

COURT OF APPEALS OF MARYLAND

Attorney Grievance Commission of Maryland v. Sheron A. Barton

442 Md. 91 (2015) · No. Misc. Docket AG No. 86, Sept. Term, 2012; Misc. Docket AG Nos. 13 and 57, Sept. Term, 2013; Circuit Court Nos. 28463M, 28714M, 29405M · Decided March 2, 2015

SUMMARY

The Maryland Court of Appeals considered three consolidated attorney-discipline proceedings against Sheron A. Barton arising from her operation of the Cardinal Law Firm. The court found violations involving competence, diligence, client communication, fees, safekeeping property, termination of representation, supervision of a nonlawyer, unauthorized practice of law, and professional misconduct, and imposed an indefinite suspension.

CASE DETAILS

COURT	Court of Appeals of Maryland
WRITING FOR THE COURT	Battaglia, J.; Barbera, C.J.; Harrell, J.; Greene, J.; Adkins, J.; McDonald, J.; Wilner, Alan M., J. (Retired, Specially Assigned)
JURISDICTION	Maryland
DECIDED	March 2, 2015
DOCKET	Misc. Docket AG No. 86, Sept. Term, 2012; Misc. Docket AG Nos. 13 and 57, Sept. Term, 2013; Circuit Court Nos. 28463M, 28714M, 29405M
DISPOSITION	other
PROCEDURAL POSTURE	Attorney discipline proceeding involving three consolidated petitions for disciplinary or remedial action. After a circuit court hearing judge found numerous violations of the Maryland Lawyers' Rules of Professional Conduct, the Court of Appeals independently reviewed the record, overruled or sustained the respondent's exceptions in part, and determined the appropriate sanction.
STANDARD OF REVIEW	The Court independently reviews the record; it accepts the hearing judge's factual findings unless clearly erroneous and reviews conclusions of law essentially de novo. The petitioner must prove alleged violations by clear and convincing evidence, while a respondent asserting mitigation must prove it by a preponderance of the evidence.

PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Attorney Grievance Commission of Maryland v. Sheron A. Barton

TOPICS

bankruptcy chapter 13 remedies

PRACTICE AREAS

legal ethics attorney discipline bankruptcy law professional responsibility

QUESTIONS PRESENTED

1. Whether the hearing judge properly relied on deemed admissions entered after Barton failed to timely respond to requests for admission.
2. Whether the hearing judge's factual findings were supported by clear and convincing evidence and whether the Court should defer to the hearing judge's credibility determinations.
3. Whether Barton violated the Maryland Lawyers' Rules of Professional Conduct governing competence, diligence, communication, fees, safekeeping property, termination of representation, supervision of nonlawyers, professional independence, unauthorized practice of law, and misconduct.
4. Whether Barton violated Rule 5.4(a) by sharing legal fees with a nonlawyer.
5. What sanction was appropriate for Barton's pattern of client neglect, failure to supervise, unauthorized-practice assistance, commingling, failure to refund fees, and misrepresentation to a bankruptcy court.

HOLDINGS

1. The hearing judge acted within her discretion by deeming the requests for admission admitted and declining to permit withdrawal or amendment on the eve of the hearing.
2. The Court independently reviews the record, accepts factual findings unless clearly erroneous, and reviews conclusions of law de novo.
3. Barton violated Rules 1.1, 1.3, 1.4(a) and (b), 1.5(a), 1.15(a) and (b), 1.16(d), 5.3(a), (b) and (c), 5.4(b), 5.5(a), and 8.4(a), (c) and (d) of the Maryland Lawyers' Rules of Professional Conduct.
4. The evidence was insufficient to establish that Barton violated Rule 5.4(a) by sharing legal fees with Tolbert.
5. Barton violated Rule 5.4(b) by treating Tolbert as a principal in the law firm while Tolbert participated in the practice of law.
6. Indefinite suspension from the practice of law in Maryland was the appropriate sanction.

KEY QUOTATIONS

"We, therefore, determine that an indefinite suspension in the present case is the appropriate sanction, especially in the absence of any finding of misappropriation." (at 59)

“As a result, the Respondent, Sheron A. Barton, is hereby indefinitely suspended from the practice of law in the State of Maryland.” (at 60)

FACTUAL BACKGROUND

Barton owned and supervised the Cardinal Law Firm, which primarily handled bankruptcy matters, while working primarily from a Washington, D.C., office. She allowed nonlawyer office manager Richard Tolbert to meet with prospective clients, provide legal advice, accept cases, set fees, collect and deposit client funds into an operating account, and hold himself out as an attorney. Barton neglected numerous clients' bankruptcy matters, failed to communicate with them, failed to appear at hearings, failed to perform promised services, failed to refund unearned fees, failed to supervise Tolbert, and failed to disclose an additional \$526 payment in a bankruptcy case.

