

STATE OF MINNESOTA

IN SUPREME COURT

A18-2139

Original Jurisdiction

Per Curiam
Dissenting, McKeig, Lillehaug, JJ.

In re Petition for Disciplinary Action
against Ignatius Chukwuemeka Udeani,
a Minnesota Attorney, Registration No. 0300615.

Filed: July 1, 2020
Office of Appellate Courts

Susan M. Humiston, Director, Timothy M. Burke, Deputy Director, Siama C. Brand, Senior Assistant Director, Office of Lawyers Professional Responsibility, Saint Paul, Minnesota, for petitioner.

Ignatius Chukwuemeka Udeani, Bloomington, Minnesota, pro se.

S Y L L A B U S

An indefinite suspension with no right to petition for reinstatement for 3 years is the appropriate discipline for an attorney who committed wide-ranging misconduct causing substantial harm to multiple clients, including engaging in a pattern of incompetent representation, neglect, failure to communicate with clients, and failure to return unearned fees; failing to properly supervise a non-lawyer assistant and failing to take reasonable steps to prevent the known misconduct of the non-lawyer assistant that resulted in the theft of client funds; failing to safeguard client funds and maintain all trust-account related

records; representing a client with a conflict of interest; and failing to cooperate in multiple disciplinary investigations.

Suspended.

OPINION

PER CURIAM.

The sole issue before us is the appropriate discipline to impose on respondent Ignatius Chukwuemeka Udeani for his wide-ranging misconduct that caused substantial harm to multiple clients. The Director of the Office of Lawyers Professional Responsibility filed a petition and a supplementary petition for disciplinary action against Udeani. Following a hearing, a referee found that Udeani committed numerous and varied acts of misconduct. Udeani's misconduct involved: engaging in a pattern of incompetent representation, neglect, failure to communicate with clients, and failure to return unearned fees; failing to properly supervise a non-lawyer assistant and take reasonable steps to prevent the known misconduct of this assistant that resulted in the theft of client funds; failing to safeguard client funds and maintain all trust-account related records; representing a client with a conflict of interest; and failing to cooperate in multiple disciplinary investigations. The referee also found multiple aggravating factors and no mitigating factors. We conclude that the appropriate discipline is an indefinite suspension with no right to petition for reinstatement for 3 years.

FACTS

Ignatius Chukwuemeka Udeani was admitted to practice law in Minnesota on May 12, 2000. In 2007, Udeani was placed on private probation for failing to diligently

handle an immigration matter, for failing to properly withdraw from a matter, and for financial misconduct. Udeani was admonished in 2012 for not promptly informing a client that his motion to withdraw from representation had been denied and for failing to attend a hearing. He was admonished again in 2013 for failing to deposit a client's funds into a trust account. Finally, we suspended Udeani for 30 days in 2017 for "failing to diligently handle three client matters, simultaneously representing two clients despite a concurrent conflict of interest, and communicating with a represented party." *In re Udeani*, 897 N.W.2d 253, 253 (Minn. 2017) (order). We reinstated Udeani and placed him on supervised probation for 2 years. *In re Udeani*, 899 N.W.2d 829, 830 (Minn. 2017) (order).

The Director's petitions assert sixteen counts of misconduct against Udeani that largely took place during his 2-year post-reinstatement probation. Fourteen of these counts concern client-related misconduct, failure to supervise a non-lawyer assistant, and financial misconduct. Two counts are for failure to cooperate with the Director's investigations. We summarize the referee's findings and conclusions regarding each of these categories of misconduct in turn.

Client-related misconduct

Udeani represented a family in their immigration matters beginning in September 2016. Two of the family members hoped to apply for legal resident status before their U-Visas expired in November 2017. Udeani never filed their applications. Udeani's failure to file their applications left them without legal status, making them subject to deportation, unable to work, and unable to legally drive. Two other family members also

retained Udeani. He performed no work on their cases. Finally, members of the family paid for immigration physicals, the results of which Udeani allowed to lapse.

D.A.C.H. retained Udeani to represent him in his second-degree murder trial set for July 2018. Udeani was present when law enforcement separately interviewed both D.A.C.H. and his brother, who the police believed were present at the crime. Importantly, the brother was a witness for both D.A.C.H. and for the State. The State recognized the existence of this potential conflict of interest the weekend before trial. The judge removed Udeani from the case, and the trial—including 52 witnesses—was postponed for nearly 5 months, until December 2018.

