

SUPREME COURT OF KENTUCKY

Bryan Edward Bennett v. Kentucky Bar Association

526 S.W.3d 87 (Ky. 2017) · No. 2017-SC-000241-KB · Decided August 24, 2017

SUMMARY

The Supreme Court of Kentucky granted Bryan Edward Bennett's motion for a public reprimand based on admitted violations of multiple Kentucky Rules of Professional Conduct arising from his representation of an immigration client. The Court also ordered Bennett to pay \$141.25 in disciplinary proceeding costs.

CASE DETAILS

COURT	Supreme Court of Kentucky
WRITING FOR THE COURT	Minton
JURISDICTION	Kentucky
DECIDED	August 24, 2017
DOCKET	2017-SC-000241-KB
DISPOSITION	other
PROCEDURAL POSTURE	Attorney disciplinary proceeding in which the movant admitted the charged misconduct and jointly requested a public reprimand as a negotiated sanction.
STANDARD OF REVIEW	The Supreme Court of Kentucky exercises discretion in deciding whether to accept a negotiated disciplinary sanction.
PRECEDENTIAL VALUE	Published Kentucky Supreme Court disciplinary opinion and order; no contrary treatment identified in the provided text.
PARTIES	Bryan Edward Bennett v. Kentucky Bar Association

TOPICS

administrative law

appellate procedure

PRACTICE AREAS

attorney discipline

professional responsibility

legal ethics

QUESTIONS PRESENTED

1. Whether the Supreme Court of Kentucky should accept the parties' negotiated sanction of a public reprimand for Bennett's admitted professional misconduct.
2. Whether Bennett's admitted conduct warranted a public reprimand and assessment of the costs of the disciplinary proceeding.

HOLDINGS

1. The Supreme Court of Kentucky may, in its discretion, accept a negotiated disciplinary sanction, and the proposed public reprimand was appropriate under the circumstances.
2. Bennett was publicly reprimanded for violating SCR 3.130-1.3, SCR 3.130-1.4(a)(4), SCR 3.130-1.4(b), SCR 3.130-1.15(3), SCR 3.130-1.16(d), and SCR 3.130-8.1(b), and was ordered to pay \$141.25 in disciplinary costs.

KEY QUOTATIONS

“It is in this Court’s discretion to accept the negotiated sanction.” (526 S.W.3d at 87)

“Therefore, Movant’s motion for a public reprimand is hereby granted.” (526 S.W.3d at 87)

FACTUAL BACKGROUND

Bennett was retained to assist Ortencia Quintana Orozco with an immigration-status adjustment and received \$3,025.00. He was inexperienced in the matter, failed to recognize that Orozco's priority date was not current, and failed to refund her funds after USCIS rejected the application and returned the filing fees. He also failed to communicate adequately with Orozco, protect her interests, and respond to the disciplinary authority's lawful demand for information.

PROCEDURAL HISTORY

The Kentucky Bar Association Inquiry Commission issued a six-count charge against Bennett, later amended to allege violations of multiple Kentucky Rules of Professional Conduct. Bennett admitted the misconduct, repaid the client, and negotiated a sanction with the Office of Bar Counsel under SCR 3.480(2). The parties jointly requested that the Supreme Court of Kentucky impose a public reprimand, which the court granted.

DISPOSITION

other

CASES CITED

- Riley v. Kentucky Bar Ass'n, 262 S.W.3d 203 (Ky. 2008)
- Kentucky Bar Ass'n v. Noble, 118 S.W.3d 586 (Ky. 2003)
- Parker v. Kentucky Bar Ass'n, 390 S.W.3d 792 (Ky. 2013)
- Anderson v. Kentucky Bar Ass'n, 262 S.W.3d 636, 638 (Ky. 2008)

OPINION

MINTON, J.

