

SUPREME COURT OF KENTUCKY

Kentucky Bar Association v. Justin Ross Morgan

531 S.W.3d 1 (Ky. 2017) · No. 2017-SC-000396-KB · Decided November 2, 2017

SUMMARY

The Kentucky Supreme Court adopted the Kentucky Bar Association Board of Governors' recommendation finding Justin Ross Morgan guilty of multiple Rules of Professional Conduct violations arising from his failure to represent a client, communicate, return property and unearned fees, and respond to disciplinary authorities. The Court imposed a one-year suspension consecutive to any current suspension, ordered Morgan to repay \$8,500 to the client, and assessed \$421.87 in costs.

CASE DETAILS

COURT	Supreme Court of Kentucky
WRITING FOR THE COURT	John Minton
JURISDICTION	Kentucky
DECIDED	November 2, 2017
DOCKET	2017-SC-000396-KB
DISPOSITION	approved
PROCEDURAL POSTURE	Attorney-discipline proceeding in which the Kentucky Bar Association's Board of Governors found Morgan guilty of multiple violations of the Kentucky Rules of Professional Conduct and recommended a one-year suspension, restitution, and costs. The Supreme Court of Kentucky adopted the recommendation under SCR 3.370(9).
STANDARD OF REVIEW	Under SCR 3.370(9), when no notice of review is filed, the Court enters an order adopting the decision of the Board or Trial Commissioner.
PRECEDENTIAL VALUE	Published and designated to be published; disciplinary decision of the Supreme Court of Kentucky.
PARTIES	Kentucky Bar Association v. Justin Ross Morgan

TOPICS

appellate procedure

remedies

family law

PRACTICE AREAS

legal ethics and attorney discipline

professional responsibility

QUESTIONS PRESENTED

1. Whether Morgan violated the Kentucky Rules of Professional Conduct by failing to act diligently, failing to communicate with his client, charging an unreasonable fee, retaining client property and an unearned fee, and failing to respond to a disciplinary authority.
2. Whether the Board of Governors' recommended discipline—a one-year suspension consecutive to any current suspension, \$8,500 in restitution, and costs—should be adopted.

HOLDINGS

1. Morgan was guilty of violating SCR 3.130-1.3, 1.4(a)(4), 1.5(a), 1.16(d), and 8.1(b).
2. The Supreme Court adopted the Board's recommendation and suspended Morgan from practicing law for one year, consecutive to any current suspension, ordered him to repay Justice \$8,500, and ordered him to pay \$421.87 in costs.

KEY QUOTATIONS

“reasonable diligence and promptness in representing” (at 2)

“If no notice of review is filed by either of the parties, or the Court under paragraph eight (8) of this rule, the Court shall enter an order adopting the decision of the Board or the Trial Commissioner, whichever the case may be, relating to all matters.” (at 4)

FACTUAL BACKGROUND

Christy Justice retained Morgan to represent her in matters involving registration of Virginia child-custody and divorce orders and a legal-fee dispute with former Virginia counsel. Justice paid Morgan retainers totaling \$8,500, but Morgan took no action, failed to communicate with her, and retained her file and paperwork. Morgan also failed to respond to the bar complaint and formal charge, and the Board considered his prior disciplinary history in recommending the sanction.

PROCEDURAL HISTORY

After Morgan failed to respond to a bar complaint and formal charge, the matter proceeded to the KBA Board of Governors as a default case under SCR 3.210. The Board unanimously found violations of four rules and found the fifth violation by a twelve-to-two vote; it recommended a one-year consecutive suspension, \$8,500 in restitution, and costs. The Supreme Court adopted the recommendation and imposed additional notice and cessation-of-practice obligations.

DISPOSITION

approved

CASES CITED

- *Coorssen v. Kentucky Bar Ass'n*, 266 S.W.3d 237 (Ky. 2008)

OPINION

JOHN MINTON, J.

RENDERED: NOVEMBER 2, 2017 TO BE PUBLISHED -juprtttt Qlnurt ·nf ~tnfurku 201 7-SC-000396-KB KENTUCKY BAR ASSOCIATION MOVANT v. IN SUPREME COURT JUSTIN ROSS MORGAN RESPONDENT OPINION AND ORDER Justin Ross Morgan, Kentucky Bar Association (KBA) Number 86844, was admitted to the practice of law in the Commonwealth of Kentucky on October 16, 1997, and his bar roster address is listed as P.O.

Box 23190 Lexington, Kentucky 40523. The Board of Governors found Morgan guilty of violating SCR 3.130-1.3, -1.4(a)(4), -1.5(a), -1.6(d), and -8.1(b). For these violations, the Board recommends Morgan: 1) be suspended from the practice of law for one year, to run consecutive to any current suspension; 2) pay his former client \$8,500.00 in restitution; and 3) pay all associated costs.