Udeani represented J.L. in his Deferred Action for Childhood Arrivals (DACA) application. The immigration court granted Udeani's request to continue J.L.'s hearing when J.L. failed to appear. About 1 month before the continued hearing took place, Udeani filed a motion to withdraw from the representation. The court mailed its order denying this motion to Udeani nearly 2 weeks before the hearing. Nonetheless, Udeani failed to appear. J.L. was deported.

I.R.Z. was a former client of Udeani's who later retained different counsel to represent her in removal proceedings. This attorney requested I.R.Z.'s file from Udeani for the first time in December 2017. Udeani neither sent the file nor responded. I.R.Z.'s new attorney requested the file again on January 15, 2018, and filed a complaint in February with the Director's office after receiving no response. Udeani, through counsel, sent the file to I.R.Z.'s attorney on March 23, 2018.

Udeani represented M.E. in her U-Visa matter. Udeani believed that his office filed her U-Visa application, but he failed to follow up on it after he did not receive a receipt or a biometrics request. The government typically issues receipts and biometrics requests when U-Visa applications are filed; thus, Udeani should have realized that he made a mistake when he received neither of these. Roughly 1 year after she retained him, M.E. called Udeani's office for an update on her case. Only then did Udeani discover that he had lost her file. Udeani claimed that he filed a Freedom of Information Act (FOIA) request to find out what happened to her application 1 month after M.E. called him. Udeani claimed that he did not receive a response because his employees either failed to mail the request or destroyed any response. Udeani never personally followed up on the FOIA request.

A married couple with U-Visas, M.D.R.G. and J.C.G.M., retained Udeani to obtain permanent resident status. When they retained Udeani, these clients informed him that they had less than 9 months left to achieve permanent resident status. Udeani relied on his non-lawyer assistant to file the applications. She did not file the applications, but falsely attested in the case-management system that she had done so. She also stole the money orders these clients had provided to pay filing fees. Around October 2017, M.D.R.G. called Udeani for the receipt numbers so that she could track the applications on her own. At a meeting the next day, Udeani told her that he had lost their applications and that his non-lawyer assistant stole their filing fees. He told her that "he would act expeditiously to correct the situation." Udeani received a payment towards his fee, but "failed to respond

until January 2018 to multiple requests for communication.” Udeani missed the deadline to apply for permanent resident status on his clients’ behalf.

Udeani represented F.Y.Z.C. in immigration matters that the retainer failed to identify. F.Y.Z.C. believed that Udeani would transfer her case from Virginia to Minnesota, update her asylum application, determine her eligibility for work authorization, and represent her in immigration proceedings. At her first meeting with Udeani, F.Y.Z.C. informed him that she was less than 2 months away from turning 18. Udeani filed a petition in district court to obtain the custody order required for Special Juvenile Immigration Status relief about 1 week before for F.Y.Z.C.’s 18th birthday. He filed this petition in the wrong county. By the time Udeani corrected his error and the proper court heard the matter, F.Y.Z.C. was already 18 and no longer eligible for relief. When she retained a new lawyer, Udeani sent her file to the new lawyer, along with hundreds of pages of documents that included information about at least one other client who had nothing to do with F.Y.Z.C.’s case.

B.P.D.L.R. retained Udeani to: (1) seek a U-Visa certification from law enforcement; (2) apply for a U-Visa for himself and for others, and; (3) help his son apply for DACA relief. After several unsuccessful attempts at reaching Udeani, B.P.D.L.R. was able to speak to Udeani’s non-lawyer assistant for a status update on the U-Visa applications. Udeani’s non-lawyer assistant told him that Udeani had filed the applications when he had not. After informing B.P.D.L.R. that the applications were not filed and that his money had been stolen, Udeani refused to meet with him again unless B.P.D.L.R. made additional payments toward Udeani’s fees.

Udeani filed a DACA application on behalf of B.P.D.L.R.’s son and received a Request for Evidence from the government. When B.P.D.L.R. learned of the Request for Evidence from the government directly—not from Udeani—he tried several times to contact Udeani. Udeani did not advise the family on how to respond, did not return their calls, and did not respond to the Request for Evidence. B.P.D.L.R.’s son was denied DACA relief—a final determination that he cannot appeal.

