

SUPREME COURT OF VIRGINIA

Rice v. Virginia State Bar

267 Va. 299 (2004) · No. Record No. 031823 · Decided February 20, 2004

SUMMARY

The Supreme Court of Virginia held that Jeffrey Bourke Rice violated Rule 1.3(a) of the Rules of Professional Conduct by failing to act with reasonable diligence in seeking a sentence reduction for a client. The Court dismissed the Rule 8.1(c) violation because the Disciplinary Board’s findings did not establish that Rice’s failure to appear prevented the committee from obtaining information. The Court affirmed in part, reversed in part, and remanded for reconsideration of the one-year suspension based solely on the Rule 1.3(a) violation.

CASE DETAILS

COURT	Supreme Court of Virginia
WRITING FOR THE COURT	Justice Koontz; Justice Lemons; Senior Justice Compton
JURISDICTION	Virginia
DECIDED	February 20, 2004
DOCKET	Record No. 031823
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal of right from an order of the Virginia State Bar Disciplinary Board imposing a one-year suspension of Rice's license to practice law.
STANDARD OF REVIEW	The Court reviewed the Disciplinary Board's findings and conclusions based on the record and determined whether the violations were supported by clear and convincing evidence.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Jeffrey Bourke Rice v. Virginia State Bar

TOPICS

- agency adjudication
- administrative law
- judicial review of agency action
- appellate procedure
- standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the evidence supported the Disciplinary Board's finding that Rice violated Rule 1.3(a) by failing to act with reasonable diligence and promptness in representing a client.
2. Whether failure to appear at a disciplinary committee hearing constituted a violation of Rule 8.1(c), which prohibits failing to respond to a lawful demand for information from a disciplinary authority.
3. Whether the one-year suspension should be reconsidered after dismissal of the Rule 8.1(c) violation.

HOLDINGS

1. The Disciplinary Board's finding that Rice violated Rule 1.3(a) was supported by the record because Rice failed to act promptly to file the sentence-reduction motion while the client remained eligible for reconsideration.
2. A disciplinary committee hearing may constitute a demand for information under Rule 8.1(c), and failure to appear may violate the rule when the hearing is intended to obtain sworn testimony; however, the Disciplinary Board did not make findings sufficient to establish a violation in this case.
3. The sanction must be remanded to the Disciplinary Board for reconsideration of whether a one-year suspension is warranted based solely on the Rule 1.3(a) violation.

KEY QUOTATIONS

"We hold that a hearing before a disciplinary committee may be a demand for information and an integral part of an investigation of misconduct." (source p. 2)

"A summons to appear at a hearing, if it is found that a purpose of the hearing is to gather sworn testimony from the respondent, may be considered a demand for information." (source p. 2)

"This charge is dismissed." (source p. 3)

FACTUAL BACKGROUND

Rice was retained to seek a sentence reduction for a client who could obtain reconsideration only while confined in a local jail. Although Rice knew the client was at risk of transfer to the Department of Corrections, he delayed obtaining documentation and filing the motion until shortly before the transfer, and the motion was later denied. In a separate disciplinary matter, Rice received multiple notices and personal service requiring him to appear at a disciplinary committee hearing, but he did not appear because he failed to calendar the date.

PROCEDURAL HISTORY

The Virginia State Bar Disciplinary Board found that Rice violated Rules 1.3(a) and 8.1(c) of the Rules of Professional Conduct and suspended his license for one year. The Supreme Court of Virginia affirmed the Rule 1.3(a) violation, reversed and dismissed the Rule 8.1(c) violation, and remanded for reconsideration of the sanction.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The matter was remanded to the Virginia State Bar Disciplinary Board to reconsider whether the one-year suspension was merited for Rice's violation of Rule 1.3(a) alone.

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/virginia-supreme-court-of-virginia/2004/rice-v-virginia-state-bar-vg7atjfw>