

SUPREME COURT OF SOUTH CAROLINA

In the Matter of James Gerald Longtin

393 S.C. 368, 713 S.E.2d 297 (2011) · No. No. 27009 · Decided July 18, 2011

SUMMARY

The Supreme Court of South Carolina disciplined James Gerald Longtin for misconduct involving failures to prosecute cases, communicate with a client and disciplinary authorities, practice law while suspended in federal court, pay case-related expenses, and complete a retained legal task. The court imposed a nine-month suspension, adopted additional conditions concerning ethics education, treatment, restitution, monitoring, and required appearance before the Committee on Character and Fitness before reinstatement.

CASE DETAILS

COURT	Supreme Court of South Carolina
WRITING FOR THE COURT	Chief Justice Toal; Justice Pleicones; Justice Beatty; Justice Kittredge; Justice Hearn
JURISDICTION	South Carolina
DECIDED	July 18, 2011
DOCKET	No. 27009
DISPOSITION	other
PROCEDURAL POSTURE	Attorney disciplinary proceeding in which the Office of Disciplinary Counsel filed exceptions to a Hearing Panel recommendation of a six-month suspension. The Supreme Court independently reviewed the record, accepted some exceptions, rejected or modified portions of the Panel's findings, and imposed a nine-month suspension with additional reinstatement conditions.
STANDARD OF REVIEW	The Supreme Court has sole authority to discipline attorneys and determine appropriate sanctions, may draw its own conclusions and make its own findings of fact, and may accept, reject, or modify the Hearing Panel's findings, conclusions, and recommendations. Disciplinary violations must be proven by clear and convincing evidence. The Panel's findings and conclusions are entitled to substantial respect and consideration.
PRECEDENTIAL VALUE	Published opinion; precedential

TOPICS

sanctions

appellate procedure

standard of review

civil procedure

PRACTICE AREAS

legal ethics

attorney discipline

professional responsibility

QUESTIONS PRESENTED

1. Whether the Supreme Court could independently review and modify the Hearing Panel's factual findings, conclusions, and recommended sanctions in an attorney disciplinary proceeding.
2. Whether Longtin's failure to prosecute cases and comply with court orders, failure to communicate with a client and ODC, and unauthorized practice while suspended constituted professional misconduct.
3. Whether failure to timely pay case-related expenses owed to another law firm constituted professional misconduct.
4. Whether failure to record a client's deed constituted professional misconduct despite a factual dispute concerning preparation of the deed.
5. Whether Longtin's diagnosis mitigated but excused his misconduct.
6. What sanction and reinstatement conditions were appropriate.

HOLDINGS

1. The Supreme Court has sole authority to discipline attorneys and determine appropriate sanctions, and may independently make findings of fact and accept, reject, or modify the Panel's findings, conclusions, and recommendations.
2. A disciplinary violation must be established by clear and convincing evidence, with the burden on disciplinary counsel.
3. Longtin committed professional misconduct by failing to adequately prosecute cases and follow court orders, willfully failing to respond to a client and ODC, and continuing to practice law in federal court while suspended.
4. An attorney's failure to timely pay case-related expenses owed to a third party law firm may constitute professional misconduct under Rule 8.4(a), RPC, and Rule 7(a)(5), RLDE.
5. An attorney commits professional misconduct by failing to perform the task for which the attorney was retained, including failing to record a deed after being retained and paid to do so.
6. Longtin's diagnosis of Asperger's syndrome did not preclude findings of misconduct or excuse his violations, but it mitigated the severity of the sanction.
7. The misconduct warranted a definite nine-month suspension, appointment of counsel to protect clients' interests, payment of disciplinary costs, completion of ethics and trust-account schools, continued treatment, repayment of the \$10 recording fee, and Committee on Character and Fitness review before reinstatement, with monitoring and mentoring requirements after reinstatement.

KEY QUOTATIONS

“The sole authority to discipline attorneys and decide appropriate sanctions after a thorough review of the record rests with this Court.” (376)

“A disciplinary violation must be proven by clear and convincing evidence.” (377)

“DEFINITE SUSPENSION. TOAL, C.J., PLEICONES, BEATTY, KITTREDGE and HEARN, JJ., concur.” (381)

FACTUAL BACKGROUND

Longtin failed to prosecute several client cases and comply with court directives, failed to communicate with a client and with disciplinary authorities, and continued practicing in federal court while suspended. He failed to timely pay a law firm for appellate work, failed to record a client's deed and retained the recording fee, and delayed filing a promised dismissal, although the Court found no misconduct in the latter matter because there was no intent to mislead or harm. The evidence also showed that Longtin had Asperger's disorder, attention deficit disorder, and anxiety disorder, which mitigated the sanctions but did not excuse the misconduct.

PROCEDURAL HISTORY

The Office of Disciplinary Counsel filed formal charges arising from six complaints. After a hearing, the Hearing Panel of the Commission on Lawyer Conduct found misconduct in Matters A, B, C, and partially in Matter E, recommended dismissal or no misconduct as to Matters D and F, and recommended a six-month suspension with additional conditions. ODC excepted to several findings and recommendations. The Supreme Court agreed that misconduct occurred in Matters D and E, agreed that no misconduct occurred in Matter F, and increased the suspension to nine months while adding a Committee on Character and Fitness review before reinstatement.

DISPOSITION

other

CASES CITED

- In the Matter of Treacy, 277 S.C. 514, 290 S.E.2d 240 (1982)
- In re Thompson, 343 S.C. 1, 10-11, 539 S.E.2d 396, 401 (2000)
- In re Greene, 371 S.C. 207, 216, 638 S.E.2d 677, 682 (2006)
- In Re Prendergast, 390 S.C. 395, 396 n. 2, 702 S.E.2d 364, 365 n. 2 (2010)
- In re Johnson, 385 S.C. 501, 685 S.E.2d 610 (2009)
- In re Okpalaeke, 374 S.C. 186, 648 S.E.2d 593 (2007)
- In re Fulton, 343 S.C. 506, 541 S.E.2d 531 (2001)
- In the Matter of James G. Longtin, 352 S.C. 21, 22, 572 S.E.2d 282, 282 (2002)

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