B.A.D.D.C. retained Udeani to help her seek CHIPS¹ relief and Special Juvenile Immigration Status for her child and to represent them both in removal proceedings. Udeani filed a petition for Special Juvenile Immigration Status, but he named the wrong client. Udeani then stopped working on the matter and failed to withdraw. B.A.D.D.C. stopped paying Udeani’s fees, but she did not terminate him until she hired a new lawyer. This lawyer requested the file from Udeani. Approximately 3 months later, Udeani sent the file to her new attorney.

Udeani represented A.B.Z.P in her asylum matter, and her daughter in her Special Juvenile Immigration Status and CHIPS matters. Udeani filed an asylum application with numerous errors on A.B.Z.P.’s behalf. When she informed Udeani that her daughter moved out of her home, he responded that “he had to separate their matters and could no longer represent [her daughter].” Udeani never filed a CHIPS petition.

With respect to these matters, the referee concluded that Udeani violated Minn. R. Prof. Conduct 1.1 (competence), 1.2(a) (scope of representation), 1.3 (diligence),

¹ See Minn. Stat. § 260C.007, subd. 6 (2018) (defining a child in need of protection or services).

1.4 (communication with client), 1.6(a) (confidentiality regarding representation of client), 1.7(a) (prohibiting concurrent conflict of interest), 1.16(a)(1) (circumstances requiring lawyer to withdraw from representation), 1.16(d) (returning client papers upon termination of representation), 3.1 (prohibiting a lawyer from asserting frivolous claims), 3.2 (requiring a lawyer to expedite litigation), 3.4(c) (prohibiting a lawyer from knowingly disobeying an obligation under the rules of a tribunal), and 8.4(d) (prohibiting conduct prejudicial to the administration of justice).

Failure to supervise non-lawyer assistant

No later than June 7, 2017, Udeani learned that his non-lawyer assistant altered and stole three money orders that a client paid to cover the filing fees associated with the client's case. Udeani asked that client not to go to the police and told him that his non-lawyer assistant would pay him back. Although Udeani subsequently prevented his non-lawyer assistant from handling outgoing mail, her duties remained otherwise unchanged. Critically, Udeani continued to allow his non-lawyer assistant to have access to client funds and he did not conduct an internal audit at that time to ensure that other clients had not been harmed. Udeani's non-lawyer assistant continued to steal from clients until November 2017.

The referee found that Udeani fired his non-lawyer assistant on November 11, 2017, and filed a police report on November 20, 2017. Shortly after the termination, Udeani completed an internal audit. The audit revealed that his non-lawyer assistant stole \$9,115.00 from eight clients. A later audit revealed that she stole \$11,018 from seventeen clients.

The referee concluded that in failing to adequately supervise his non-lawyer assistant, Udeani violated Minn. R. Prof. Conduct 1.15(a) (requiring a lawyer to deposit client or third-party funds into a trust account and prohibiting lawyers from depositing their own funds into a trust account with exceptions not relevant here), 5.3(a) (providing that a lawyer “shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the [assistant’s] conduct is compatible” with the lawyer’s obligations), 5.3(b) (requiring a lawyer with “direct supervisory authority over [a non-lawyer assistant to] make reasonable efforts” to ensure that the assistant’s conduct is appropriate), and 5.3(c)(2) (providing that a partner or a lawyer with “comparable managerial authority in the law firm” or “direct supervisory authority” over the assistant responsible for the conduct of that assistant).

Financial misconduct

Udeani had improper flat-fee agreements with several clients and failed to deposit advance fees he received from these clients into a trust account. He also did not obtain a signed receipt from clients for their cash payments toward attorney’s fees on multiple occasions. Finally, and most significantly, Udeani has failed to return unearned fees exceeding \$20,000 to eleven clients. This total does not include the stolen filing fees.

The referee concluded that, in these matters, Udeani violated Minn. R. Prof. Conduct 1.5(b)(1) and (3) (imposing requirements for flat-fee agreements), 1.15(c)(4) (requiring a lawyer to promptly return client funds in the lawyer’s possession when requested), 1.15(c)(5) (requiring a lawyer to place client funds in trust), 1.15(h) as interpreted by Appendix 1 (requiring a lawyer to maintain trust account books and records),

and 1.16(d) (requiring a lawyer to repay unearned fees or expenses upon termination of representation).

Noncooperation

The Director's office sent Udeani two letters dated August 16, 2018. The first letter requested information concerning his probation, and the second was a Notice of Investigation concerning a client's complaint. On October 2, 2018, the Director mailed a new notice of investigation concerning another client's complaint.

