

SUPREME COURT OF LOUISIANA

In re Richardson

137 So. 3d 1200 (La. 2014) · Decided April 25, 2014

SUMMARY

The Louisiana Supreme Court revoked Kimberly Marie Richardson’s probation after finding that she repeatedly failed to comply with conditions requiring participation in the Lawyers Assistance Program. The court made executory the previously deferred suspension of one year and one day and assessed costs against Richardson.

CASE DETAILS

COURT	Supreme Court of Louisiana
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Louisiana
DECIDED	April 25, 2014
DISPOSITION	other
PROCEDURAL POSTURE	The Office of Disciplinary Counsel moved to revoke respondent's probation and make executory a previously deferred one-year-and-one-day suspension. After an evidentiary hearing, the disciplinary board recommended revocation, and the Supreme Court of Louisiana reviewed and accepted that recommendation.
STANDARD OF REVIEW	The court reviewed the disciplinary record and determined whether respondent had complied with the conditions of probation and whether revocation was necessary to protect the public.
PRECEDENTIAL VALUE	Published Louisiana Supreme Court disciplinary opinion

TOPICS

administrative law agency adjudication judicial review of agency action

PRACTICE AREAS

attorney discipline professional responsibility legal ethics substance-abuse-related attorney discipline

QUESTIONS PRESENTED

1. Whether respondent violated the conditions of probation by failing to comply with her Lawyers Assistance Program agreement.
2. Whether the court should revoke respondent's probation and make the previously deferred one-year-and-one-day suspension immediately executory.

HOLDINGS

1. Respondent was not in compliance with her LAP agreement and therefore failed to comply with the conditions of probation imposed in Richardson I.
2. The court revoked respondent's probation and made the previously deferred one-year-and-one-day suspension immediately executory.

KEY QUOTATIONS

“To protect the public, we find it is necessary to revoke her probation and impose the previously deferred suspension.” (1202)

“For the reasons assigned, respondent’s probation is revoked and the previously deferred one year and one day suspension imposed in In re: Richardson, 12-1213 (La.6/15/12), 90 So.3d 1032, is hereby made immediately executory.” (1203)

FACTUAL BACKGROUND

Respondent had previously signed another attorney's name as notary on two affidavits and received a fully deferred one-year-and-one-day suspension conditioned on five years of probation and participation in the Lawyers Assistance Program because her misconduct was substantially related to alcoholism. She repeatedly missed check-ins and drug screens, admitted consuming alcohol, failed to complete inpatient treatment, and later failed to comply with a new LAP agreement. The disciplinary board credited the testimony concerning her noncompliance and found that she had violated the court's probation order.

PROCEDURAL HISTORY

In Richardson I, the court imposed a one-year-and-one-day suspension, fully deferred, subject to five years of probation and conditions including participation in the Lawyers Assistance Program. After respondent repeatedly failed to comply with her probation and LAP agreements, the ODC filed a motion and rule to revoke probation. The disciplinary board found noncompliance and recommended revocation; the Supreme Court accepted the recommendation and made the deferred suspension immediately executory.

DISPOSITION

other

CASES CITED

- In re Richardson, 12-1213 (La. 6/15/12), 90 So. 3d 1032

OPINION

PER CURIAM.

*1201ATTORNEY DISCIPLINARY PROCEEDINGS PER CURIAM. LThe instant disciplinary proceeding arises from a motion and rule to revoke probation filed by the Office of Disciplinary Counsel (“ODC”) against respondent, Kimberly Marie Richardson, for her alleged failure to comply with the conditions of probation imposed in *In re: Richardson*, 12-1213 (La.6/15/12), 90 So.3d 1032 (“*Richardson I*”).

UNDERLYING FACTS AND PROCEDURAL HISTORY The record in *Richardson I* demonstrated that respondent signed the name of another attorney as notary on two affidavits. Following the institution of formal charges, respondent and the ODC submitted a joint petition for consent discipline, proposing that respondent be suspended from the practice of law for one year and one day, fully deferred, subject to a five-year period of probation to coincide with a recovery agreement with the Lawyers Assistance Program (“LAP”) because her misconduct was precipitated in large measure by the alcoholism from which she suffers.

