

SUPREME COURT OF GEORGIA

In the Matter of Joseph A. Maccione

289 Ga. 17, 710 S.E.2d 745 (2011) · No. S10Y1960 · Decided March 25, 2011

SUMMARY

The Supreme Court of Georgia rejected Joseph A. Maccione’s petition for voluntary discipline arising from violations of Rules 5.3 and 8.4(a)(4) of the Georgia Rules of Professional Conduct. The Court concluded that a Review Panel reprimand was inadequate in light of the serious misconduct, Maccione’s supervision or acquiescence in an employee-contractor’s conduct, and his prior disciplinary history.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Georgia
DECIDED	March 25, 2011
DOCKET	S10Y1960
DISPOSITION	rejected
PROCEDURAL POSTURE	Attorney disciplinary matter arising from a petition for voluntary discipline filed after the State Bar filed a Formal Complaint. A special master recommended acceptance of a Review Panel reprimand with conditions.
STANDARD OF REVIEW	The Court reviewed the admitted facts and the record as a whole in determining whether the admitted ethical violations occurred and whether the recommended discipline was appropriate.
PRECEDENTIAL VALUE	published precedential opinion

TOPICS

remedies

PRACTICE AREAS

legal ethics

attorney discipline

professional responsibility

QUESTIONS PRESENTED

1. Whether Maccione violated Rules 5.3 and 8.4(a)(4) of the Georgia Rules of Professional Conduct based on his supervision of and acquiescence in the employee or contractor's conduct.
2. Whether a Review Panel reprimand with conditions was an appropriate sanction for the admitted violations.

HOLDINGS

1. Maccione violated Rules 5.3 and 8.4(a)(4) because he supervised or otherwise acquiesced in the wrongful conduct of the employee or contractor to the detriment of his client.
2. A Review Panel reprimand was not an appropriate sanction under the circumstances; the Court rejected Maccione's petition for voluntary discipline.

KEY QUOTATIONS

"Although Maccione has ended his relationship with the employee/contractor, who the Bar believes to be the 'primary wrong-doer in this matter,' that does not change the fact that Maccione supervised or otherwise acquiesced in the wrongful conduct of this employee/contractor to the detriment of his client." (747)

FACTUAL BACKGROUND

Maccione permitted an unlicensed employee or contractor with no paralegal education and an extensive criminal history to use his firm's business cards and letterhead, communicate with clients, collect retainers, and represent that he worked on cases with the firm. He referred a client's civil matter to the employee or contractor without clearly informing the client, failed to supervise the preparation of the complaint, and did not assist with the civil suit. After the client was arrested for murder, the employee or contractor obtained a document purporting to authorize removal of the client's personal property to pay defense costs; Maccione notarized the document despite uncertainty that he had witnessed its execution. The employee or contractor later removed property from the client's home without an accounting or credit against the client's legal fees.

PROCEDURAL HISTORY

Joseph A. Maccione filed a petition for voluntary discipline admitting violations of Rules 5.3 and 8.4(a)(4) of the Georgia Rules of Professional Conduct. Special master James E. Patterson recommended that the Supreme Court accept the requested Review Panel reprimand with conditions. The Supreme Court agreed that the violations occurred but rejected the proposed discipline as insufficient.

DISPOSITION

rejected