

In the Supreme Court of Georgia

Decided: March 3, 2014

S14Y0549, S14Y0550. IN THE MATTER OF FRED T. HANZELIK.

PER CURIAM.

These disciplinary matters are before the Court on the Report and Recommendation of the Review Panel, recommending that Respondent Fred T. Hanzelik (State Bar No. 323950) be suspended for six months in S14Y0549 and, in S14Y0550, for an additional 45 days following the six-month suspension as reciprocal discipline for suspensions imposed in Tennessee. The Review Panel also recommends that the suspensions continue until such time as Hanzelik provides proof that he has been reinstated to practice in Tennessee.

S14Y0549. The State Bar filed a notice of reciprocal discipline in this matter, attaching a copy of the October 18, 2012 order of the Supreme Court of Tennessee suspending Hanzelik from the practice of law in Tennessee for a period of one year, with six months to be served with an actual suspension and the remaining six months to be served on probation with a practice monitor, see Bar Rule 9.4 (b), found in Bar Rule 4-102 (d). Hanzelik's suspension was

based on a petition for voluntary discipline in three separate disciplinary proceedings involving abandonment, failure to communicate and failure to account for fees. Hanzelik acknowledged service of the notice and filed a response. During the time this matter was pending the State Bar filed an additional reciprocal proceeding against Hanzelik, see S14Y0550. In his response filed in the Review Panel, Hanzelik requested a six-month suspension with no probation because Georgia does not have a probation with practice monitor form of discipline. The State Bar recommends a one-year suspension but has no objection to the suspension being retroactive to the dates of the Tennessee suspension. The Review Panel reviewed the record and the elements listed in Rule 9.4 (b) (3) to determine if imposition of a different punishment was required, and concluded that none of the elements are present in this case that would justify a recommendation of discipline different from that imposed in Tennessee. With respect to what discipline would be “substantially similar,” see *id.*, the Review Panel agreed that Georgia does not have a probation form of discipline and noted that in a recent reciprocal discipline case from Tennessee, this Court approved the suspension term without adding time for the probationary period, see In the Matter of Arthur, 291 Ga. 658 (732 SE2d 86)

(2012). Therefore, the Review Panel recommended a six-month suspension in this case. Regarding a retroactive suspension, the Review Panel again noted recent cases from this Court declining to approve retroactive suspension unless the respondent provides proof that he has ceased the practice of law in Georgia during the period of the suspension in the other state, see In the Matter of Hodges, 291 Ga. 830 (733 SE2d 775) (2012); In the Matter of Sossoman, 290 Ga. 677 (725 SE2d 243) (2012); In the Matter of Onipede, 288 Ga. 156 (702 SE2d 136) (2010). Here, nothing in the record shows that Hanzelik voluntarily stopped practicing law in Georgia while he was suspended in Tennessee, so the Review Panel declined to recommend a retroactive suspension. Accordingly, the Review Panel recommends a six-month suspension and until such time as Hanzelik provides proof that he has been reinstated to practice law in Tennessee.

S14Y0550. In this matter, Hanzelik was suspended in Tennessee for 45 days for attempting to charge his client and the client's estate twice for the same legal services in one case, and for failing to act with diligence and not communicating clearly with his client in a divorce proceeding in another disciplinary matter. On October 27, 2012, the Supreme Court of Tennessee ordered the 45-day suspension. The State Bar filed a notice of reciprocal discipline attaching the order and Hanzelik acknowledged service but filed no

response. The Review Panel again considered the record and the elements listed in Rule 9.4 (b) (3), finding none present that would justify a recommendation of discipline other than that imposed in Tennessee. The record in Tennessee was unclear whether the 45-day suspension was concurrent or consecutive to the suspension in S14Y0549 and the State Bar made no recommendation as to that aspect of the discipline. The Review Panel recommended that, based on the records in both cases, the 45-day suspension should begin at the conclusion of the six-month suspension recommended in S14Y0549, and until such time as Hanzelik provides proof that he has been reinstated to practice law in Tennessee.

Having reviewed the record, we agree with the Review Panel's conclusions and recommendations. Accordingly, Fred T. Hanzelik hereby is suspended from the practice of law in Georgia for a period of six months from the date of this opinion, and for an additional 45 days at the conclusion of the six-month period, continuing until he provides proof to the State Bar that he has been reinstated to practice law in the State of Tennessee. Hanzelik is reminded of his duties under Bar Rule 4-219 (c).

Six-month suspension, followed by 45-day suspension. All the Justices concur.