

SUPREME COURT OF GEORGIA

In the Matter of Tracey Dawn Gibson

S15Y0057, S15Y0058, S15Y0059, S15Y0060 · No. S15Y0057, S15Y0058, S15Y0059, S15Y0060 · Decided
April 20, 2015

SUMMARY

The Supreme Court of Georgia considered four disciplinary matters against Tracey Dawn Gibson, who failed to respond to Notices of Discipline and was therefore in default. The Court found violations involving trust-account management, neglect of client matters, unauthorized practice while suspended, and failure to cooperate with disciplinary investigations. The Court ordered that Gibson be disbarred and removed from the rolls of persons authorized to practice law in Georgia.

CASE DETAILS

COURT	Supreme Court of Georgia
JURISDICTION	Georgia
DECIDED	April 20, 2015
DOCKET	S15Y0057, S15Y0058, S15Y0059, S15Y0060
DISPOSITION	other
PROCEDURAL POSTURE	The State Bar sought Gibson's disbarment through four Notices of Discipline. After service by publication, Gibson failed to file Notices of Rejection and went into default. The Supreme Court of Georgia reviewed the disciplinary matters and imposed disbarment.
STANDARD OF REVIEW	The Court reviewed the disciplinary records and the facts deemed admitted by Gibson's default to determine the appropriate sanction.
PRECEDENTIAL VALUE	Published Supreme Court of Georgia disciplinary opinion; binding as to the procedural and disciplinary rules expressly applied.
PARTIES	State Bar of Georgia v. Tracey Dawn Gibson

TOPICS

[default](#) [service of process](#) [sanctions](#) [civil procedure](#) [remedies](#)

PRACTICE AREAS

[attorney discipline](#) [professional responsibility](#) [civil procedure](#) [remedies](#)

QUESTIONS PRESENTED

1. Whether Gibson's failure to file Notices of Rejection after service by publication placed her in default and waived her right to an evidentiary hearing.
2. Whether the admitted facts established violations of the cited Georgia Rules of Professional Conduct.
3. Whether disbarment was the appropriate sanction in light of the violations and aggravating circumstances.

HOLDINGS

1. Because Gibson was properly served by publication and failed to file any Notice of Rejection, she was in default, waived her right to an evidentiary hearing, and was subject to discipline determined by the Court.
2. The admitted facts established that Gibson violated Rules 1.3, 1.4, 1.15(I), 1.15(II), 1.15(III), 1.16, 3.2, 5.5, and 9.3 of the Georgia Rules of Professional Conduct.
3. Disbarment was the appropriate sanction for Gibson's violations.

KEY QUOTATIONS

“Accordingly, it is hereby ordered that the name of Tracey Dawn Gibson be removed from the rolls of persons authorized to practice law in the State of Georgia.” (at 4)

FACTUAL BACKGROUND

Gibson failed to maintain and properly administer her IOLTA account, including allowing an overdraft, using trust-account funds for personal expenses, and failing to correct the overdraft. She practiced law after being suspended without disclosing her lack of a current license, abandoned a divorce client after receiving a \$1,457 fee, and neglected a criminal representation. She also failed to respond timely and adequately to the Notices of Investigation and had a prior disciplinary record.

PROCEDURAL HISTORY

The State Bar attempted personal service at Gibson's registered address, but each sheriff's return stated non est inventus. The Bar then served Gibson by publication under Bar Rule 4-203.1(b)(3)(ii). Gibson filed no Notice of Rejection, thereby waiving an evidentiary hearing and defaulting. The Investigative Panel found probable cause that Gibson violated multiple Georgia Rules of Professional Conduct, and the Supreme Court independently reviewed the records before ordering disbarment.

DISPOSITION

other

CASES CITED

- In the Matter of Gibson, S14Y0076
- In the Matter of Gibson, S14Y0677

OPINION

PER CURIAM.

