

SUPREME COURT OF LOUISIANA

In re Joanne S. Engum

74 So. 3d 703 (La. 2011) · No. 2011-B-2006 · Decided November 18, 2011

SUMMARY

The Supreme Court of Louisiana considered disciplinary charges against Joanne S. Engum arising from neglect of a criminal matter, failure to communicate, failure to refund unearned fees, and failure to cooperate with the disciplinary investigation. The court added the substantive misconduct to Engum's disciplinary record for future reinstatement consideration, imposed a consecutive six-month suspension for the failure to cooperate, and ordered restitution of unearned fees.

CASE DETAILS

COURT	Supreme Court of Louisiana
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Louisiana
DECIDED	November 18, 2011
DOCKET	2011-B-2006
DISPOSITION	other
PROCEDURAL POSTURE	Original disciplinary proceeding in which the Office of Disciplinary Counsel filed formal charges against an attorney who failed to answer. The factual allegations were deemed admitted, and the Supreme Court of Louisiana independently reviewed the record and the recommended discipline.
STANDARD OF REVIEW	The Supreme Court of Louisiana exercises original jurisdiction over bar disciplinary matters, acts as the trier of fact, and independently reviews the record to determine whether misconduct was proven by clear and convincing evidence.
PRECEDENTIAL VALUE	Published Louisiana Supreme Court opinion; precedential disciplinary decision.

TOPICS

administrative law

agency adjudication

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the deemed-admitted factual allegations established violations of Rules 1.3, 1.4, 1.5(f)(5), 1.16(d), 8.1(c), and 8.4(a) of the Louisiana Rules of Professional Conduct.
2. Whether the substantive misconduct should be considered together with the misconduct underlying Engum's prior suspension under the Chatelain analysis.
3. Whether the failure to cooperate with the later disciplinary investigation warranted discipline separate from the prior suspension.
4. What sanction and restitution order were appropriate.

HOLDINGS

1. The deemed-admitted facts established that Engum neglected a client matter, failed to communicate with her client, failed to timely account for or refund unearned fees, failed to comply with obligations upon termination of the representation, and failed to cooperate with the disciplinary investigation, violating Rules 1.3, 1.4, 1.5(f)(5), 1.16(d), 8.1(c), and 8.4(a).
2. The substantive misconduct in the Alston matter should be added to Engum's disciplinary record for consideration if she seeks reinstatement from the suspension imposed in Engum I, with no additional discipline imposed for that substantive misconduct in this proceeding.
3. Engum's failure to cooperate with the Office of Disciplinary Counsel's investigation warranted a separate six-month suspension running consecutively to the suspension imposed in Engum I.
4. Engum was ordered to make restitution of any unearned fees paid on behalf of Rhonda Alston.

KEY QUOTATIONS

“Bar disciplinary matters fall within the original jurisdiction of this court. La. Const. art. V, § 5(B).

Consequently, we act as triers of fact and conduct an independent review of the record to determine whether the alleged misconduct has been proven by clear and convincing evidence.” (at 707)

“For her failure to cooperate with the ODC in its investigation of the complaint filed by Ms. Alston, we will suspend respondent from the practice of law for six months, to run consecutively to her prior suspension.” (at 708)

FACTUAL BACKGROUND

Joanne S. Engum was retained in 2002 to represent Rhonda Alston in criminal matters and to seek expungement of a prior conviction, for which Alston's mother paid a \$3,000 flat fee. Engum failed to communicate with Alston, failed to respond to requests for information, relocated without notice, and did not ensure that another attorney handled the matter after leaving private practice. She also failed to cooperate with the Office of Disciplinary Counsel's 2010 investigation, and the status of Alston's criminal matters and expungement remained unclear.

PROCEDURAL HISTORY

The Office of Disciplinary Counsel filed one count of formal charges alleging violations of multiple Louisiana Rules of Professional Conduct. Respondent did not answer, so the factual allegations were deemed admitted under Supreme Court Rule XIX, § 11(E)(3). The hearing committee and disciplinary board found the alleged misconduct proven and recommended that the substantive misconduct be considered with respondent's prior disciplinary proceeding and that a consecutive six-month suspension be imposed for the later failure to cooperate, together with restitution. The Supreme Court adopted that recommendation in part and entered the stated discipline.

DISPOSITION

other

CASES CITED

- In re Joanne S. Engum, 21 So. 3d 926 (La. 2009)
- In re Banks, 18 So. 3d 57 (La. 2009)
- In re Donnan, 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)
- Louisiana State Bar Ass'n v. Chatelain, 573 So. 2d 470 (La. 1991)
- In re Boudreau, 860 So. 2d 1119 (La. 2003)