SUPREME COURT OF SOUTH CAROLINA

In re Flowers

402 S.C. 385 (2013) · Decided April 24, 2013

SUMMARY

The South Carolina Supreme Court disciplines James David Flowers for failing to file state and federal income tax returns for tax years 2007 through 2010. The court imposes a ninety-day suspension, retroactive to February 17, 2012, conditions reinstatement on payment of delinquent taxes, and orders payment of proceeding costs.

CASE DETAILS

COURT	Supreme Court of South Carolina
WRITING FOR THE COURT	Per Curiam; Toal, C.J.; Pleicones, J.; Beatty, J.; Kittredge, J.; Hearn, J.
JURISDICTION	South Carolina
DECIDED	April 24, 2013
DISPOSITION	other
PROCEDURAL POSTURE	Attorney disciplinary proceeding brought by the Office of Disciplinary Counsel after a hearing before the Hearing Panel of the Commission on Lawyer Conduct. The parties took exceptions to the Panel's divided sanction recommendations, and the Supreme Court of South Carolina imposed discipline.
PRECEDENTIAL VALUE	published and precedential South Carolina Supreme Court opinion

TOPICS

income tax · tax

PRACTICE AREAS

legal ethics · attorney discipline · professional responsibility · income tax compliance

QUESTIONS PRESENTED

1. Whether Respondent's failure to file state and federal income tax returns constituted professional misconduct under Rule 8.4(b) of the Rules of Professional Conduct and grounds for discipline under Rules 7(a)(1) and 7(a)(5) of the Rules for Lawyer Disciplinary Enforcement.
2. What sanction was appropriate for Respondent's admitted misconduct.

HOLDINGS

1. Respondent's admitted failure to file state and federal income tax returns violated Rule 8.4(b) of the Rules of Professional Conduct and constituted grounds for discipline under Rules 7(a)(1) and 7(a)(5) of the Rules for Lawyer Disciplinary Enforcement.
2. A ninety-day definite suspension was the appropriate sanction, retroactive to February 17, 2012, the date Respondent filed his delinquent state and federal tax returns. Respondent could not seek reinstatement until he paid the delinquent taxes in full and filed proof of payment with the Commission on Lawyer Conduct, and he was required to pay the costs of the proceedings.

KEY QUOTATIONS

> *"We definitely suspend Respondent from the practice of law for ninety days, retroactive to the date he filed his tax returns, and order him to pay the costs of these proceedings."* (387)

> *"However, due to the fact that Respondent has not yet paid his taxes, we also find that Respondent may not request reinstatement until he has paid his delinquent taxes in full and has filed proof with the Commission on Lawyer Conduct of same."* (387)

FACTUAL BACKGROUND

James David Flowers failed to file state and federal income tax returns for tax years 2007, 2008, 2009, and 2010. He attributed the misconduct to mental-health problems related to the stresses of his law practice and had voluntarily deactivated from the South Carolina Bar. He filed the delinquent returns on February 17, 2012, but had not paid the delinquent taxes; he was cooperative with the disciplinary investigation and reported that no criminal charges were pending or anticipated.

PROCEDURAL HISTORY

The Office of Disciplinary Counsel filed formal charges against James David Flowers for failing to file state and federal income tax returns for tax years 2007 through 2010. After a hearing, the Hearing Panel found violations of the Rules of Professional Conduct and Rules for Lawyer Disciplinary Enforcement and issued divided sanction recommendations. The Supreme Court imposed a ninety-day definite suspension, retroactive to February 17, 2012, conditioned reinstatement on payment of delinquent taxes, and assessed proceeding costs.

DISPOSITION

other