

SUPREME COURT OF NORTH DAKOTA

Disciplinary Board of the Supreme Court v. Robert N. Lee

2003 ND 11 · No. 20020326 · Decided January 23, 2003

SUMMARY

The North Dakota Supreme Court ordered Robert N. Lee suspended from practicing law for one year based on neglect of multiple appointed appeals, failures to communicate and advance litigation, and failure to respond to a disciplinary complaint. The court also ordered Lee to pay \$672.20 in disciplinary proceeding costs and comply with the applicable disciplinary rule.

CASE DETAILS

COURT	Supreme Court of North Dakota
WRITING FOR THE COURT	Per Curiam; Gerald W. VandeWalle, C.J.; Carol Ronning Kapsner; Mary Muehlen Maring; William A. Neumann; Dale V. Sandstrom
JURISDICTION	North Dakota
DECIDED	January 23, 2003
DOCKET	20020326
DISPOSITION	other
PROCEDURAL POSTURE	Attorney-discipline proceeding referred to the North Dakota Supreme Court after the hearing panel issued its report and no timely objections were filed.
PRECEDENTIAL VALUE	Published opinion

TOPICS

- sanctions
- appellate procedure
- civil procedure

PRACTICE AREAS

- legal ethics
- attorney discipline
- appellate practice

QUESTIONS PRESENTED

- Whether Robert N. Lee violated the North Dakota Rules of Professional Conduct and Lawyer Discipline by failing to diligently represent clients, communicate, expedite litigation, respond to disciplinary authorities, and comply with disciplinary demands.

2. What discipline was appropriate in light of Lee's violations and aggravating factors.

HOLDINGS

1. Lee's failures to act on multiple client appeals and to respond to the disciplinary complaint violated N.D.R. Prof. Conduct 1.3, 1.4, 3.2, 8.4(e), and 8.1, and N.D.R. Lawyer Discipl. 1.2A(8).
2. A one-year suspension from the practice of law, assessment of \$672.20 in costs and expenses, and compliance with N.D.R. Lawyer Discipl. 6.3F were appropriate sanctions.

FACTUAL BACKGROUND

Robert N. Lee, a North Dakota attorney, was appointed to represent several clients in appeals and repeatedly failed to take required steps, including filing briefs, transcripts, dismissal motions, or obtaining required client consent. Several appeals were dismissed after Lee failed to respond to notices and correspondence from the Supreme Court Clerk. Lee also failed to respond to a disciplinary complaint and had prior disciplinary history, including a prior suspension and public reprimand.

PROCEDURAL HISTORY

The Disciplinary Board petitioned for discipline against Robert N. Lee. A hearing panel filed its report on November 26, 2002, and objections were due December 16, 2002; none were filed. The matter was referred to the Supreme Court under N.D.R. Lawyer Discipl. 3.1F(2), which adopted the report and ordered a one-year suspension, costs, and compliance with the disciplinary rules.

DISPOSITION

other

CASES CITED

- Disciplinary Board v. Lee, 1998 ND 90, 578 N.W.2d 89

OPINION

PER CURIAM.

Filed 1/23/03 by Clerk of Supreme Court IN THE SUPREME COURT STATE OF NORTH DAKOTA 2003 ND 11 In the Matter of Disciplinary Action Against Robert N. Lee, a Member of the Bar of the State of North Dakota Disciplinary Board of the Supreme Court, Petitioner v. Robert N. Lee, Respondent No. 20020326 SUSPENSION ORDERED. Per Curiam. [¶1] Robert N. Lee was admitted to practice as an attorney and counselor at law in the courts of North Dakota on July 27, 1973, and since that time his name has appeared on the roll of attorneys. [¶2] A Petition for Discipline was served on Lee on October 7, 2002.

The Report of the Hearing Panel was filed November 26, 2002; objections to the Report were due December 16, 2002, and none were filed. The matter was referred to the Supreme Court under

N.D.R. Lawyer Discipl. 3.1F(2).

On January 15, 2003, Lee forwarded a letter to the Chief Justice regarding this matter. The letter is not timely, nor in an appropriate form, and therefore, is not being considered. [¶3] On March 26, 1996, Karon Kasprovicz filed a notice of appeal in the Supreme Court; Lee was appointed to represent Kasprovicz for the appeal.