In the Supreme Court of Georgia Decided: April 20, 2015 S15Y0057, S15Y0058, S15Y0059, S15Y0060. IN THE MATTER OF TRACEY DAWN GIBSON PER CURIAM. These disciplinary matters are before the Court on four Notices of Discipline, seeking the disbarment of Tracey Dawn Gibson (State Bar No. 297339).

The State Bar attempted personal service at the address listed with the State Bar, but with respect to each Notice of Discipline, the sheriff filed a return of service non est inventus. The State Bar then properly served Gibson by publication pursuant to Bar Rule 4-203.1 (b) (3) (ii). Gibson failed to file any Notice of Rejection.

Therefore, she is in default, has waived her rights to an evidentiary hearing, and is subject to such discipline and further proceedings as may be determined by this Court. See Bar Rule 4-208.1 (b). Gibson was admitted to the Bar in 1998. This Court entered an order of interim suspension on October 7, 2013, for failure to respond to the Bar's Notice of Investigation in State Disciplinary Board Docket ("SBD") No. 6622, see In the Matter of Gibson, S14Y0076; that suspension was lifted on January 2, 2014, after Gibson filed an adequate response.

However, another suspension was entered on February 3, 2014, see In the Matter of Gibson, S14Y0677, for Gibson's failure to respond to the Bar's Notice of Investigation in connection with a grievance unrelated to the currently pending matters. Additionally, Gibson is currently under administrative suspension for failure to pay dues.

The facts, as deemed admitted by virtue of Gibson's default, show that, with regard to SBD No. 6622 (S15Y0058), the Bar was notified in January 2014 by Wells Fargo that there had been an overdraft in Gibson's IOLTA account in December 2013.

Although Gibson informed the Bar that the overdraft was the result of an error caused when her husband was handling firm and family finances while she was on maternity leave, she failed to provide all the relevant trust account records, and the records she did provide revealed numerous instances of payments of personal expenses from the trust account and also showed that she did not correct the overdraft.

With regard to SBD No. 6623 (S15Y0059), the facts show that although this Court entered an order of suspension on February 3, 2014, Gibson represented a client on February 11, 2014, in a probation revocation hearing and failed to disclose to the court that she was not currently licensed to practice law. With regard to SBD No. 6624 (S15Y0057), the facts show that in October 2013, a client retained Gibson to file a divorce action and paid Gibson \$1,457.

Gibson did no work on the case, failed to respond to the client's multiple emails and telephone calls, and failed to respond to the client's letter discharging her and requesting a return of the fee. With regard to SBD No. 6625 (S15Y0065), the facts show that in 2012 Gibson agreed to represent a client in a criminal proceeding in exchange for the client performing work for Gibson, which work the client completed.

After filing a notice of appearance and representing the client at an arraignment hearing, Gibson failed to respond to the client's multiple inquiries about the status of the case and failed to attend a court hearing in the matter in January 2014, at which point the trial court entered an order relieving Gibson of representing the client. Additionally, Gibson failed to timely and adequately respond to the Notices of Investigation in these matters.

Based on these facts, the Investigative Panel found probable cause to believe, and we agree, that Gibson violated Rules 1.3, 1.4, 1.15 (I), 1.15 (II), 1.15 (III), 1.16, 3.2, 5.5, and 9.3, of the Georgia Rules of Professional Conduct found in Bar Rule 4-102 (d).

The maximum sanction for a violation of Rules 3 1.3, 1.15 (I), 1.15 (II), 1.15 (III), and 5.5 is disbarment, and the maximum sanction for a violation of Rules 1.4, 1.16, 3.2, and 9.3 is a public reprimand. In aggravation of discipline, the Investigative Panel noted Gibson's prior disciplinary record and found that Gibson's responses to the Investigative Panel regarding the her failure to timely and adequately respond lacked credibility and that there were four separate disciplinary matters.

Having reviewed the records, we conclude that disbarment is the appropriate sanction in these matters. Accordingly, it is hereby ordered that the name of Tracey Dawn Gibson be removed from the rolls of persons authorized to practice law in the State of Georgia. Gibson is reminded of her duties pursuant to Bar Rule 4-219 (c). Disbarred. All the Justices concur.