Near the end of 2018, the Director sent Udeani additional notices of investigation with requests for information concerning at least six more complaints from clients. After several attempts to follow up with Udeani, he still failed to respond. Udeani did not respond in full to the Director's letters until March 10, 2019.

The referee concluded that Udeani violated Minn. R. Prof. Conduct 3.4(c) (knowingly disobey an obligation under the rules of a tribunal), 8.1(b) (knowingly fail to respond to disciplinary investigation), 8.4(d) (engage in conduct that is prejudicial to the administration of justice), and Rule 25, Rules on Lawyers Professional Responsibility (RLPR) (cooperating with a disciplinary investigation).

In addition to findings and conclusions regarding misconduct, the referee found seven aggravating factors: (1) a history of prior discipline; (2) the current misconduct was similar to Udeani's prior misconduct; (3) the current misconduct was committed while Udeani was on probation; (4) Udeani's clients were vulnerable; (5) lack of remorse or acknowledgment of its effects on others; (6) an indifference or unwillingness to make restitution; and (7) failure to cooperate after the Director served the initial petition. The

referee found no mitigating factors. The referee recommended that we indefinitely suspend Udeani, with no right to petition for reinstatement for 3 years.

ANALYSIS

A referee's findings and conclusions are deemed conclusive when neither party orders a transcript of the proceeding. Rule 14(e), Rules on Lawyers Professional Responsibility (RLPR); *see In re Fru*, 829 N.W.2d 379, 387 (Minn. 2013). We review a referee's findings and conclusions for clear error when a party orders a transcript. Rule 14(e), RLPR; *In re Wentzell*, 656 N.W.2d 402, 405 (Minn. 2003). But if a party orders a transcript and subsequently fails to file a brief, he or she has essentially failed to allege that the referee committed clear error. *See In re Graham*, 609 N.W.2d 894, 896 (Minn. 2000). Absent allegations of clear error, we will uphold the referee's findings and conclusions. *Id.*

Here, Udeani requested a transcript, but failed to file a brief. Udeani has therefore not alleged that the referee clearly erred in any of her findings and conclusions. *See id.* Accordingly, the only issue before us is the appropriate discipline to impose. The referee recommended an indefinite suspension for a minimum of 3 years, and the Director agreed.

“We do not impose disciplinary sanctions to punish a lawyer; rather, we do so ‘to protect the public, to guard the administration of justice and to deter future misconduct’ by both the individual lawyer and by other members of the legal profession.” *In re Rhodes*, 740 N.W.2d 574, 578 (Minn. 2007) (quoting *In re Grzybek*, 567 N.W.2d 259, 262 (Minn. 1997)). We consider the following when determining the appropriate discipline for an attorney: “(1) the nature of the misconduct; (2) the cumulative weight of the

disciplinary violations; (3) the harm to the public; and (4) the harm to the legal profession.” *In re Nelson*, 733 N.W.2d 458, 463 (Minn. 2007). In weighing these factors, we also consider aggravating or mitigating circumstances and look to similar cases. *Fru*, 829 N.W.2d at 388. Although we give great weight to the referee’s recommendation, we alone are responsible for the final discipline determination. *Id.* We consider each factor in turn.

A.

Udeani committed wide-ranging, very serious misconduct. “We have not hesitated to impose lengthy suspensions when serious client neglect and incompetence is combined with other disciplinary rule violations.” *Id.* at 389. Here, Udeani’s pattern of incompetence, client neglect, and noncommunication persisted during much of his 2-year probation and involved numerous clients.

This type of “serious client neglect and incompetence” causes us to treat concurrent disciplinary rule violations more severely. *Id.* Udeani’s other disciplinary rule violations include: (1) an impermissible conflict of interest; (2) failure to maintain a current inventory of active client files in accordance with this court’s orders; (3) failure to protect confidential client information; (4) failure to deliver client files to successor counsel; (5) improper fee agreements; (6) failure to deposit unearned fees into a trust account; (7) failure “to obtain a receipt signed by the payor for cash payment toward attorney’s fees”; and finally, (8) refusing to meet with current clients unless they paid attorney’s fees.

We consider the failure to return unearned fees to be “serious misconduct,” while “the most serious form of financial misconduct” is misappropriation of client funds. *In re*

Taplin, 837 N.W.2d 306, 312 (Minn. 2013). The referee found that Udeani failed to return unearned fees in five cases, involving eleven clients, exceeding \$20,000.

