

SUPREME COURT OF LOUISIANA

In re Nguyen

215 So. 3d 668 (La. 2017) · Decided April 13, 2017

SUMMARY

The Louisiana Supreme Court considered disciplinary charges against Lance Hac Nguyen, a Texas-licensed attorney who improperly contacted a represented criminal defendant while admitted pro hac vice in Louisiana federal court and failed to cooperate with the Office of Disciplinary Counsel. Because Nguyen was not licensed in Louisiana, the court enjoined him for one year from seeking full, temporary, or limited admission to practice law in Louisiana and assessed costs against him.

CASE DETAILS

COURT	Supreme Court of Louisiana
JURISDICTION	Louisiana
DECIDED	April 13, 2017
DISPOSITION	other
PROCEDURAL POSTURE	Original Louisiana Supreme Court attorney-discipline proceeding arising from formal charges filed by the Office of Disciplinary Counsel against a Texas-licensed attorney who had practiced pro hac vice in Louisiana. The respondent did not answer the formal charges, and the matter was submitted to the court following recommendations by the hearing committee and disciplinary board.
STANDARD OF REVIEW	The Louisiana Supreme Court exercises original jurisdiction in bar-discipline matters, acts as the trier of fact, and independently reviews the record to determine whether misconduct was proven by clear and convincing evidence.
PRECEDENTIAL VALUE	published precedential opinion

TOPICS

- criminal procedure
- administrative law

PRACTICE AREAS

- legal ethics and attorney discipline
- professional responsibility
- criminal procedure

QUESTIONS PRESENTED

1. Whether respondent's failure to answer the formal charges resulted in the factual allegations being deemed admitted and proven by clear and convincing evidence.
2. Whether respondent violated Rule of Professional Conduct 4.2(a) by communicating with a represented criminal defendant without the defendant's counsel's consent or authorization.
3. Whether respondent violated Rule of Professional Conduct 8.1(c) by failing to cooperate with the Office of Disciplinary Counsel's investigation.
4. What sanction was appropriate for an attorney who was not licensed to practice law in Louisiana.

HOLDINGS

1. When a lawyer fails to answer formal disciplinary charges, the factual allegations are deemed admitted and proven by clear and convincing evidence under Supreme Court Rule XIX, § 11(E)(3), although legal conclusions flowing from those facts are not automatically deemed admitted.
2. Respondent violated Rule of Professional Conduct 4.2(a) by communicating about the subject of the representation with a criminal defendant known to be represented by another lawyer, without the other lawyer's consent or authorization.
3. Respondent violated Rule of Professional Conduct 8.1(c) by failing to cooperate with the Office of Disciplinary Counsel's investigation.
4. Because respondent was not a member of the Louisiana bar, the court could not suspend a Louisiana license but could enjoin him from seeking full, temporary, or limited admission to practice law in Louisiana for one year.

KEY QUOTATIONS

“However, the language of § 11(E)(3) does not encompass legal conclusions that flow from the factual allegations.” (215 So. 3d at 671)

“Recognizing that he is not a member of the bar, we order that respondent shall be enjoined for a period of one year from the date of this order from seeking full admission to the Louisiana bar or seeking admission to practice in Louisiana on any temporary or limited basis” (215 So. 3d at 672-673)

FACTUAL BACKGROUND

Lance Hac Nguyen, who was licensed only in Texas, was admitted pro hac vice in the Western District of Louisiana to defend a criminal defendant. During a codefendant's sentencing hearing, Nguyen admitted that he had contacted the codefendant outside the presence of and without permission from the codefendant's counsel. After the federal court sanctioned and suspended him from pro hac vice practice, Nguyen failed to respond to repeated contacts from the Louisiana Office of Disciplinary Counsel.

PROCEDURAL HISTORY

The Office of Disciplinary Counsel filed formal charges alleging violations of Louisiana Rules of Professional Conduct 4.2(a) and 8.1(c). Because respondent failed to answer, the factual allegations were deemed admitted and proven by clear and convincing evidence under Supreme Court Rule XIX, § 11(E)(3). The hearing

committee recommended a sanction of one year and one day, and the disciplinary board recommended a one-year prohibition on seeking admission to practice in Louisiana because respondent held no Louisiana law license. The Supreme Court independently reviewed the record and imposed the recommended one-year injunction.

DISPOSITION

other

CASES CITED

- In re: Cortigene, 144 So. 3d 915 (La. 2014)
- In re: Banks, 18 So. 3d 57 (La. 2009)
- In re: Donnan, 838 So. 2d 715 (La. 2003)
- 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)
- In re: Williams-Bensaadat, 181 So. 3d 684 (La. 2015)
- In re: Fahrenholtz, 18 So. 3d 751 (La. 2009)