

Supreme Court of Kentucky

2020-SC-0181-KB

KENTUCKY BAR ASSOCIATION

MOVANT

V.

IN SUPREME COURT

JOHN SCOTT BENTON

RESPONDENT

OPINION AND ORDER

The Kentucky Bar Association (KBA) Board of Governors recommends that this Court enter an order permanently disbaring John Scott Benton from the practice of law. Pursuant to Supreme Court Rule (SCR) 3.210, this matter was treated as a default case. Benton, KBA Member No. 89449, was admitted to practice law in the Commonwealth of Kentucky in 2002 and his bar roster address is 201 Price Road #205, Lexington, Kentucky 40511. He was indefinitely suspended from the practice of law on December 18, 2014, for failure to appear in court on the then-pending charge of receiving stolen property over \$10,000 and his membership has not been restored since. Benton went to trial on the charge, was found guilty, and his felony conviction is now final. We agree with the Board's recommendation.

KBA File No. 22860

On September 23, 2013, Benton was charged and arrested for receiving stolen property valued over \$10,000. On April 20, 2016, Benton was found

guilty by a Fayette County jury of this charge and on June 10, 2016, Benton was sentenced to seven (7) years in prison, as recommended by the jury. Benton appealed his conviction. The Court of Appeals affirmed the conviction, and this Court denied review of that decision on June 6, 2018, making his conviction final.

Based upon Benton's conviction of receiving stolen property over \$10,000, the Inquiry Commission charged him with violating SCR 3.130(8.4)(b), which states that it is professional misconduct for a lawyer to "commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects." The Inquiry Commission's Complaint was sent via certified mail to Benton at his bar roster address on May 10, 2019, but it was returned undeliverable and unable to forward.¹ Service of the charge was ultimately made upon the KBA's Executive Director under SCR 3.035(2). Benton filed no response. The Board of Governors found Benton guilty of violating SCR 3.130(8.4)(b) in a vote of 18-0 and recommends he be permanently disbarred from the practice of law and pursuant to SCR 3.450, be required to pay all costs associated with the disciplinary proceedings against him. Neither the KBA's Office of Bar Counsel nor Benton has sought review of the Board's decision under SCR 3.370(7), and this Court declines to undertake review pursuant to SCR 3.370(8).

Prior Discipline

Benton has two prior disciplinary actions, KBA File No. 19824 and KBA File

¹ The United States Postal Service website indicated on May 18, 2019, that Benton had moved and left no forwarding address.

No. 20289, which were also default cases before the Board of Governors. The latter of the two is related to the current action.

In October 2014, Benton was suspended from the practice of law for 181 days based on his conduct in two separate disciplinary files. Both files included a violation of SCR 3.130(8.4)(b) based upon two underlying criminal actions in which Benton, respectively, pled guilty to first-degree wanton endangerment and fourth-degree assault and pled guilty to third-degree terroristic threatening. *Kentucky Bar Ass'n v. Benton*, 443 S.W.3d 604 (Ky. 2014).

In December 2014, Benton was suspended indefinitely from the practice of law for violation of SCR 3.130(3.4)(c) which states that a lawyer shall not “knowingly disobey an obligation under the rules of a tribunal” This charge issued after Benton failed to appear in court on October 14, 2013, on his then-pending charge of receiving stolen property and a bench warrant being subsequently issued for Benton. Although the KBA recommended Benton be suspended for another 181 days, running consecutively to the 181-day suspension issued in October 2014, this Court declined to follow the recommendation. Instead, this Court concluded that indefinite suspension was the appropriate discipline due to Benton’s prior disciplinary action, his current suspension, the seriousness of the underlying felony offense, and his flagrant disregard for the dignity of the circuit court adjudicating his criminal case, the KBA, and this Court. We further explained that Benton’s indefinite suspension would remain in effect pending further review by this Court upon motion of Benton accounting for his failure to respond and requesting a final determination, upon motion of the KBA for a final disposition, or upon the Court’s own motion. *Kentucky Bar Ass'n v. Benton*, 449 S.W.3d 368 (Ky. 2014).

ORDER

It is therefore ORDERED that:

1. John Scott Benton is found guilty of violating SCR 3.130(8.4)(b) as charged in KBA File No. 22860;

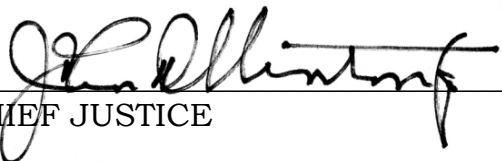
2. Benton is permanently disbarred from the practice of law in Kentucky;

3. In accordance with SCR 3.450, Benton is directed to pay all costs associated with the disciplinary proceedings against him, said sum being \$137.43, for which execution may issue from this Court upon finality of this Opinion and Order; and

4. To the extent of SCR 3.390's applicability, Benton, within ten (10) days of issuance of this Order, shall notify, by letter duly placed with the United States Postal Service, all courts or other tribunals in which he has matters pending, and all clients of his inability to represent them, and furnish copies of the letters to the Office of Bar Counsel. Furthermore, Benton shall immediately cancel any advertising in which he is engaged.²

All sitting. All concur.

ENTERED: September 24, 2020.



CHIEF JUSTICE

² There is no allegation that Benton failed to comply with SCR 3.390 as ordered by this Court in its October and December 2014 suspension orders.