Udeani is also responsible for the misconduct that his non-lawyer assistant committed. *See* Minn. R. Prof. Conduct 5.3(c); *see, e.g., In re Kaszynski*, 620 N.W.2d 708, 712 (Minn. 2001) (stating that “under Minn. R. Prof. Conduct 5.3, [an attorney] is responsible for the considerable damage [a non-lawyer assistant] causes . . . clients”). Here, a non-lawyer assistant repeatedly stole filing fees from Udeani’s clients. Despite knowing of the theft, Udeani did not curtail his non-lawyer assistant’s access to client funds, and she continued to steal client funds. Udeani’s non-lawyer assistant remained employed for at least 5 months after Udeani discovered her misconduct, and Udeani has failed to fully compensate all of the affected clients.²

“[F]ailure to cooperate with the Director’s investigation constitutes independent grounds for serious discipline.” *In re Villanueva*, 931 N.W.2d 816, 823 (Minn. 2019). Udeani failed to cooperate with the Director’s office before the Director filed both the original petition and the supplemental petition. The nature of the misconduct here weighs heavily in favor of serious discipline.

B.

Concerning the second factor, “the cumulative weight and severity of multiple disciplinary rule violations may compel severe discipline even when a single act standing

² At oral argument, Udeani asserted that he paid the application fees for all but three clients who were victimized by his non-lawyer assistant. The record does not support this assertion, however, with respect to the clients identified in the Director’s petitions.

alone would not have warranted such discipline.” *In re Oberhauser*, 679 N.W.2d 153, 160 (Minn. 2004). We distinguish between a brief lapse in judgment or a single, isolated incident from multiple instances of misconduct occurring over a substantial amount of time. *See In re Fairbairn*, 802 N.W.2d 734, 743 (Minn. 2011). Udeani violated 29 different rules of professional conduct, many of them repeatedly, over about 2 years. There is no doubt that he committed many acts of misconduct over a substantial amount of time.

C.

We next consider the harm to the public and to the legal profession. We measure harm to the public based on the quantity (the number of clients harmed) and the quality (the extent of the clients’ injuries). *In re Coleman*, 793 N.W.2d 296, 308 (Minn. 2011). Udeani’s misconduct caused harm to over 20 clients, and in some instances, their family members as well.

In addition, Udeani’s misconduct harmed multiple clients. Udeani’s misconduct led to the deportation of a client who was eligible for DACA and to two temporary lapses in status, putting two other clients at risk for removal proceedings. *See Kaszynski*, 620 N.W.2d at 711 (concluding that, among other serious examples of misconduct, an attorney’s mishandling of a case that put clients “in jeopardy of being deported” warranted disbarment); *In re Muenchrath*, 588 N.W.2d 497, 501 (Minn. 1999) (indefinitely suspending an attorney for, among other things, misconduct that resulted in deportation). Udeani’s misconduct caused a DACA denial for another client. Importantly, a DACA denial is final; it cannot be appealed and an individual may not reapply. Udeani delayed another client’s U-Visa application by at least 3 years, which was especially harmful

because the client needed this status to more easily secure a necessary kidney transplant. Udeani's failure to file another client's U-Visa application delayed the entire family's citizenship timeline.³ Similar delays caused other complications for another client, who had her driver's license suspended and her work authorization lapse.

Udeani also caused significant financial harm to his clients. He has failed to return unearned fees, totaling over \$20,000, to eleven clients. One family who did not receive a refund for Udeani's unearned fees had to work multiple jobs and still needed to borrow funds to cover the costs of the subsequent attorney they retained to correct Udeani's mistakes.

We measure harm to the legal profession by considering whether an attorney's "breach of trust . . . reflects poorly on the entire legal profession and erodes the public's confidence in lawyers." See *In re Rooney*, 709 N.W.2d 263, 270 (Minn. 2006). We have previously recognized that an immigration attorney's "wide-ranging misconduct" harms the legal profession by eroding this trust. *Fru*, 829 N.W.2d at 390. Here, three of Udeani's former clients and an attorney who later represented one of Udeani's former clients testified to this lost trust at the hearing before the referee. Further, delaying a second-degree murder trial, with a jury selected and 52 witnesses called for trial, for nearly 5 months because he did not recognize his obvious conflict of interest harms the legal profession by wasting the court's resources. *In re Murrin*, 821 N.W.2d 195, 208 (Minn. 2012).

