] duty to uphold the integrity of the profession in the eyes of the public." ⁵ We also consider aggravating and mitigating circumstances present in the disciplinary action.

Honken, 688 N.W.2d at 820 (alteration in original) (citations omitted). In this case, Walker's conduct consisted of neglecting clients' legal matters, making misrepresentations to the court and a client, and failing to respond to the Board. While neglect alone ordinarily deserves a sanction ranging from a public reprimand to a six-month suspension, neglect compounded by other misconduct requires us to impose a more severe sanction than when neglect is the only violation.

Iowa Supreme Ct. Bd. of Prof'l Ethics & Conduct v. Moorman, 683 N.W.2d 549, 553-54 (Iowa 2004); see, e.g., Iowa Supreme Ct. Bd. of Prof'l Ethics & Conduct v. Pracht, 656 N.W.2d 123, 124, 126 (Iowa 2003) (finding an attorney's failure to comply with a court order, neglect of client matters, and failure to cooperate with the Board warranted a one-year suspension); Iowa Supreme Ct.

Bd. of Prof'l Ethics & Conduct v. Bernard, 653 N.W.2d 373, 374, 376 (Iowa 2002) (finding an attorney's commission of a criminal act, making of a false statement to the Board, and neglect of

client matters warranted a one-year suspension); Iowa Supreme Ct. Bd. of Prof'l Ethics & Conduct v. Rylaarsdam, 636 N.W.2d 90, 91, 93 (Iowa 2001) (finding an attorney's neglect of two estates, forgery of clients' signatures, falsification of a court document, misrepresentations to clients, and failure to respond to the Board's inquiries warranted a six-month suspension); Iowa Supreme Ct.

Bd. of Prof'l Ethics & Conduct v. Hohenadel, 634 N.W.2d 652, 653, 657 (Iowa 2001) (finding an attorney's neglect of two clients' legal matters as well as his misrepresentations to the court and his clients as to the status of those matters warranted a four-month suspension); Iowa Supreme Ct. Bd. of Prof'l Ethics & Conduct v. Sullins, 613 N.W.2d 656, 657 (Iowa 2000) (finding an attorney's neglect of client matters, disregard of the 6 Board's inquiries, and failure to maintain proper record keeping warranted a one-year suspension); Iowa Supreme Ct.

Bd. of Prof'l Ethics & Conduct v. Stein, 586 N.W.2d 523, 526 (Iowa 1998) (finding an attorney's consistent pattern of neglect of client matters and his numerous misrepresentations made to cover up his neglect warranted a six-month suspension); Comm. on Prof'l Ethics & Conduct v. Horn, 379 N.W.2d 6, 9-10 (Iowa 1985) (finding an attorney's failure to cooperate with the committee, neglect of a matter entrusted to him, and misrepresentations regarding the matter warranted a three-month suspension).

The aggravating factors to consider here include multiple incidents of neglect. Moorman, 683 N.W.2d at 553. Walker's various actions throughout his handling of the four separate legal matters demonstrate that neither his neglect nor his misrepresentations were isolated in nature.

Moreover, Walker's misrepresentations are not only a breach of professional ethics in themselves but also serve to exacerbate his negligence. See Iowa Supreme Ct. Bd. of Prof'l Ethics & Conduct v. Rauch, 650 N.W.2d 574, 578 (Iowa 2002) (stating a lawyer's violation of a disciplinary rule is aggravated by a misrepresentation to the court). Additionally, Walker's failure to respond to the Board on two occasions "reflects adversely on his general fitness to practice law and is an additional factor in imposing discipline." Moorman, 683 N.W.2d at 553-54.

Finally, it is significant that Walker's actions caused harm to others in terms of cost and delay to his clients. Honken, 688 N.W.2d at 821. On the other hand, there may be some mitigating factors present in this case. Walker is apparently suffering from depression.

We have recognized depression may influence our approach to discipline, but we consider it "a personal problem of the lawyer that does not excuse the 7 misconduct." Id. at 821-22. Also, it is important to note that Walker apparently has not had any prior disciplinary problems. See Comm. on Prof'l Ethics & Conduct v. Nadler, 467 N.W.2d 250, 254 (Iowa 1991) (stating prior disciplinary action taken against a lawyer is considered in determining the proper discipline).

However, the multiple violations and the continual nature of the incidents dilute this factor. Moonen, 706 N.W.2d at 402. IV. Disposition. In light of the above facts and circumstances surrounding Walker's conduct, we suspend Walker's license to practice law in this state indefinitely with no possibility of reinstatement for six months. Upon any application for reinstatement, Walker must establish he has not practiced law during the suspension period and he has in all ways complied with the requirements of Iowa Court Rule 35.13.

In his application for reinstatement, Walker must provide this court with an evaluation by a licensed health care professional verifying his fitness to practice law. Before obtaining this evaluation, Walker shall submit to the Board the name of the proposed evaluator and the nature of the evaluation for the Board's prior approval. Walker must also comply with the notification requirements of Iowa Court Rule 35.21.

Finally, the costs of this action are taxed against Walker pursuant to Iowa Court Rule 35.25. LICENSE SUSPENDED.