

SUPREME COURT OF LOUISIANA

In re Edward M. Nichols, Jr.

45 So. 3d 603 (La. 2010) · No. 2010-B-0079 · Decided July 6, 2010

SUMMARY

The Louisiana Supreme Court considered attorney disciplinary charges arising from respondent's neglect and inadequate communication in a divorce, custody, and child-support representation. The court found violations involving failure to comply with the objectives of representation, lack of diligence, inadequate communication, and failure to expedite litigation, but not knowing disobedience of a tribunal obligation. It imposed a one-year suspension, with all but six months deferred, followed by one year of supervised probation.

CASE DETAILS

COURT	Supreme Court of Louisiana
WRITING FOR THE COURT	Per Curiam; Philip C. Ciaccio, Justice ad hoc
JURISDICTION	Louisiana
DECIDED	July 6, 2010
DOCKET	2010-B-0079
DISPOSITION	other
PROCEDURAL POSTURE	Attorney disciplinary proceeding arising from formal charges filed by the Office of Disciplinary Counsel. After the hearing committee and disciplinary board issued recommendations, both respondent and the ODC objected, and the matter was submitted to the Louisiana Supreme Court under its original disciplinary jurisdiction.
STANDARD OF REVIEW	The Louisiana Supreme Court independently reviews the record in attorney disciplinary matters and determines whether misconduct has been proven by clear and convincing evidence; factual findings are reviewed for manifest error.
PRECEDENTIAL VALUE	Published Louisiana Supreme Court opinion; precedential.
PARTIES	Office of Disciplinary Counsel v. Edward M. Nichols, Jr.

TOPICS

family law procedure

divorce

child custody

child support

paternity

PRACTICE AREAS

legal ethics and professional responsibility

attorney discipline

family law

QUESTIONS PRESENTED

1. Whether Nichols violated Rules 1.2, 1.3, 1.4, and 3.2 of the Louisiana Rules of Professional Conduct by failing to pursue the divorce and custody matter diligently, communicate adequately with his client, and expedite the litigation.
2. Whether Nichols violated Rule 3.4(c) by failing to file a judgment addressing custody and paternity-related matters as contemplated by the hearing officer's recommendations.
3. What sanction was appropriate in light of Nichols's negligent misconduct, significant harm to his client, prior disciplinary record, and aggravating and mitigating factors.

HOLDINGS

1. Nichols violated Rules 1.2, 1.3, 1.4, and 3.2 by failing to obtain a custody judgment, failing to finalize the divorce in a timely manner, failing to communicate adequately with his client, and failing to make reasonable efforts to expedite the litigation.
2. Nichols did not violate Rule 3.4(c) because the failure to file the judgment was negligent rather than knowing.
3. A one-year suspension from the practice of law, with all but six months deferred, followed by one year of supervised probation, was warranted.

KEY QUOTATIONS

“Considering this is respondent's second appearance before us, and with his pattern of neglect and failure to communicate having such grave consequences for his client, we find the imposition of another fully deferred suspension is not warranted.” (at 610)

“Edward M. Nichols, Jr., Louisiana Bar Roll number 17727, be and he hereby is suspended from the practice of law for one year, with all but six months deferred, followed by a one-year period of supervised probation.” (at 611)

FACTUAL BACKGROUND

Edward M. Nichols represented LaChaunté August in a divorce, child-custody, and child-support matter beginning in February 2003. Although he filed the divorce petition in March 2003, he did not file the rule for divorce until December 2004 and failed to adequately inform August that completion of a court-required parenting class was necessary to finalize the divorce. He also failed to file a judgment implementing custody and support-related recommendations, which contributed to August's former husband taking physical custody of their younger child and leaving August without a custody order for several months.

PROCEDURAL HISTORY

The ODC filed one count of formal charges alleging violations of Rules 1.2, 1.3, 1.4, 3.2, and 3.4(c) of the Louisiana Rules of Professional Conduct. The hearing committee found violations of Rules 1.2, 1.3, 1.4, and 3.2, but not Rule 3.4(c), and recommended a one-year suspension with all but six months deferred and supervised probation. The disciplinary board agreed with the violations but recommended a fully deferred one-year suspension with two years of probation. The Supreme Court independently reviewed the record and imposed the hearing committee's recommended sanction.

DISPOSITION

other

CASES CITED

- In re: Banks, 09-1212 (La. 10/2/09), 18 So. 3d 57
- 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)
- In re: Nichols, 00-0102 (La. 2/11/00), 752 So. 2d 153