

SUPREME COURT OF LOUISIANA

In re Hebert

214 So. 3d 836 (La. 2017) · Decided March 31, 2017

SUMMARY

The Louisiana Supreme Court considers attorney-discipline charges against Edward Hebert, II, arising from his unauthorized practice of law while suspended, misrepresentation of his identity and bar number, failure to refund client funds, and failure to cooperate with the disciplinary investigation. The court orders permanent disbarment, restitution of \$500 plus legal interest to the client, and assessment of proceeding costs.

CASE DETAILS

COURT	Supreme Court of Louisiana
JURISDICTION	Louisiana
DECIDED	March 31, 2017
DISPOSITION	other
PROCEDURAL POSTURE	Attorney disciplinary proceeding arising from formal charges filed by the Office of Disciplinary Counsel against a suspended Louisiana attorney. The respondent failed to answer, the factual allegations were deemed admitted, and the hearing committee and disciplinary board recommended permanent disbarment and restitution.
STANDARD OF REVIEW	In attorney disciplinary matters within its original jurisdiction, the Louisiana Supreme Court acts as the trier of fact and independently reviews the record to determine whether misconduct was proven by clear and convincing evidence. Deemed admissions establish factual allegations but do not automatically establish legal conclusions flowing from those facts.
PRECEDENTIAL VALUE	Published Louisiana Supreme Court opinion; precedential.

TOPICS

[administrative law](#) [agency adjudication](#) [remedies](#) [restitution](#)

PRACTICE AREAS

[attorney discipline](#) [professional responsibility](#) [unauthorized practice of law](#)

QUESTIONS PRESENTED

1. Whether the deemed-admitted facts established that respondent engaged in the unauthorized practice of law while suspended.
2. Whether respondent violated the Rules of Professional Conduct by misrepresenting his identity and bar roll number, failing to cooperate with the Office of Disciplinary Counsel, and engaging in dishonest conduct.
3. Whether permanent disbarment, restitution, and assessment of costs were appropriate sanctions in light of respondent's current and prior misconduct.

HOLDINGS

1. The deemed-admitted facts, together with the record, established that respondent engaged in the unauthorized practice of law while suspended, misrepresented his identity and bar roll number to conceal his ineligibility, and failed to cooperate with the Office of Disciplinary Counsel, violating Rules 5.5(a), 8.1(c), and 8.4(c) of the Rules of Professional Conduct.
2. Permanent disbarment was warranted because respondent practiced law while suspended after prior serious disciplinary suspensions, bringing his conduct within Permanent Disbarment Guidelines 8 and 9 and demonstrating that he lacked the fitness to practice law.
3. Respondent was required to make restitution of \$500 plus legal interest to Ivan Prevost and to pay the costs and expenses of the disciplinary proceeding.

KEY QUOTATIONS

“In cases in which the lawyer does not answer the formal charges, the factual allegations of those charges are deemed admitted.” (840)

“However, the language of § 11(E)(3) does not encompass legal conclusions that flow from the factual allegations.” (840)

“Respondent’s misconduct during his suspension clearly demonstrates he lacks the fitness to engage in the practice of law in this state and, therefore, we find he should not be given an opportunity to seek readmission.” (841)

FACTUAL BACKGROUND

While suspended and ineligible to practice law, Edward Hebert represented Ivan Prevost in Orleans Parish Civil District Court. Hebert submitted a judgment using a different name and another attorney's bar roll number, apparently to conceal his ineligibility, and accepted \$500 from Prevost without refunding it. Hebert did not respond to the disciplinary complaint or formal charges, and he had prior suspensions for serious misconduct.

PROCEDURAL HISTORY

The Office of Disciplinary Counsel filed formal charges alleging unauthorized practice of law, failure to cooperate with the disciplinary investigation, and dishonest conduct. Respondent failed to answer, so the factual allegations were deemed admitted under Supreme Court Rule XIX, § 11(E)(3). The hearing committee

recommended disbarment, and the disciplinary board recommended permanent disbarment, restitution, and costs. The Supreme Court of Louisiana independently reviewed the record and adopted the board's recommendation.

DISPOSITION

other

CASES CITED

- In re: Hebert, 9 So. 3d 846 (La. 2009)
- In re: Hebert, 125 So. 3d 1074 (La. 2012)
- In re: Banks, 18 So. 3d 57 (La. 2009)
- In re: Dorman, 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)