PROCEDURAL HISTORY

The Attorney Grievance Commission filed three petitions against Barton arising from her operation and supervision of the Cardinal Law Firm. The petitions were consolidated and referred to a judge of the Circuit Court for Montgomery County, who found by clear and convincing evidence that Barton violated numerous professional-conduct rules and found one mitigating factor. The Court of Appeals reviewed the factual findings under the clearly erroneous standard, reviewed legal conclusions de novo, rejected most exceptions, sustained the exception to the Rule 5.4(a) fee-sharing violation, and imposed an indefinite suspension.

DISPOSITION

other

CASES CITED

- Attorney Grievance v. Ficker, 349 Md. 13, 706 A.2d 1045 (1998)
- Attorney Grievance v. McCulloch, 404 Md. 388, 946 A.2d 1009 (2008)
- Attorney Grievance v. Guida, 391 Md. 33, 891 A.2d 1085 (2006)
- Attorney Grievance v. Nelson, 425 Md. 344, 40 A.3d 1039 (2012)
- Attorney Grievance v. O’Leary, 433 Md. 2, 69 A.3d 1121 (2013)
- Attorney Grievance v. Chapman, 430 Md. 238, 60 A.3d 25 (2013)
- Attorney Grievance v. Lara, 418 Md. 355, 14 A.3d 650 (2011)
- Attorney Grievance v. Mooney, 359 Md. 56, 753 A.2d 17 (2000)
- Attorney Grievance v. Whitehead, 405 Md. 240, 950 A.2d 798 (2008)
- Attorney Grievance v. McDonald, 437 Md. 1, 85 A.3d 117 (2014)
- Attorney Grievance v. Agbaje, 438 Md. 695, 93 A.3d 262 (2014)
- Attorney Grievance v. Monfried, 368 Md. 373, 794 A.2d 92 (2002)
- Attorney Grievance v. Sheridan, 357 Md. 1, 741 A.2d 1143 (1999)
- Attorney Grievance v. Joseph, 422 Md. 670, 31 A.3d 137 (2011)

- Attorney Grievance v. Gelb, Misc. Docket AG No. 36, Sept. Term, 2013 (Oct. 22, 2014)
- Attorney Grievance v. Narasimhan, 438 Md. 638, 92 A.3d 512 (2014)
- Attorney Grievance v. Shakir, 427 Md. 197, 46 A.3d 1162 (2012)
- Attorney Grievance v. Nussbaum, 401 Md. 612, 934 A.2d 1 (2007)
- Attorney Grievance v. Pinno, 437 Md. 70, 85 A.3d 159 (2014)
- Attorney Grievance v. McLaughlin, 372 Md. 467, 813 A.2d 1145 (2002)
- Attorney Grievance v. Kreamer, 404 Md. 282, 946 A.2d 500 (2008)
- Attorney Grievance v. Zuckerman, 386 Md. 341, 872 A.2d 693 (2005)
- Attorney Grievance v. Glenn, 341 Md. 448, 671 A.2d 463 (1996)
- Attorney Grievance v. Ward, 394 Md. 1, 904 A.2d 477 (2006)
- Attorney Grievance v. Kimmel, 405 Md. 647, 955 A.2d 269 (2008)
- Attorney Grievance v. Brooke, 374 Md. 155, 821 A.2d 414 (2003)
- Attorney Grievance v. Brennan, 350 Md. 489, 714 A.2d 157 (1998)
- Attorney Grievance v. Dore, 433 Md. 685, 73 A.3d 161 (2013)
- Attorney Grievance v. Robaton, 411 Md. 415, 983 A.2d 467 (2009)
- Attorney Grievance v. Dominguez, 427 Md. 308, 47 A.3d 975 (2011)
- Attorney Grievance v. Seltzer, 424 Md. 94, 34 A.3d 498 (2011)
- Attorney Grievance v. Coppola, 419 Md. 370, 19 A.3d 431 (2011)
- Attorney Grievance v. Goff, 399 Md. 1, 922 A.2d 554 (2007)
- Attorney Grievance v. Gallagher, 371 Md. 673, 810 A.2d 996 (2002)
- Attorney Grievance v. Bleeker, 414 Md. 147, 994 A.2d 928 (2010)
- Attorney Grievance v. Stinson, 428 Md. 147, 50 A.3d 1222 (2012)
- Attorney Grievance v. Hodes, Misc. Docket AG No. 61, Sept. Term, 2013 (Dec. 23, 2014)
- Attorney Grievance v. Page, 430 Md. 602, 62 A.3d 163 (2013)
- Attorney Grievance v. Brown, 426 Md. 298, 44 A.3d 344 (2012)
- Attorney Grievance v. Cohen, 361 Md. 161, 760 A.2d 706 (2000)
- Attorney Grievance Comm'n v. David, 331 Md. 317, 628 A.2d 178 (1993)
- Attorney Grievance v. Vanderlinde, 364 Md. 376, 773 A.2d 463 (2001)