

# Supreme Court of Kentucky

2020-SC-0195-KB

GWEN MEEHAN

MOVANT

V.

IN SUPREME COURT

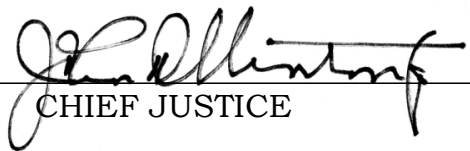
KENTUCKY BAR ASSOCIATION

RESPONDENT

## **ORDER MODIFYING**

The attached opinion in the above case was rendered on July 9, 2020 but was incorrectly designated as confidential. Upon motion of the parties and review of the record, the Court hereby Orders the attached opinion be published.

ENTERED: August 20, 2020.

  
CHIEF JUSTICE

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## **OPINION AND ORDER**

On May 8, 2020, Gwen Meehan moved for consensual discipline pursuant to Supreme Court Rule (SCR) 3.480(2) based on a negotiated sanction agreement with the Kentucky Bar Association (KBA). Meehan requests an order imposing a sanction of a sixty-day suspension, probated for two years on condition she attend and complete the next scheduled Ethics and Professionalism Enhancement Program (EPEP), receive no new disciplinary charges during the probationary period, and pay the costs of this proceeding. The KBA filed a response stating it had no objection to the Motion for Consensual Discipline. Because Meehan and the KBA have agreed on the sanction, and we find our caselaw supports the proposed resolution in this matter, we find this sanction to be the appropriate discipline for Meehan's conduct and grant her motion.

Meehan's KBA member number is 86458 and her bar roster address is 4350 Brownsboro Road, Suite 100, Louisville, Kentucky 40207. She was admitted to

practice law in the Commonwealth of Kentucky on October 18, 1996. She served as a part-time assistant county attorney in Jefferson County followed by Bullitt County between 1996 and 1999 while maintaining a part-time private practice. Since 2000, Meehan has maintained a solo private practice.

Meehan prepared several wills for Evelyn Lattis over the course of a decade, the last one being executed on January 16, 2016. The final will provided specific bequests to fifteen individuals and six charities with the remainder to pass to three sets of beneficiaries. One of the residuary beneficiaries, James Gambert, was named as executor. Lattis passed away on March 17, 2016, following which Gambert contacted Meehan seeking assistance and representation in the administration of the Lattis estate.

Meehan, knowing Gambert had previously administered another family member's estate without assistance of counsel, and believing Gambert wished to reduce the costs of administering the Lattis estate by performing a number of tasks himself, agreed to the representation at what she claims was a reduced fee. No written employment or fee agreement was executed outlining the scope and objectives of the representation.

On April 27, 2016, Meehan filed a Petition for the probate of Lattis' will and Gambert's appointment as executor. Five days later, the will was admitted to probate and Gambert was appointed as executor of the estate. An inventory of the estate, indicating a gross value of \$289,038.41, was filed on October 9, 2016. In early 2017, Gambert informed Meehan he had prepared the 2016 federal income tax return for Lattis but had a question which needed to be answered before filing it. As was her custom in probate matters with taxation issues, Meehan provided Gambert with the name and contact information of a tax professional she believed could resolve

Gambert's concerns. She did not follow up with Gambert regarding the tax issue, his retention of a tax professional, or the filing of the appropriate tax returns.

On September 25, 2017, the Kentucky Department of Revenue sent Meehan a letter requesting completion of a form indicating the names and relationships of the beneficiaries of the Lattis estate. Based on her belief Gambert was handling all tax matters, Meehan inserted the requested information into the form, then forwarded it to Gambert. Meehan did not communicate and confirm with Gambert that he was taking responsibility for following up with the Department of Revenue. No inheritance and estate tax return was filed, leading to the assessment of \$3,320.86 in interest and \$49,903.50 in penalties as of July 19, 2018. On July 24, 2018, Gambert terminated Meehan's representation and acquired new counsel who was able to settle the estate and negotiate a waiver of the assessed tax penalties.

Meehan was subsequently charged by the KBA with violating SCR 3.130(1.2)(a) for failing to abide by the client's decisions regarding the objectives of the representation. The charge alleged she did not work toward completing the probate matter she was hired to perform and did not sufficiently consult with Gambert about the scope of her representation and the means by which the matter would be accomplished. Meehan was also charged with violating SCR 3.130(1.4)(a)(2) which requires a lawyer to reasonably consult with clients about the means by which the objectives of the client's matter are to be accomplished, again based on her failure to adequately communicate with Gambert. Finally, she was charged with violating SCR 3.130(1.3) which requires counsel to act with diligence and promptness in representing her client because she failed to complete the probate of the estate and did not file the required estate and inheritance tax return.

