



IN THE
Indiana Supreme Court

Supreme Court Case No. 20S-DI-377

In the Matter of
Robert Cheesebrough,
Respondent.

Decided: June 10, 2021

Attorney Discipline Action

Hearing Officer William J. Nelson

Per Curiam Opinion

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

Per curiam.

We find that Respondent, Robert Cheesebrough, committed attorney misconduct by neglecting one client's case, making improper threats in another case, and failing to cooperate with the disciplinary process. For this misconduct, we conclude that Respondent should be suspended for at least one year 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 1994 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 June 16, 2020, and we appointed a hearing officer. Following an evidentiary hearing, the hearing officer issued his report on March 31, 2021, finding Respondent committed violations as set forth below.

No petition for review of the hearing officer's report has been filed. When the findings of the hearing officer are not challenged, "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).

Count 1. Respondent represented members of a church's board of directors in an action in Madison Superior Court brought by other members of the church, who were represented by "Opposing Counsel." Respondent and his clients believed the opposing parties had improperly used church funds to pay Opposing Counsel. Respondent sent a cease-and-desist letter to Opposing Counsel demanding, among other things, that the suit be dropped and that the funds used to pay Opposing Counsel be returned to the church. In that letter, Respondent threatened to file a disciplinary grievance against Opposing Counsel and the judge, and a criminal complaint against Opposing Counsel, unless Opposing Counsel and the opposing parties complied with Respondent's demands.

Respondent failed to timely respond to the Commission's inquiries during its investigation of this matter, leading to the initiation of show cause proceedings in this Court. Those proceedings eventually were dismissed after Respondent belatedly complied.¹

Count 2. "Plaintiff" obtained a \$720,000 default judgment against "Defendant" in 2017 and initiated proceedings supplemental. Defendant hired Respondent in February 2018, and Respondent successfully moved to set aside the default judgment. Thereafter, Respondent failed to comply with discovery, respond to a motion to compel, or appear at a hearing on the motion, all of which led to a judgment that essentially reinstated the default judgment of \$720,000.

Respondent then filed another motion to set aside the judgment. The court granted the motion but imposed sanctions in the sum of \$4,331.25 in attorney's fees for Plaintiff. Another motion to compel discovery was filed, at which time Respondent finally complied. Still another motion to compel was filed (and granted) after neither Respondent nor Defendant paid the attorney fee sanction. Several months later, Plaintiff moved for summary judgment. Respondent failed to file a response or appear at the hearing on the motion. The court granted summary judgment in the amount of \$866,693 plus attorney fees of \$44,619.

Defendant unsuccessfully tried several times to contact Respondent or meet with him. Defendant fired Respondent, filed a grievance against him, and eventually settled the lawsuit with Plaintiff directly.

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 All told, seven separate show cause proceedings have been initiated against Respondent since 2017, one of which resulted in a noncooperation suspension and another one of which remains pending.

1.3: Failing to act with reasonable diligence and promptness.

1.4(a)(3): Failing to keep a client reasonably informed about the status of a matter.

1.4(a)(4): Failing to comply promptly with a client's reasonable requests for information.

8.1(b): Knowingly failing to respond to a lawful demand for information from a disciplinary authority.

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).

Respondent has prior discipline for similar misconduct and an extensive history of noncooperation with disciplinary investigations. Respondent also has been administratively suspended seven times for noncompliance with continuing legal education requirements and nonpayment of dues and disciplinary costs. All of this, save for one administrative suspension, has transpired within the last few years. Respondent also engaged in a pattern of dishonesty toward the hearing officer during these proceedings, and his testimony during the final hearing – including his assertions he was unable to stay awake long enough to claim certified mailings of the disciplinary grievances filed against him – demonstrates an indifference to fulfilling even the most basic responsibilities of an attorney. We find ample support for the hearing officer's recommendation that Respondent be suspended for at least one year and thereafter remain suspended until he can prove clearly and convincingly that he is fit to resume practice, and neither party has filed a brief urging a different sanction be imposed.

Conclusion

The Court concludes that Respondent violated Professional Conduct Rules 1.3, 1.4(a)(3), 1.4(a)(4), 8.1(b), and 8.4(d). For Respondent's professional misconduct, the Court suspends Respondent from the practice of law in this state for a period of not less than one year, without automatic reinstatement, beginning July 7, 2021. Respondent shall not undertake any new legal matters between service of this opinion and the effective date of the suspension, and Respondent shall fulfill all the duties of a suspended attorney under Admission and Discipline Rule 23(26). 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 David, Massa, Slaughter, and Goff, JJ., concur.

RESPONDENT PRO SE

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