

Supreme Court of Kentucky

2019-SC-000614-KB

TO BE PUBLISHED
FINAL

DATE 3/2/20

KENTUCKY BAR ASSOCIATION

MOVANT

A. Hutcherson

V.

IN SUPREME COURT

ROBERT ANDREW ROWLAND

RESPONDENT

OPINION AND ORDER

The Kentucky Bar Association (KBA) moves this Court to indefinitely suspend Robert Andrew Rowland from the practice of law pursuant to SCR 3.380(2). Rowland's KBA membership number is 93249, and his bar roster address is P.O. Box 631, Frankfort, Kentucky, 40602. He has been licensed to practice law in the Commonwealth of Kentucky since October 23, 2010.

The KBA's Inquiry Commission issued a charge against Rowland related to his representation of Kimberly McGaughey. According to the charge, McGaughey hired Rowland to represent her in a divorce case, paying him a retainer of \$2,000. Rowland filed certain documents in the case, but then failed to schedule an ordered mediation and failed to respond to either McGaughey's or opposing counsel's numerous attempts to contact him.

McGaughey eventually hired new counsel. According to the charge, Rowland did not notify her he intended to terminate the representation, did not provide an accounting or return any of the prepaid retainer, and did not transfer her entire client file to her new attorney. Rowland also failed to respond to McGaughey's bar complaint against him.

Based on this conduct, the Inquiry Commission charged Rowland with violating SCR 3.130(8.1)(b) (knowing failure to respond to a lawful demand for information from a disciplinary authority), SCR 3.130(1.3) (reasonable diligence), SCR 3.130(1.4)(a)(4) (prompt compliance with requests for information), and SCR 3.130(1.16)(d) (steps to be taken upon termination of representation).

After failing to respond to McGaughey's bar complaint, Rowland did file an answer in response to the Inquiry Commission charge. The charge informed Rowland that, "pursuant to SCR 3.380, if you fail to file an Answer to the Charge or, after filing an Answer, decline to participate in the disciplinary process, the Court may . . . suspend you for an indefinite period of time." In spite of this warning, Rowland has not responded to any attempts at contact from the KBA since filing his initial answer to the charge.

On both June 27 and August 2, 2019, the Office of Bar Counsel (OBC) mailed Rowland letters to his bar roster address. Both were returned in the mail. On August 14 the OBC attempted to call Rowland at his bar roster business and home phone numbers and left voicemails. The OBC also attempted to contact Rowland that day on his bar roster cell phone number,

but could not leave a voicemail, as the box was full. The next day, the OBC again called Rowland's business and home numbers and left additional voicemail messages. Rowland returned none of the calls.

On September 9, 2019, the appointed Trial Commissioner sent a letter to both the KBA and Rowland stating his intent to schedule a telephonic pretrial conference, and asking each of the parties to email him to notify him of their availability. The letter addressed to Rowland was returned. On September 26, the Trial Commissioner emailed the KBA and Rowland at his bar roster email address to notify him the letter was returned. Rowland did not respond to the email. On October 3, the Trial Commissioner entered an order setting the pretrial conference. Again, he emailed a copy to Rowland's bar roster email, telling Rowland, "I have not heard from [you] concerning the letter that I sent out on September 9, 2019 therefore I am going to set the pretrial conference for October 10, 2019" That same day, the KBA sent an email to Rowland with the conference call number and participant code. Rowland failed to respond to any of these attempts at communication.

The telephonic pretrial hearing was held on October 10 and Rowland failed to appear or otherwise participate. On October 14, the Trial Commissioner entered a pretrial order scheduling the final hearing for January 16, 2020. The Trial Commissioner also emailed a copy of that order to Rowland. Rowland has failed to respond to any of these numerous attempts at procuring his involvement in the disciplinary process.

Despite the Inquiry Commission's warning, its diligence, and the diligence of both the OBC and the Trial Commissioner, Rowland has failed to participate in the disciplinary process. Due to Rowland's failure to respond timely, the KBA requests that this Court indefinitely suspend Rowland under SCR 3.380(2). Having reviewed the KBA's motion, we agree that indefinite suspension is warranted.


For the foregoing reasons, it is hereby ORDERED:

1. Pursuant to SCR 3.380(2), Robert Anthony Rowland is hereby suspended indefinitely from the practice of law in the Commonwealth of Kentucky.
2. As required by SCR 3.390, Rowland will within ten (10) days after the issuance of this order of suspension notify, by letter duly placed with the United States Postal Service, all courts or other tribunals in which he has matters pending of his suspension. Further, he will inform, by mail, all of his clients of his inability to represent them and of the necessity and urgency of promptly retaining new counsel. Rowland shall simultaneously provide a copy of all such letters of notification to the Office of Bar Counsel. Rowland shall immediately cancel any pending advertisements, to the extent possible, and shall terminate any advertising activity for the duration of the term of suspension.
3. As stated in SCR 3.390(a), this order shall take effect on the tenth day following its entry. Rowland is instructed to take promptly all reasonable steps to protect the interests of his clients. He shall not during the term

of suspension accept new clients or collect unearned fees and shall
comply with the provisions of SCR 3.130-7.50(5).

All sitting. All concur.

ENTERED: February 20, 2020.



CHIEF JUSTICE