

SUPREME COURT OF LOUISIANA

In re Callahan

846 So. 2d 728 (La. 2003) · Decided May 20, 2003

SUMMARY

The Louisiana Supreme Court considered additional disciplinary charges against Michael D. Callahan, who had previously been disbarred. The court adjudged additional violations warranting disbarment for misconduct in the Rachal matter and a misdemeanor theft conviction, but added those violations to his record rather than imposing a second disbarment. For unauthorized practice of law in the Hardison matter, the court imposed a two-year suspension with three months deferred, effective upon eligibility for readmission.

CASE DETAILS

COURT	Supreme Court of Louisiana
WRITING FOR THE COURT	Per curiam
JURISDICTION	Louisiana
DECIDED	May 20, 2003
DISPOSITION	other
PROCEDURAL POSTURE	Attorney disciplinary proceeding arising from formal charges filed by the Office of Disciplinary Counsel. The respondent objected to the Disciplinary Board's recommendation, and the matter was docketed for briefing and argument before the Louisiana Supreme Court.
STANDARD OF REVIEW	The Supreme Court acts as the trier of fact in attorney disciplinary matters and independently reviews the record to determine whether misconduct was proven by clear and convincing evidence. The manifest-error standard applies to the hearing committee's factual findings.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Louisiana

TOPICS

- administrative law
- agency adjudication

PRACTICE AREAS

- legal ethics
- attorney discipline
- professional responsibility

QUESTIONS PRESENTED

1. Whether the formal charges against Callahan were proven by clear and convincing evidence.
2. What sanction was appropriate for the misconduct in the Rachal matter and the misconduct underlying Callahan's misdemeanor theft conviction.
3. What sanction was appropriate for Callahan's unauthorized practice of law after his interim suspension in the Hardison matter.

HOLDINGS

1. The charges against Callahan were proven by clear and convincing evidence.
2. Callahan's misconduct in the Rachal matter and the misconduct resulting in his misdemeanor theft conviction warranted disbarment-level discipline, but did not warrant a second disbarment because the conduct occurred during the same general time period as the misconduct underlying his prior disbarment. The violations were instead to be added to his disciplinary record for consideration upon any application for readmission.
3. Unauthorized practice of law by Callahan after his interim suspension warranted a two-year suspension from practice, with three months deferred, commencing when he became eligible to seek readmission from his prior disbarment.

KEY QUOTATIONS

“Since the attorney-respondent cannot control the timing of the institution of disciplinary proceedings, it is generally inappropriate to disbar a previously disbarred attorney an additional time when the violations at issue occurred before or concurrently with the violations which resulted in the initial disbarment.” (733)

“While respondent’s actions unquestionably violate Rule 5.5(a), we do not believe his actions manifest an intent to defy the authority of this court.” (734)

FACTUAL BACKGROUND

After being placed on interim suspension, Michael D. Callahan continued representing Dorothy Hardison in settlement negotiations for more than a year and associated with another attorney for a mediation without disclosing his suspension. In the Rachal matters, he accepted funds for inheritance taxes, failed to pay the required taxes or complete the legal work, and failed to refund the remaining funds. He also pleaded guilty to misdemeanor theft arising from conduct involving conversion of a client's funds and failed to notify the Office of Disciplinary Counsel of the conviction.

PROCEDURAL HISTORY

The Office of Disciplinary Counsel filed separate formal charges concerning respondent's unauthorized practice of law after suspension, neglect and conversion of client funds, and failure to report a criminal conviction. Respondent did not answer, so the charges were deemed admitted. Hearing committees recommended disbarment, and the Disciplinary Board recommended concurrent disbarment for the older misconduct and a separate disbarment for the later Hardison misconduct, together with accounting and restitution. The Supreme Court independently reviewed the record and imposed additional violations warranting disbarment for the

Rachal and criminal-conviction matters, but imposed a two-year suspension, with three months deferred, for the Hardison matter.

DISPOSITION

other

CASES CITED

- In re: Callahan, 98-1996 (La. 7/30/98), 717 So. 2d 1127
- In re: Callahan, 00-3357 (La. 3/23/01), 782 So. 2d 624
- In re: Quaid, 94-1316 (La. 11/30/94), 646 So. 2d 343, 348
- Louisiana State Bar Ass'n v. Boutall, 597 So. 2d 444, 445 (La. 1992)
- In re: Caulfield, 96-1401 (La. 11/25/96), 683 So. 2d 714
- In re: Pardue, 93-2865 (La. 3/11/94), 633 So. 2d 150
- Louisiana State Bar Ass'n v. Reis, 513 So. 2d 1173 (La. 1987)
- Louisiana State Bar Ass'n v. Whittington, 459 So. 2d 520 (La. 1984)
- Louisiana State Bar Ass'n v. Chatelain, 573 So. 2d 470 (La. 1991)
- Matter of Thompson, 492 A.2d 866 (D.C. App. 1985)
- In re: Jones, 99-1036 (La. 10/19/99), 747 So. 2d 1081
- In re: Ellis, 99-2483 (La. 9/15/99), 742 So. 2d 869
- In re: Withers, 99-2951 (La. 11/19/99), 747 So. 2d 514
- In re: Audwin Jackson, 02-3062 (La. 4/9/03), 843 So. 2d 1079
- In re: Charles Williams, 02-2698 (La. 4/9/03), 842 So. 2d 353

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