Meehan was cooperative during the investigation. She acknowledged her subjective beliefs regarding the limited scope of her representation of the estate should have been confirmed with her client. She further acknowledged sufficient communication on her part could have avoided the confusion and issues which arose during her representation and the failure to do so fell below the standards required of an attorney. Likewise, Meehan admitted her actions related to the other two charges were improper and her conduct fell below that required of an attorney. Meehan and the KBA agreed to a negotiated sanction to resolve this matter.

Under SCR 3.480(2), this Court “may consider negotiated sanctions of disciplinary investigations, complaints or charges . . . .” Under this rule, Meehan and the KBA reached a negotiated sanction to resolve this matter. Meehan now moves this Court to accept this consensual discipline for her violations of SCR 3.130(1.2)(a), 3.130(1.4)(a)(2), and 3.130(1.3). She asks us to impose the sanction of a sixty-day suspension probated for two years on conditions she complete the next scheduled EPEP, receive no new disciplinary charges during the probationary period, and pay the costs of this action. The KBA, having acknowledged its review of her motion and analogous case law, stated no objection to the proposed discipline and requested we order the proposed discipline.

In support of the negotiated sanction, the KBA cites this Court to *Kentucky Bar Association v. Hatcher*, 965 S.W.2d 166 (Ky. 1998), and *Kentucky Bar Association v. Hardin*, 219 S.W.3d 188 (Ky. 2007). In *Hatcher*, a decedent’s fiancée hired Hatcher to probate the decedent’s estate. As here, Hatcher failed to file an inheritance and estate tax return and settle the estate. The Department of Revenue assessed the estate nearly \$24,000, including over \$8,000 in penalties. Hatcher admitted doing nothing to address the matter, offering unsupported excuses in mitigation. This Court found

her guilty of “aggravated neglect” of her duties toward her client and stated she exhibited an “intolerable unwillingness” to complete the estate or communicate with the decedent’s fiancée, resulting in an unsettled estate which remained in “legal chaos.” *Id.* at 166-67. Hatcher was ultimately suspended from the practice of law for two years. Unlike Hatcher, Meehan admitted she abandoned the representation and failed to complete the necessary work because of her subjective belief Gambert would, himself, be completing many of the tasks associated with the matter. In addition, the estate here was able to successfully negotiate away any potential financial penalties resulting from Meehan’s inaction.

In *Hardin*, this Court concluded Hardin’s misconduct was rooted in neglect and poor judgment and office procedures rather than intentional misconduct or the “aggravated neglect” present in *Hatcher* to justify a reduced sanction. 219 S.W.3d at 192-93. There, Hardin had no prior disciplinary actions, he cooperated with the investigation, no apparent injury was suffered by the client, and he had nearly completed the two-year suspension from West Virginia for which reciprocal discipline was sought. After considering these factors and many cases with sanctions ranging from a two-year suspension to a public reprimand, this Court concluded imposing a two-year suspension would be unduly harsh and instead imposed a suspension equal to the remaining time on Hardin’s West Virginia suspension.

Based on these authorities, Meehan’s lack of a prior disciplinary record, her cooperative nature throughout the proceedings, the absence of a dishonest or selfish motive, and the lack of aggravating factors, the KBA concluded a sixty-day suspension, probated for two years with conditions was the appropriate discipline in this matter. After reviewing the allegations, Meehan’s previous disciplinary record,

and the cases cited by the KBA, this Court concludes the discipline proposed by Meehan, and agreed to by the KBA, is appropriate.

It is therefore ORDERED:

1. Gwen Meehan's Motion for Consensual Discipline is GRANTED pursuant to SCR 3.480(2).

2. Meehan is adjudged guilty of the above-described and admitted violations of SCR 3.130(1.2)(a), 3.130(1.4)(a)(2), and 3.130(1.3) and is suspended from the practice of law for sixty days for those violations, with such suspension probated for a period of two years on condition she attend, at her expense, and successfully complete the next scheduled EPEP offered by the Office of Bar Counsel (OBC) and receive no new disciplinary charges in the next two years.

3. Meehan will not apply for Continuing Legal Education (CLE) credit of any kind for her attendance at EPEP. Moreover, Meehan will furnish a release and waiver to the OBC to review her records of the CLE Department that might otherwise be confidential, such release to continue in effect until after she completes remedial education so OBC may verify she has not reported any hours to the CLE Commission taken as remedial education.

4. Pursuant to SCR 3.450, Meehan is directed to pay all costs associated with this disciplinary proceeding against her, in the amount of \$93.80.

All sitting. All concur.

ENTERED: August 20, 2020.

  
CHIEF JUSTICE