



IN THE
Indiana Supreme Court

Supreme Court Case No. 22S-DI-290

In the Matter of
Clinton A. Hardesty,
Respondent.

Decided: February 27, 2023

Attorney Discipline Action

Hearing Officer Robert C. Reiling

Per Curiam Opinion

Chief Justice Rush and Justices Massa, Slaughter, Goff, and Molter concur.

Per curiam.

We find that Respondent, Clinton Hardesty, committed attorney misconduct by repeatedly failing to appear for scheduled court hearings. For this misconduct, we conclude that Respondent should be suspended for at least two years without automatic reinstatement.

The matter is now before us on the report of the hearing officer appointed by this Court to hear evidence on the Indiana Supreme Court Disciplinary Commission's verified disciplinary complaint. Respondent's 2020 admission to this state's bar subjects him to this Court's disciplinary jurisdiction. *See* IND. CONST. art. 7, § 4.

Procedural Background and Facts

The Commission filed a two-count "Disciplinary Complaint" against Respondent on August 23, 2022. Respondent has not appeared, responded, or otherwise participated in these proceedings. Accordingly, the Commission filed a "Motion for Judgment on the Complaint," and the hearing officer took the facts alleged in the disciplinary complaint as true.

No petition for review of the hearing officer's report has been filed. When neither party challenges the findings of the hearing officer, "we accept and adopt those findings but reserve final judgment as to misconduct and sanction." *Matter of Levy*, 726 N.E.2d 1257, 1258 (Ind. 2000).

In Count 1, Respondent represented the defendant in a criminal case. At the first jury trial setting, Respondent arrived forty minutes late, claiming he had a flat tire. After jury selection and a lunch break, Respondent reported he might have been exposed to COVID over the previous weekend, and the trial court declared a mistrial. Respondent thereafter failed to appear for a pretrial conference; and at the second jury trial setting, Respondent failed to appear for the second day of trial. The trial court declared a second mistrial and ordered Respondent's appearance to be withdrawn.

In Count 2, Respondent was late to one hearing in a CHINS case and failed to appear at another hearing, claiming he was out of gas in another town. The court ordered Respondent's appearance to be withdrawn.

Respondent is currently suspended from the practice of law for noncooperation with the Commission's investigations of grievances against him. He also is administratively suspended for noncompliance with his continuing legal education requirements.

Discussion and Discipline

We concur in the hearing officer's findings of fact and conclude that Respondent violated these Indiana Professional Conduct Rules prohibiting the following misconduct:

1.3: Failing to act with reasonable diligence and promptness.

3.4(c): Knowingly disobeying an obligation under the rules or an order of a court.

8.4(d): Engaging in conduct prejudicial to the administration of justice.

Our analysis of appropriate discipline entails consideration of the nature of the misconduct, the duties violated by the respondent, any resulting or potential harm, the respondent's state of mind, our duty to preserve the integrity of the profession, the risk to the public should we allow the respondent to continue in practice, and matters in mitigation and aggravation. *See Matter of Newman*, 958 N.E.2d 792, 800 (Ind. 2011).

In the short time since he was admitted to practice law in Indiana, Respondent has engaged in a pattern of misconduct and a dereliction of an attorney's most fundamental duties. Respondent caused two separate mistrials in one case, and in both cases his repeated failures to appear for scheduled court proceedings squandered judicial resources and caused inconvenience for his clients and others. Respondent has failed to participate in these proceedings and has failed to cooperate with the Commission's investigations. Respondent also has breached his duties to maintain accurate contact information with the Roll of Attorneys and to

accept service of process, which has necessitated the use of constructive service in this and other matters. *See* Admis. Disc. Rs. 2(a), 23(23.1).

With these considerations in mind, we agree with the hearing officer that Respondent cannot be safely recommended to the public as a lawyer who can be trusted to handle clients' legal affairs, and accordingly that a suspension without automatic reinstatement is warranted to protect the public and preserve the integrity of the legal profession. *See Matter of White*, 81 N.E.3d 211, 212 (Ind. 2017).

Conclusion

Respondent is already under multiple orders of suspension as noted above. For Respondent's professional misconduct in this case, the Court suspends Respondent from the practice of law in this state for a period of not less than two years, without automatic reinstatement, effective from the date of this opinion. At the conclusion of the minimum period of suspension, Respondent may petition this Court for reinstatement to the practice of law in this state, provided Respondent pays the costs of this proceeding, fulfills the duties of a suspended attorney, and satisfies the requirements for reinstatement of Admission and Discipline Rule 23(18).

The costs of this proceeding are assessed against Respondent, and the hearing officer appointed in this case is discharged with the Court's appreciation.

Rush, C.J., and Massa, Slaughter, Goff, and Molter, JJ., concur.

NO APPEARANCE FOR THE RESPONDENT

ATTORNEYS FOR INDIANA SUPREME COURT
DISCIPLINARY COMMISSION

Adrienne L. Meiring, Executive Director

David E. Griffith, Staff Attorney

Indianapolis, Indiana