On June 25, 1996, Lee notified the Supreme Court that his client wanted to discontinue the appeal. Lee was advised that a motion under N.D.R.App.P. 42 needed to be filed along with his client's consent to the dismissal. Lee did not file the required motion, and by letter dated August 26, 1996, was informed that in light of the expiration of the time for filing the appellant's brief and his letter that his client wanted to discontinue the appeal, an order dismissing the case would be entered on August 30, 1996, unless written objection was received.

On August 26, 1996, Kasprovicz notified the Supreme Court that she wanted to proceed with the appeal. Nothing further was received, and the appeal was dismissed on October 9, 1996. [¶4] On September 27, 1996, Lee filed a notice of appeal on behalf of Brian Penston.

The transcript was due December 5, 1996, but preparation was suspended for failure to make advance payment. Nothing further was received, and no transcript was filed. By letter dated April 1, 1997, Lee was notified that unless there was a showing of good cause why the matter should not be dismissed, the matter would be referred to the Court for dismissal.

The appeal was dismissed on April 23, 1997. [¶5] On April 6, 2001, Lee was appointed to represent Steven A. Torkelson in his appeal to the Supreme Court. Lee requested an extension for filing the appellant's brief which was granted to June 16, 2001. No brief was filed. By letter dated July 5, 2001, Lee was notified that unless there was a showing of good cause why the matter should not be dismissed, the matter would be referred to the Court for dismissal.

On July 16, 2001, Torkelson submitted a document entitled "Appellant Brief-Appeal" which was forwarded to Lee with inquiry about the points raised by Torkelson. On July 26, 2001, Lee notified the Supreme Court that a Stipulation for Dismissal of the appeal would be forthcoming. By letter dated August 16, 2001, the Clerk requested Lee to file an appropriate motion under N.D.R.App.P.

42 dismissing the appeal. Nothing was received, and on October 3, 2001, the appeal was dismissed. [¶6] On October 16, 2001, Lee was appointed to represent the mother in a termination of parental rights matter. On January 16, 2002, a Stipulation for Dismissal signed by Lee and the Towner County State's Attorney was filed in the Supreme Court. By letter dated January 16, 2002, Lee was informed that due to the nature of the case, the Supreme Court required the client's written consent or proof of her consent to dismiss the appeal.

Nothing was received. By letter dated March 7, 2002, Lee was requested to explain the status of the appeal, and it was noted that he had not responded to the Clerk's January 16, 2002 letter. Nothing was received, and by letter dated April 1, 2002, Lee was notified that unless there was a showing of good cause why the matter should not be dismissed, the matter would be referred to the Court for dismissal.

Nothing further was received, and on April 17, 2002, the appeal was dismissed. [¶7] By letter dated June 13, 2002, Lee was notified that a complaint had been filed against him, and was informed of his obligation under N.D.R. Lawyer Discipl. 3.1D(3) to forward a written response to the complaint to the assigned investigator. Lee did not respond to the complaint. [¶8] Lee's conduct violated N.D.R.

Prof. Conduct 1.3, Diligence, 1.4, Communication, 3.2, Expediting Litigation, 8.4(e), Misconduct, 8.1, Bar Admission and Disciplinary Matters, and N.D.R. Lawyer Discipl. 1.2A(8), which provides that a lawyer shall not willfully fail to respond to a lawful demand for information from a disciplinary authority. [¶9] Under N.D. Stds. Imposing Lawyer Sanctions 9.22(a), prior disciplinary offenses may be considered an aggravating condition.

Lee has previously been suspended from the practice of law. Disciplinary Board v. Lee, 1998 ND 90, 578 N.W.2d 89. Lee also received a public reprimand for violation of DR 9-102(B)(4), North Dakota Code of Professional Responsibility, which provided that a lawyer shall promptly pay or deliver to the client funds in the possession of the lawyer which the client is entitled to receive.

Other aggravating factors under N.D. Stds. Imposing Lawyer Sanctions are 9.22(i), substantial experience in the practice of law, and 9.22(e), intentionally failing to comply with rules or orders of the disciplinary agency. [¶10] ORDERED, the Report of the Hearing Panel is adopted, and Robert N. Lee is SUSPENDED from the practice of law for one year, effective February 17, 2003. [¶11] FURTHER ORDERED, Robert N. Lee pay the costs and expenses of the disciplinary proceedings in the amount of \$672.20. [¶12] FURTHER ORDERED, Robert N. Lee comply with N.D.R.

Lawyer Discipl. 6.3F. [¶13] Gerald W. VandeWalle, C.J. Carol Ronning Kapsner Mary Muehlen Maring William A. Neumann Dale V. Sandstrom