

SUPREME COURT OF SOUTH CAROLINA

In re Harrison

356 S.C. 1 (2003) · Decided September 29, 2003

SUMMARY

The South Carolina Supreme Court accepted an attorney's Agreement for Discipline by Consent and suspended him from practicing law for thirty days. The misconduct involved inadequate communication, failure to provide candid advice, misrepresentations about the status of a case, failure to reduce a contingent fee agreement to writing, and allowing the statute of limitations to expire.

CASE DETAILS

COURT	Supreme Court of South Carolina
WRITING FOR THE COURT	Per Curiam; Chief Justice Toal; Justice Waller; Justice Burnett; Justice Pleicones; Justice Moore
JURISDICTION	South Carolina
DECIDED	September 29, 2003
DISPOSITION	other
PROCEDURAL POSTURE	Attorney disciplinary proceeding submitted to the Supreme Court of South Carolina pursuant to an Agreement for Discipline by Consent under Rule 21, RLDE.
PRECEDENTIAL VALUE	Published opinion

TOPICS

administrative law

PRACTICE AREAS

legal ethics attorney discipline professional responsibility

QUESTIONS PRESENTED

1. Whether the court should accept the respondent's Agreement for Discipline by Consent.
2. Whether the admitted conduct violated the cited Rules of Professional Conduct and warranted a thirty-day suspension.

HOLDINGS

1. The court accepted the Agreement for Discipline by Consent and imposed the agreed-upon thirty-day suspension from the practice of law.
2. Respondent's conduct violated Rules 1.3, 1.4, 1.5(c), 1.16(d), 2.1, 3.2, and 8.4(a) of the South Carolina Rules of Professional Conduct.

KEY QUOTATIONS

"We hereby accept the Agreement for Discipline by Consent and suspend respondent from the practice of law in this state for thirty days." (356 S.C. at 4)

FACTUAL BACKGROUND

Harrison represented a client and her children concerning injuries from an automobile accident. He failed to put the contingent-fee agreement in writing, maintained little communication with the client, failed to provide candid advice about the weaknesses of the claim, misrepresented the status of the matter, and failed to advise the client of the applicable statute of limitations. His inaction and lack of timely advice caused the client and her children to lose any potential recovery when the limitations period expired.

PROCEDURAL HISTORY

Respondent David R. Harrison and the Office of Disciplinary Counsel entered into an Agreement for Discipline by Consent. Harrison admitted professional misconduct and consented to a thirty-day suspension. The Supreme Court accepted the agreement, imposed the suspension, and later granted Harrison's request for reinstatement after he filed an affidavit of compliance.

DISPOSITION

other

CASES CITED

- In the Matter of Harrison, 322 S.C. 444, 472 S.E.2d 620 (1996)

OPINION

PER CURIAM.

PER CURIAM: In this attorney disciplinary matter, respondent and the Office of Disciplinary Counsel have entered into an Agreement for Discipline by Consent pursuant to Rule 21, RLDE, Rule *2413, SCACR. In the agreement, respondent admits misconduct and consents to the imposition of a thirty day suspension from the practice of law.

We accept the agreement and suspend respondent from the practice of law for thirty days.¹ The facts, as set forth in the agreement, are as follows. Facts Respondent was retained to represent a client and her children with regard to injuries sustained in an automobile accident. Respondent

failed to reduce the contingency fee agreement to writing. Over a period of four years, respondent never communicated in writing with the client and only had three meetings with the client.

The client initiated all contact with respondent regarding her case. Within three months of agreeing to represent the client, respondent learned that the client's physicians did not support the contention that the client's injuries were caused by the car accident.

However, respondent failed to render candid advice to the client regarding the merits of her case. When the client contacted respondent to inquire about the status of her case, respondent repeatedly told her he was working on the case and, on one occasion, told her the case was "on the docket." Respondent failed to inform the client of the applicable statute of limitations.

When the client finally confronted respondent about the lack of progress with her case, respondent informed her that he had never filed the lawsuit because he and the client "would be laughed out of court." Respondent's deceit and misrepresentation prevented the client from seeking competent legal advice and making an informed decision regarding the merits of her case.

As a result of respondent's inaction and failure to render timely legal advice, the client has been barred from any recovery for herself or her children due to the expiration of the statute of limitations. *3 Law Respondent admits that by his conduct he has violated the following provisions of the Rules of Professional Conduct, Rule 407, SCACR: Rule 1.3 (a lawyer shall act with reasonable diligence and promptness in representing a client); Rule 1.4 (a lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation, keep the client reasonably informed about the status of the matter, and promptly comply with reasonable requests for information); Rule 1.5(c) (a contingent fee agreement shall be in writing and shall state the method by which the fee is to be determined and upon conclusion of the matter the lawyer shall provide the client with a written statement stating the outcome of the matter, the remittance to the client, if there is a recovery, and the method of its determination); Rule 1.16(d) (while a lawyer may withdraw from representation of a client if the client insists upon pursuing an objective the lawyer considers imprudent, upon termination of representation, the lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee that has not been earned); Rule 2.1 (in representing a client, a lawyer shall exercise independent professional judgment and render candid advice); Rule 3.2 (a lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client); and Rule 8.4(a) (it is professional misconduct for a lawyer to violate the Rules of Professional Conduct).

Respondent also admits that his misconduct constitutes grounds for discipline under Rule 7(a)(1) of the Rules for Lawyer Disciplinary Enforcement, Rule 413, SCACR. Conclusion We hereby accept the Agreement for Discipline by Consent and suspend respondent from the practice of law

in this state for thirty days. Within fifteen days of the date of this opinion, respondent shall file an affidavit with the Clerk of Court *4showing that he has complied with Rule 30, RLDE, Rule 413, SCACR.'

DEFINITE SUSPENSION. TOAL, C.J., WALLER, BURNETT and PLEICONES, JJ., concur. MOORE, J., not participating. ORDER On September 29, 2003, Respondent was suspended from the practice of law for a period of thirty days. He has now filed an affidavit requesting reinstatement pursuant to Rule 32, of the Rules for Lawyer Disciplinary Enforcement contained in Rule 413, SCACR.

The request is granted and he is hereby reinstated to the practice of law in this state. JEAN H. TOAL, CHIEF JUSTICE BY: s/Brenda F. Shealy Deputy Clerk. Respondent has received two prior private reprimands and a letter of caution for unrelated misconduct. He also received a ninety day suspension for failure to pay state income taxes.

In the Matter of Harrison, 322 S.C. 444, 472 S.E.2d 620 (1996).