For the following reasons, we adopt the Board's recommendation. I. BACKGROUND Christy Justice hired Morgan to represent her in a matter involving child custody and divorce. The proceedings had taken place in Virginia, but Justice had moved to Kentucky, where she retained Morgan to appropriately register the Virginia orders. Justice initially paid Morgan a \$3,500 retainer.

A month later, Justice also hired Morgan to represent her in a legal fee dispute with her former counsel in the Virginia divorce case. She paid him an additional \$5,000 retainer for that representation. Morgan took no action on Justice's behalf. He neither filed any proceedings nor registered the Virginia orders. Justice was unable to reach Morgan after numerous attempts.

Morgan kept Justice's file and all of the paperwork regarding the Virginia action. Justice filed a complaint with the Client Security Fund, which was converted to a bar complaint. Morgan did not respond. Thereafter, the Inquiry Commission filed a formal charge, which was eventually served upon Morgan through the KBA's Executive Director pursuant to SCR 3.175, after attempts to serve Morgan by certified mail and through the Fayette County Sheriffs Office failed.

Morgan did not respond to the charge, and it reached the KBA's Board of Governor's as a default case pursuant to SCR 3.210. The Inquiry Commission charged Morgan with violating: (1) SCR 3.130- 1.3 for failing to act with "reasonable diligence and promptness in representing" Justice; (2) -1.4(a)(4) for failing to "promptly comply with [Justice's] reasonable requests for information"; (3) -1.5(a) for charging an unreasonable fee; (4) -1.16(d) for retaining Justice's file, property, and unearned fee upon the termination of the representation; and (5) -8.1(b) for knowingly failing "to respond to a lawful demand for information from an admissions or disciplinary authority."

2 · The Board of Governors (with two members recused), unanimously found Morgan guilty of violating the first four counts of the charge, and found him guilty of the final charge by a vote of twelve-to-two. II. BOARD'S RECOMMENDATION In reaching its recommendation as to Morgan's discipline, the Board considered his prior disciplinary history.

In 2010, this Court privately reprimanded Morgan after he failed to perform legal services and advertised for offering expungement services through a limited liability corporation, which was not a viable entity. In 2015, Morgan was suspended for ninety days from the practice of law after he was found in contempt of court for failing to pay child support. Also in 2015, Morgan was suspended for failing to pay his bar dues and fulfill his continuing legal education requirements.

Then, most recently, this Court suspended Morgan for 181 days for failing to respond and failing to properly explain matters to his client. In addition to the suspension, we ordered Morgan to attend the Ethics and Professional Enhancement Program (EPEP) and referred him to the Kentucky Lawyer Assistance Program (KYLAP). Given Morgan's disciplinary history, the Board considered two courses of action in the present matter: a one-year suspension and permanent disbarment.

Ultimately, the Board voted eleven-to-three in favor of its current recommendation to suspend Morgan for one year, and order him to repay Justice's \$8,500 and to pay the costs of this action. 3 III. ADOPTION OF BOARD'S RECOMMENDATION Pursuant to SCR 3.370(9),¹ this Court adopts the unanimous recommendation of the Board given: 1) the significance of Morgan's violations, 2) the fact that he failed to respond to the complaint or charge, and 3) his disciplinary history.

Our precedent supports the Board's recommendation. For example, in *Coorssen v. Kentucky Bar Ass'n*, 266 S.W.3d 237 (Ky. 2008), this Court suspended Coorssen from the practice of law for one year, with 181 days to be served and the remainder probated for two years subject to certain conditions, after he failed to return client telephone calls, failed to provide clients with information concerning the status of their cases, failed to return unearned fees, and failed to properly withdraw from a case.

While all but 181 days of that suspension was probated, we agree with the Board that, due to Morgan's extensive disciplinary history, he should serve his suspension in full. Agreeing that the Board's recommended sanction is appropriate, it is ORDERED that: 1. Morgan is found guilty of the above-described violations of the Rules of Professional Conduct and thus suspended from the practice of law for one year, to run consecutive to any current suspension; and 2.

Morgan is hereby ordered to repay Justice \$8,500; and 1 SCR 3.370(9) provides that "[i]f notice of review is filed by either of the parties, or the Court under paragraph eight (8) of

this rule, the Court shall enter an order adopting the decision of the Board or the Trial Commissioner, whichever the case may be, relating to all matters." · 4 3.

In accordance with SCR 3.450,"Morgan is directed to pay all costs associated with these disciplinary proceedings against him, said sum being \$421.87, for which execution may issue from this Court upon finality of this Opinion and Order; and · 4. Pursuant to SCR 3.390, Morgan shall, within ten days from the entry of this Opinion and Order, notify all Kentucky clients, in writing, of his inability to represent them; notify, in writing, all Kentucky courts in which he has matters pending of his suspension from the practice of law; and furnish copies of all letters of notice to the Office of Bar Counsel of the KBA.

Furthermore, to the extent possible, Morgan shall immediately cancel and cease any advertising activities in which he is engaged. All concur. ENTERED: November 2, 2017. 5