

# Supreme Court of Kentucky

2022-SC-0269-KB

KENTUCKY BAR ASSOCIATION

MOVANT

V.

IN SUPREME COURT

CHARLES EDWIN JOHNSON

RESPONDENT

## **OPINION AND ORDER**

Charles Edwin Johnson, Kentucky Bar Association (KBA) Number 94240, was admitted to the practice of law in the Commonwealth of Kentucky on October 21, 2011. His bar roster address is listed as 316 Williamsburg Lane, Georgetown, Kentucky 40324. In this default case under Supreme Court Rule (SCR) 3.210, the KBA Board of Governors recommends this Court find Johnson guilty of violating one count each of SCR 3.130(3.4), SCR 3.130(5.5)(a), and SCR 3.130(8.1)(b).

For these violations, the Board recommends that Johnson be suspended from the practice of law in the Commonwealth of Kentucky for one year to run consecutively with other discipline and that he be required to pay the costs associated with this action. For the reasons below, we agree and adopt the recommendation of the Board.

## I. FACTUAL BACKGROUND

This Court indefinitely suspended Johnson from the practice of law in Kentucky by order on December 17, 2020. *Kentucky Bar Ass'n v. Johnson*, 612 S.W.3d 209 (Ky. 2020). Then, on June 17, 2021, this Court issued another suspension against Johnson for a period of 61 days with an additional 119 days probated for a period of two years. *Kentucky Bar Ass'n v. Johnson*, 626 S.W.3d 653 (Ky. 2021). Neither suspension has been lifted. Despite these suspensions, Johnson has engaged in the practice of law as described below.

First, on February 22, 2021, Johnson filed a Petition for Probate of Will and Appointment of Executor/Executrix in the Franklin County District Court in the matter of *Estate of Cynthia Shelton Dean Mueller*, Case Number 21-P-00101. He subsequently filed a fiduciary bond on the same matter on April 7, 2021. Only nine days later, on April 16, 2021, Johnson filed a Motion to Appoint Administrator in Franklin District Court in the matter of *Estate of Elizabeth Craves*, Case Number 18-P-00467.

Then, on April 28 and May 25 of 2021, Johnson appeared as counsel of record in the Bourbon County District Court in a pending criminal matter. Johnson emailed with the prosecuting attorney in that case, *Commonwealth v. Conkright*, Case Number 21-F-0007. After the judge in that case was notified of Johnson's suspension and activity on the case, she alerted the KBA.

Finally, in July of 2021, Johnson telephonically appeared as counsel of record in the Bourbon County Family Court in the matter of *Mullins v. Hughes*, Case Number 21-D-0044-001. Subsequently, Johnson's client informed the

court that Johnson's son had died. Johnson requested a continuance for a pretrial hearing and to reschedule trial. The judge in that case then confirmed with Johnson that Johnson was still able to represent his client, and that he would appear at subsequent hearings if continued.

As a result of these events and after the KBA was notified, the Inquiry Commission filed a complaint against Johnson for violating SCR 3.130(3.4) and SCR 3.130(5.5)(a). Johnson failed to respond to this complaint. Consequently, on January 26, 2022, the Commission filed a Charge against Johnson. That Charge alleged that Johnson violated SCR 3.130(3.4) by knowingly disobeying an obligation under the rules of a tribunal, SCR 3.130(5.5)(a) by practicing law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, and SCR 3.130(8.1)(b) by knowingly failing to respond to a lawful demand for information from the Inquiry Commission in its initial complaint. Johnson received the Charge by sheriff service. Johnson did not respond to the Charge, and, accordingly, an Order of Submission was filed on April 27, 2022 to the Board of Governors. The Board considered the Charge on default pursuant to SCR 3.210.

## **II. PRIOR DISCIPLINE**

As noted above, Johnson has had two prior suspensions stemming from the same KBA disciplinary case. His indefinite suspension resulted from a failure to respond to previous Charges. This suspension became effective on December 27, 2020. His subsequent suspension began June 17, 2021. That suspension resulted from violations of SCR 3.130(1.1), two counts of SCR

3.130(1.3), SCR 3.130(1.4)(a)(2), SCR 3.130(1.4)(a)(3), two counts of SCR 3.130(1.4)(a)(4), SCR 3.130(1.5)(a), two counts of SCR 3.130(1.16)(d), SCR 3.130(3.3)(a)(1), and three counts of SCR 3.130(8.1)(b) across three separate disciplinary cases. The Office of Bar Counsel filed a Motion to Reopen and Show Cause regarding that suspension with this Court on May 4, 2022. Following Johnson's failure to respond to this Court's Order to Show Cause, we imposed the 119-day probated suspension. *Kentucky Bar Ass'n v. Johnson*, 2021-SC-0099-KB.

### **III. AGGRAVATING FACTORS CONSIDERED BY THE BOARD**

The known applicable aggravating factors include prior discipline; substantial experience in the practice of law; a pattern of misconduct; multiple offenses; and bad faith obstruction of the disciplinary process by intentionally failing to comply with rules or orders of the disciplinary agency. The only mitigating factor noted by the Board, which this Court notes is significant and tragic, is that Johnson's son passed away in July of 2021.

### **IV. ANALYSIS**

The Board recommends that Johnson be suspended for one year to run consecutively to other discipline and be ordered to pay the costs associated with this action. Having reviewed the record, we agree that the Board reached the appropriate conclusions as to Johnson's guilt. Johnson has not filed a notice to this Court to review the Board's decision, and we do not elect to review the decision of the Board under SCR 3.370(8). Accordingly, the decision of the Board is adopted under SCR 3.370(9).

For the foregoing reasons, it is hereby ORDERED:

1. Charles Edwin Johnson is found guilty of violating SCR 3.130(3.4), SCR 3.130(5.5)(a), and SCR 3.130(8.1)(b);
2. Charles Edwin Johnson is suspended from the practice of law in the Commonwealth of Kentucky for one year to be served consecutively to other discipline.
3. In accordance with SCR 3.450, Johnson is directed to pay all costs associated with these disciplinary proceedings against him, said sum being \$227.10, for which execution may issue from this Court upon finality of this Opinion and Order.

All sitting. All concur.

ENTERED: October 20, 2022.

  
CHIEF JUSTICE MINTON