³ The referee noted that, after 3 years with a U-Visa, B.P.L.D.R. and his family could have applied for residency, and then could have applied for citizenship after 5 years. Udeani's delay in the U-Visa application, therefore, delayed their entire citizenship timeline.

D.

We then consider any aggravating or mitigating factors. Udeani presented no evidence of mitigating factors and the referee found none. The referee found seven aggravating factors: (1) Udeani's history of prior discipline; (2) the current misconduct is similar to Udeani's prior misconduct; (3) Udeani committed the misconduct during probation; (4) Udeani's clients were vulnerable; (5) Udeani lacked remorse; (6) Udeani's "indifference or unwillingness to make restitution"; and finally, (7) Udeani's failure to cooperate after the Director served the initial petition.

Our case law recognizes the first five factors, and the referee's findings clearly support these conclusions. *See In re Severson*, 860 N.W.2d 658, 670 (Minn. 2015) (recognizing lack of remorse is an aggravating factor); *Kaszynski*, 620 N.W.2d at 712 (recognizing client vulnerability is an aggravating factor); *In re Milloy*, 571 N.W.2d 39, 45–46 (Minn. 1997) (recognizing a prior disciplinary history, the similarity between the current misconduct and the lawyer's prior misconduct, and committing misconduct while on probation are aggravating factors). Our case law does not support an aggravating factor based on Udeani's indifference toward restitution because we have already considered his failure to make restitution to clients when analyzing the harm caused to his clients. *See Villanueva*, 931 N.W.2d at 824. Further, only Udeani's failure to cooperate in the disciplinary proceeding before this court—i.e., his failure to appear for a scheduling conference and his failure to adequately respond to the Director's discovery request—may support an aggravating factor for noncooperation, to avoid "double counting" this misconduct. *See Taplin*, 837 N.W.2d at 313.

E.

Finally, we look to similar cases. In *Fru*, we indefinitely suspended an immigration attorney, with no right to petition for reinstatement for 2 years, who had “a persistent and pervasive pattern of incompetence, client neglect, and noncommunication.” 829 N.W.2d at 380–81. Fru’s misconduct harmed at least eight clients, including jeopardizing the legal status of seven of them. *Id.* at 390. Fru also failed to deposit unearned fees into his trust account, failed to enter into written retainer agreements, engaged in the unauthorized practice of law, and failed to cooperate with the Director. *Id.* at 389. Udeani’s misconduct parallels Fru’s.

In some ways, however, Udeani’s misconduct is more serious than Fru’s, primarily because Udeani has a disciplinary history that includes similar misconduct and he was on probation when he committed the misconduct. Nevertheless, both the referee and the Director recommend that we indefinitely suspend Udeani, with no right to petition for reinstatement for 3 years. The Director considered disbarment but ultimately recommended suspension based partly on a belief that we do not disbar attorneys without misconduct involving “personal misappropriation, serious dishonesty or a felony conviction.” Although disbarment most often results from these forms of misconduct, we have disbarred attorneys for other forms of misconduct. *See, e.g., In re Redburn*, 746 N.W.2d 330 (Minn. 2008); *Rhodes*, 740 N.W.2d 574; *In re Weyhrich*, 339 N.W.2d 274 (Minn. 1983).

Still, we agree with the Director's recommendation. Based on Udeani's specific misconduct and the aggravating factors, we conclude that the appropriate discipline is an indefinite suspension, with no right to petition for reinstatement for 3 years.

Accordingly, we order that:

1. Respondent Ignatius Chukwuemeka Udeani is indefinitely suspended from the practice of law, effective 14 days from the date of this opinion, with no right to petition for reinstatement for a minimum of 3 years.

2. Respondent shall pay \$900 in costs, pursuant to Rule 24(a), RLPR, and comply with the requirements of Rule 26, RLPR (requiring notice of suspension to clients, opposing counsel, and tribunals).

3. If respondent seeks reinstatement, he must comply with the requirements of Rule 18(a)–(e), RLPR. Reinstatement is conditioned on the successful completion of the written examination required for admission to the practice of law by the State Board of Law Examiners on the subject of professional responsibility and satisfaction of continuing legal education requirements. Rule 18(e), RLPR.

Suspended.

DISSENT

McKEIG, Justice (dissenting).

Because disbarment is the appropriate discipline for respondent Ignatius Chukwuemeka Udeani based on the incalculable harm he has inflicted upon his clients, I respectfully dissent.