On June 15, 2012, this court accepted the petition for consent discipline in *Richardson I*. The court’s order stated in pertinent part as follows: IT IS ORDERED that the Petition for Consent Discipline be accepted and that Kimberly Marie Richardson, Louisiana Bar Roll number 23552, be suspended from the practice of law for a period of one year and one day. It is further ordered that this suspension shall be deferred in its entirety and that respondent shall be placed on probation for a period of five years, subject to the conditions set forth in the petition for consent discipline. _[gAny failure of respondent to comply with the conditions of probation may be grounds for making the deferred suspension executory, or imposing additional discipline, as appropriate.

[Emphasis added.] Following the court’s ruling, respondent entered into a probation agreement providing that the period of probation would commence on the effective date of her LAP agreement, which was dated September 27, 2012. Upon respondent’s non-compliance with her LAP agreement in May 2013, the ODC filed a motion and rule to revoke her probation.

However, the disciplinary board dismissed the motion, upon the ODC’s request, when respondent signed a new probation agreement and a new LAP agreement in December 2013. **DISCIPLINARY PROCEEDINGS Motion and Rule to Revoke Probation** On February 20, 2014, the ODC filed the instant motion and rule to revoke respondent’s probation, alleging that she had failed to comply with the conditions of her probation in *Richardson I*. Essentially, the ODC alleged that respondent tested positive for alcohol use on January 15, 2014 and was, consequently, not in compliance with her LAP agreement.

Accordingly, the ODC prayed for revocation of *1202respondent's probation and the imposition of the previously deferred one year and one day suspension. Respondent did not file an answer to the motion and rule to revoke probation. Hearing on Revocation of Probation This matter proceeded to a hearing before an adjudicative panel of the disciplinary board on March 13, 2014.

The ODC called two witnesses to testify before the board panel: Buddy Stockwell, LAP'S executive director, and Michael Wilson, the ODC Deputy Disciplinary Counsel who oversees probation monitoring. Mr. Stockwell testified that, under respondent's first LAP agreement, she missed 94 check-ins and four drug screens. Then in May 2013, she admitted to consuming alcohol.

He was able to find a free inpatient treatment program for respondent, but she did not wish to stay in the treatment program and consumed alcohol while there, resulting in her expulsion. Respondent entered another free inpatient treatment program but did not complete same and did not have the money for an intensive outpatient program.

As such, Mr. Stockwell gave her one more chance with a new LAP agreement, following which respondent missed all of her scheduled check-ins and drug screens until she finally admitted to consuming alcohol on February 4, 2014. Mr. Stockwell stated that, until respondent completes inpatient treatment, she will not be allowed back into the LAP program. Mr. Wilson testified that respondent is not in compliance with her probation agreement by virtue of her failure to comply with her LAP agreement.

Disciplinary Board Recommendation On March 24, 2014, the disciplinary board filed its report with this court, recommending that the ODC's motion to revoke probation be granted. The board found the testimony of Mr. Stockwell and Mr. Wilson to be credible.

The board further found that the ODC's additional evidence was sufficient to prove respondent was not in compliance with her LAP agreement or her probation agreement. Therefore, the board determined respondent has failed to comply with the court's order in Richardson I. Based on the above findings, a majority of the board recommended that the ODC's motion to revoke respondent's probation be granted and that the one year and one day suspension imposed in Richardson I be made executory.

One board member dissented and indicated that he would afford respondent another chance to complete an inpatient treatment program before her probation is revoked. DISCUSSION A review of the record reveals that respondent is not in compliance with her LAP agreement.

The record further reveals that this is the second instance of non-compliance since respondent was ordered to participate in LAP in Richardson I. She has been given ample opportunity to address her alcoholism and receive treatment while still maintaining her law license, and she has continuously failed to comply.

To protect the public, we find it is necessary to revoke her probation and impose the previously deferred suspension. Accordingly, we will accept the disciplinary board's recommendation and revoke respondent's probation at this time, making the deferred one year and one day suspension immediately executory. DECREE For the reasons assigned, respondent's probation is revoked and the previously deferred one year and one day suspension imposed in In re: Richardson, 12-1213 *1203(La.6/15/12), 90 So.3d 1032, is hereby made immediately executory.

All costs and expenses in the matter are assessed against respondent, Kimberly Marie Richardson, Louisiana Bar Roll number 23552, in accordance with Supreme Court Rule XIX, § 10.1, with legal interest to commence thirty days from the date of finality of this court's judgment until paid.