Supreme T_nnr t n'f Beninckg 2017- SC- 000241 -KB 7 BRYAN EDWARD BENNETT
MOVANT KBA NO. 87888 ' V. h IN. SUPREME COURT d KENTUCKY BAR ASSOCIATION '
RESPONDENT OPINION AND ORDER Movant, Bryan Edward Bennett, admitted to the
practice of law _on October 29, 1999, moves this Court for a public reprimand Movant's_
Kentucky Bar Association ("KBA") member number is 87888 and his bar roster address is l4lO.

Versailles Road, Lexington, Kentucky 40504. In duly of 2014,. Ortencia Quintana Orozco retained
Movant to assist her in obtaining.an adjustment of her immigration status. Ms. Orozco remitted
payment to Movant in the amount of \$3,025.00. Movant was inexperienced in immigration status
adjustment and Was unaware that Ms. Orozco_'s "priority date" did not fall within the mandated -
timeframe.

Consequently, on January 13, 20'15, the United States Customs and Immigration Service
("USCIS") issued a Notice of Action rejecting Ms. Orozco's adjustment status application, as her
priority date was not'current. USCIS returned-the application and filing fees to ' _ Movant.'

However, Movant failed to refund Ms. Orozco any funds. After learning of the lapplication's
rejection, Ms. Orozco attempted to call Movant, but Was' unable to Speak with him personally.
Ms. Orozco also appeared at Movant's office and was told that he was unavailable - On August 22,
2016, the Fay,ette;County Sheriff personally served 'Movant with a Bar Complaint and a request
for additional information.

On- ' November 28, 2016, the In'quiry'_Commission issued.a-siX-count Charge against Movant,
which was subsequently amended on April 13, 2017. The Amended Charge alleged the following
violations of the Rules of Professional Conduct: Count I, SCR 3.130-1.3 l.(failure to diligently
represent client); Count II, SCR 3.130-1.4(a)[4] (failure to promptly comply with reasonable
requests for information); Count III, SCR 3`.130-1.4(b) (failure to explain a matter to permit client
to make an informed decision); Count IV.,,SCR 3.130-1.1b(a) (failure to hold client's property
separately from own property); Count V, SCR 3.130- `1.16(d)' (failure to take steps reasonably
practicable to protect client's interest upon termination); Count VI,.SCR 3413@8.1(b) (failure to
respond to a lawful demand for information from a disciplinary authority).

Movant admits to the misconduct as described in the Ame_nded Charge. In an effort to resolve this
disciplinary action, Movant has since repaid Ms. - Orozco-and negotiated a sanction with the
Ofiice of Bar- Counsel pursuant to SCR 3.480(2}.

The discipline the parties request is for this Court to publicly reprimand Movant for his
misconduct The KBA agrees that the recommended discipline is appropriate and supported by
similar cases.. In support of its position, the KBA directs the Court to Riley v`. Kentucky Bar
Ass'n, 262 S.W.3d. ` 2 203 (Ky. 2008), Kentucky BarAsS'n v. Noble, 118 S.W.3d 586 (Ky.

2003), and *Parker v. Kentucky Bar Ass'n*, 390 S.W.3d 792 (Ky. 2013). It is in this Court's discretion to accept the negotiated sanction. *Anderson v. Kentucky Bar Ass'n*, 262 S.W.3d 636, 638 (Ky. 2008). In light of the aforementioned cases, which present similar discipline imposed for analogous misconduct, this Court finds that the consensual discipline proposed by Movant and agreed to by the KBA is appropriate. Therefore, Movant's motion for a public reprimand is hereby granted. - ACCORDINGLY, IT IS ORDERED THAT: 1.

Movant, Bryan Edward Bennett, KBA Member No. 87888, is hereby publicly reprimanded for his violations of SCR 3.130-1.3, SCR 3.130-1.4(a)(4), sCR 3.130-1.4(b), SCR 3.130-1.15(3), sCR 3.130-1.16(d), and sCR 3.130-8.1(b). 2. Pursuant to SCR 3.450, Movant is, directed to pay all costs associated with these disciplinary proceedings in the amount of \$141.25, for which execution may issue from this Court upon finality of this Order.

All sitting. All concur. ENTERED: August 24, 2017. Q: Elizabeth Justice