The overwhelming majority of the 24 clients and client family members harmed by Udeani's misconduct are immigrants. Immigrants face substantial obstacles in seeking adequate legal representation, including communication barriers, financial burdens, and limited opportunities for self-protection. *See* Erin B. Corcoran, *Bypassing Civil Gideon: A Legislative Proposal to Address the Rising Costs and Unmet Legal Needs of Unrepresented Immigrants*, 115 W. Va. L. Rev. 643 (2012); *see also In re Kaszynski*, 620 N.W.2d 708, 712 (Minn. 2001). These obstacles mean that immigration clients rely heavily on their attorneys, and attorneys who abuse that trust are subject to serious discipline. *See Kaszynski*, 620 N.W.2d at 712.

Immigration proceedings come with strict deadlines and filing requirements, and the consequences for missteps are severe. Faced with the most important legal proceedings of their lives, immigration clients think that they are being responsible by hiring an attorney like Udeani. Udeani's clients made significant sacrifices to save the necessary funds to retain him. They worked multiple jobs, opened their homes to renters, borrowed from family members, and even went without medication and treatment. They placed this money, and their trust, in Udeani's care. Udeani then wholly abused that trust, performing nominal or no work on most of these cases.

It is difficult to overstate the harm that Udeani has caused. Because of his deficient representation, thirteen clients and their family members experienced denials, lapses, or delays in legal status. One client was deported. Another was permanently denied Deferred Action for Childhood Arrivals (DACA) status, a decision which cannot be appealed. Two other clients experienced lapsed statuses, making them vulnerable to deportation and removal proceedings. At least three clients experienced delays in their paths to citizenship.

Consequences for these clients are about more than these life-altering changes in legal status, although those burdens are clearly substantial. The negative effects on clients' health, livelihoods, and well-being are just as heavy a cost. Udeani's failures affected one client's ability to secure a kidney transplant. At least two clients suddenly faced the challenge of not being able to obtain a driver's license or work authorization. One client may not be able to attend college. Still others have been subject to questioning by employers and law enforcement about their legal status, which has become a source of fear and anxiety.

Worse still, Udeani consistently kept his clients in the dark, preventing them at every turn from protecting themselves. When clients checked on their cases, Udeani was either completely non-responsive or reassured them that progress was being made on their cases. Meanwhile, Udeani was missing deadlines and misplacing files. His clients could not submit supplemental or replacement documents that they did not know needed to be submitted.

Clients fortunate enough to eventually receive an update were usually told they needed to produce additional money for their cases to proceed. This was in large part

because Udeani's negligence allowed his nonlawyer assistant to misappropriate the filing fees of seventeen clients. Most of that misappropriated money remains unrepaid, as does more than \$20,000 in unearned attorney's fees. Time and time again, Udeani failed to take action on his clients' cases, resulting in serious and sometimes irreversible consequences. And yet, it never seems that Udeani failed to take their money. It is almost beyond comprehension that an attorney in Udeani's position could negligently mismanage his practice to such an extent.

We have disbarred immigration attorneys for misconduct similar to Udeani's. *See Kaszynski*, 620 N.W.2d at 712. In *Kaszynski*, we stated that the attorney's misconduct "had a significant adverse impact on the lives of many of his clients, separating families, and threatening the ability of clients to obtain permanent residency status. We do not allow attorneys who display such a 'callous disregard for the physical and financial well-being of vulnerable, dependent persons' to continue the practice of law.'" *Id.* at 714 (quoting *In re Franke*, 345 N.W.2d 224, 228 (Minn. 1984)). I would apply the same principle here and disbar Udeani.

When both the Director and the referee recommend the same discipline, we should be generally reluctant not to defer to that recommendation. But this case cries out for disbarment. The record shows that Udeani has been unable or unwilling to change. This is his fifth disciplinary action since 2007. Of critical importance, the present misconduct largely took place during a probationary period from the last disciplinary action. Well knowing that his license was at stake, Udeani committed 16 counts of misconduct and 29

different rule violations. He committed the misconduct even while under the supervision of a well-qualified immigration attorney.

In light of what Udeani did and what he failed to do while on supervised probation, the risk is too great to leave open the possibility that this attorney might practice again. For his repeated failures to adequately and competently represent vulnerable clients, and for the threat his misconduct poses to the public and the profession, Udeani should be disbarred.

LILLEHAUG, Justice (dissenting).

I join in the dissent of Justice McKeig.