

DISTRICT OF COLUMBIA COURT OF APPEALS

In re Brian D. Geno

997 A.2d 692 (D.C. 2010) · No. No. 10-BG-290 · Decided July 1, 2010

SUMMARY

The District of Columbia Court of Appeals publicly censured attorney Brian D. Geno for violating D.C. Rules of Professional Conduct 1.3(c) and 1.4(a). Geno failed to adequately notify an immigration client of a hearing, appeared at the wrong courthouse, and took no effective remedial action after an in absentia deportation order was entered.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	Per Curiam; Reid, Associate Judge; Oberly, Associate Judge; Nebeker, Senior Judge
JURISDICTION	District of Columbia
DECIDED	July 1, 2010
DOCKET	No. 10-BG-290
DISPOSITION	other
PROCEDURAL POSTURE	Attorney-discipline proceeding in which the Board on Professional Responsibility recommended public censure after adopting findings that respondent violated the District of Columbia Rules of Professional Conduct. No exceptions were filed.
STANDARD OF REVIEW	The court gives heightened deference to an unopposed Board recommendation and adopts it unless doing so would foster inconsistent dispositions for comparable conduct or otherwise be unwarranted; the court also respects the Board's sense of equity unless the recommendation is materially inconsistent with sanctions imposed in comparable cases.
PRECEDENTIAL VALUE	published precedential opinion

TOPICS

immigration

appellate procedure

standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether respondent violated D.C. Rules of Professional Conduct 1.3(c) and 1.4(a) by failing to provide adequate diligence and communication in connection with his client's immigration hearing.
2. Whether public censure, rather than an informal admonition or suspension, was the appropriate sanction for respondent's misconduct.

HOLDINGS

1. Respondent violated Rules 1.3(c) and 1.4(a) by failing to notify his client adequately of the immigration hearing, failing to attend the correct hearing, and failing to take remedial action after the in absentia deportation order was entered.
2. Public censure was warranted because respondent failed to accept responsibility for conduct that caused an in absentia deportation order and created a serious risk of deportation, while the isolated nature of the misconduct made suspension unduly punitive.

KEY QUOTATIONS

"In light of the grave consequences to Mr. Majano if he failed to appear at the hearing, a few phone calls and one letter sent on the eve of the hearing do not constitute due diligence as required by our rules." (997 A.2d at 693)

"We will adopt the recommended sanction "unless to do so would foster a tendency toward inconsistent dispositions for comparable conduct or would otherwise be unwarranted."" (997 A.2d at 693)

FACTUAL BACKGROUND

Respondent represented an immigration client seeking political asylum and received notice of a hearing warning that failure to appear could result in an in absentia hearing and deportation. He delegated contact efforts to a legal assistant, made several unsuccessful telephone calls that stopped nearly a month before the hearing, and mailed a letter only on the eve of the hearing, which arrived after the hearing time. Respondent also went to the wrong immigration court, resulting in the client's failure to appear and entry of an in absentia deportation order; respondent later demanded additional payment before taking steps to seek vacatur of the order.

PROCEDURAL HISTORY

Hearing Committee Twelve found that respondent violated Rules 1.3(c) and 1.4(a) by failing to notify his immigration client of a hearing, failing to attend the hearing, and failing to take remedial action after an in absentia deportation order was entered. The Hearing Committee recommended an informal admonition, but the Board on Professional Responsibility recommended public censure. The District of Columbia Court of Appeals adopted the Board's recommendation because it was unopposed and was not inconsistent with comparable disciplinary dispositions.

DISPOSITION

other

CASES CITED

- In re Delaney, 697 A.2d 1212, 1214 (D.C. 1997)
- In re Edwards, 870 A.2d 90, 94 (D.C. 2005)
- In re Smith, 403 A.2d 296, 303 (D.C. 1979)
- In re Schlemmer, 840 A.2d 657 (D.C. 2004)

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