

SUPREME COURT OF KENTUCKY

Kentucky Bar Association v. Leila Louise Hale

Kentucky Bar Association v. Hale · No. 2020-SC-0317-KB · Decided October 26, 2020

SUMMARY

The Supreme Court of Kentucky imposed reciprocal discipline on Leila Louise Hale after Nevada publicly reprimanded her for violations involving supervision of a non-attorney employee and unreasonable fee provisions. Because Hale did not respond to the order to show cause, the Kentucky court publicly reprimanded her and ordered her to pay the costs of the proceeding.

CASE DETAILS

COURT	Supreme Court of Kentucky
JURISDICTION	Kentucky
DECIDED	October 26, 2020
DOCKET	2020-SC-0317-KB
DISPOSITION	other
PROCEDURAL POSTURE	The Kentucky Bar Association petitioned the Supreme Court of Kentucky for reciprocal discipline after a Nevada disciplinary authority publicly reprimanded Hale. The court ordered Hale to show cause why reciprocal discipline should not be imposed, and she did not respond.
STANDARD OF REVIEW	Under SCR 3.435(4), reciprocal discipline is imposed unless the attorney proves by substantial evidence a lack of jurisdiction or fraud in the foreign proceeding, or that the established misconduct warrants substantially different discipline in Kentucky.
PRECEDENTIAL VALUE	Published

TOPICS

agency adjudication administrative law appellate procedure standard of review

PRACTICE AREAS

legal ethics attorney discipline reciprocal discipline administrative law appellate procedure

QUESTIONS PRESENTED

1. Whether the Supreme Court of Kentucky was required to impose reciprocal discipline after Hale was publicly reprimanded by a Nevada disciplinary authority.
2. Whether Hale established either exception to reciprocal discipline under SCR 3.435(4)—lack of jurisdiction or fraud in the foreign proceeding, or that the misconduct warranted substantially different discipline in Kentucky.

HOLDINGS

1. When a Kentucky-licensed attorney receives discipline in another jurisdiction, the Supreme Court of Kentucky must impose identical reciprocal discipline unless one of the exceptions in SCR 3.435(4) is established.
2. Hale was guilty of violating SCR 3.130-5.3 and SCR 3.130-1.5, based on the misconduct established in the Nevada disciplinary proceeding.

KEY QUOTATIONS

“If an attorney licensed to practice law in this Commonwealth receives discipline in another jurisdiction, SCR 3.435(4) requires this Court to impose identical discipline subject to two possible exceptions.” (at 2)

“In all other respects” a final adjudication of misconduct in another jurisdiction establishes conclusively the same misconduct for purposes of a disciplinary proceeding in Kentucky.” (at 2)

FACTUAL BACKGROUND

Hale represented clients Rochelle Mortensen and Mahogeny Bennett in personal injury claims. A non-attorney employee supervised by Hale visited both clients at home, presented retainer agreements and other legal documents, and provided legal-related explanations. The Nevada disciplinary authority found that the home visits constituted unauthorized practice of law and that a retainer provision requiring a minimum combined firm rate of \$1,000 per hour upon early withdrawal or discharge was an unreasonable fee.

PROCEDURAL HISTORY

The Southern Nevada Disciplinary Board publicly reprimanded Hale on January 28, 2020, for misconduct involving supervision of a non-attorney employee and an unreasonable fee provision. The Kentucky Bar Association then sought reciprocal discipline under SCR 3.435(4). After Hale failed to show sufficient cause, the Supreme Court of Kentucky imposed an identical public reprimand and assessed proceeding costs.

DISPOSITION

other

OPINION

PER CURIAM.

TO BE PUBLISHED Supreme Court of Kentucky 2020-SC-0317-KB KENTUCKY BAR ASSOCIATION MOVANT V. IN SUPREME COURT LEILA LOUISE HALE RESPONDENT OPINION AND ORDER On January 28, 2020, the State Bar of Nevada's Southern Nevada Disciplinary Board entered an order publicly reprimanding Respondent, Leila Louise Hale.¹ Thereafter, the KBA filed a petition with this Court asking that we impose reciprocal discipline pursuant to SCR 3.435(4).

We ordered Hale to show cause why we should not impose such discipline and she did not respond. Because Hale failed to show cause as to why we should not impose reciprocal discipline, this Court hereby publicly reprimands her, consistent with the order of the Nevada disciplinary authority. ¹Hale was admitted to the practice of law in the Commonwealth of Kentucky on October 30, 2013.

Her bar roster address is 1661 West Horizon Ridge Parkway, Suite 200, Henderson, Nevada 89012, and her Kentucky Bar Association (KBA) number is 95811. I. BACKGROUND Rochelle Mortensen and Mahogeny Bennett retained Hale to represent them in personal injury claims. Hale sent a non-attorney employee to visit both Mortensen and Bennett at their homes. During these visits, the non- attorney employee presented the potential clients with retainer agreements and various other legal documents.

The agreements presented to both Bennett and Mortensen contained a provision which stated that in the event Hale's firm withdrew or was discharged early, a minimum "combined firm rate" of \$1,000 per hour would be due for "all attorney and staff time." The employee read through the documents with Mortensen and Bennett.

The employee also told Bennett liens could be filed if she switched counsel and told her it would be best if one attorney handled both her claims. Nevada's disciplinary authority found the home visits constituted the unauthorized practice of law.

As a result, Hale's non-attorney employee's actions under her supervision violated Nevada's Rule of Professional Conduct 5.3 (lawyer's responsibilities regarding non-lawyer assistants). The Nevada disciplinary authority also found the retainer agreement was unreasonable in violation of Rule of Professional Conduct 1.5 (regarding fees).

As a result of those violations, Hale was publicly reprimanded in Nevada. The KBA notes that Kentucky's Supreme Court Rules 3.130-5.3 and 1.5 are comparable to Nevada's Rules of Professional Conduct 5.3 and 1.5. 2 II. ANALYSIS If an attorney licensed to practice law in this Commonwealth receives discipline in another jurisdiction, SCR 3.435(4) requires this Court to impose identical discipline subject to two possible exceptions.

Pursuant to SCR 3.435(4), we impose reciprocal discipline as Hale failed to prove "by substantial evidence: (a) a lack of jurisdiction or fraud in the [Nevada] disciplinary proceeding, or (b) that

misconduct established warrants substantially different discipline in this State.” Furthermore, SCR 3.435(4)(c) requires this Court to recognize that “[i]n all other respects” a final adjudication of misconduct in another jurisdiction establishes conclusively the same misconduct for purposes of a disciplinary proceeding in Kentucky.

III. ORDER Having failed to timely show sufficient cause, it is hereby ORDERED as follows: 1. Hale is hereby guilty of violating SCR 3.130-5.3 and SCR 3.130-1.5 and is publicly reprimanded; and 2. Pursuant to SCR 3.450, Hale is directed to pay the costs associated with this proceeding, if any, for which execution may issue from this Court upon finality of this Opinion and Order.

All sitting. All concur. ENTERED: October 29, 2020.

CHIEF JUSTICE 3