

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

IN THE MATTER OF  
ALPHONSE M. THOMPSON, JR.

DISCIPLINARY CASE

NO. 20-3186

**ORDER & REASONS**

Before the Court is a consent discipline petition submitted jointly by Alphonse M. Thompson, Jr. and the Lawyer Disciplinary Committee for the United States District Court for the Eastern District of Louisiana (the “LDC”).<sup>1</sup> On January 27, 2021, the *en banc* court issued to Thompson a rule to show cause why the summary discipline of suspension from the practice of law before this Court for three years, all but one year deferred, should not be imposed.<sup>2</sup> Thompson responded that this Court should impose the same discipline as did the Louisiana Supreme Court, which was suspension for three years, all but six months deferred.<sup>3</sup> Pursuant to Rules 6.5.2 and 7.2 of the Rules for Lawyer Disciplinary Enforcement, this matter was randomly allotted to Section M of this Court for hearing and all other necessary proceedings.<sup>4</sup> The Court appointed the LDC to investigate and prosecute the action.<sup>5</sup> On June 3, 2021, the Court held a status conference at which the LDC stated that it and Thompson intended to propose a consent discipline, without the need for a hearing.<sup>6</sup> The parties submitted their joint proposal on June 15, 2021.<sup>7</sup> Having considered the memorandum, the record, the applicable law, and the report and recommendation of Section M, the *en banc* court approves the proposed consent discipline.

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<sup>1</sup> R. Doc. 13.

<sup>2</sup> R. Doc. 4.

<sup>3</sup> R. Doc. 5.

<sup>4</sup> R. Doc. 6.

<sup>5</sup> R. Doc. 7.

<sup>6</sup> R. Doc. 11.

<sup>7</sup> R. Doc. 13.

## **I. BACKGROUND**

This disciplinary matter arises out of conduct that occurred in state court. The Louisiana Supreme Court explained the underlying facts and disciplinary proceedings as follows:

### **UNDERLYING FACTS**

On August 30, 2016, respondent filed a petition for damages on behalf of his client, Deandra Pittman, in First City Court for the City of New Orleans. Respondent thereafter took no further action in the case. Nevertheless, he provided Ms. Pittman with a copy of a motion and order setting the matter for trial. The order indicated a trial date of August 30, 2017 and was purportedly signed by Judge Angelique Reed on April 17, 2017. The motion and order did not have a file date or any other indication that the clerk of court's office had received and processed same.

On June 26, 2017, Ms. Pittman spoke to Judge Reed's office and was informed that no trial date was set. On June 29, 2017, Ms. Pittman faxed a copy of the motion and order to Judge Reed's office. On July 10, 2017, the ODC [*i.e.*, Office of Disciplinary Counsel] received a disciplinary complaint from Judge Reed. In her complaint, Judge Reed denied signing the order and asserted that the pleading was never filed with the clerk's office.

In response to Judge Reed's complaint, respondent admitted neglecting Ms. Pittman's case. He also admitted that, when Ms. Pittman demanded to know when her case would go to trial, he misled her into believing the trial date was imminent. Respondent then indicated that, when Ms. Pittman demanded to see a copy of the order setting the case for trial, he falsified the motion and order. Finally, he expressed remorse for this conduct.

On November 14, 2017, respondent provided a sworn statement to the ODC. During his statement, respondent again admitted to preparing the fraudulent motion and order. He also admitted to forging Judge Reed's signature on the order and acknowledged that, at that time, he had not yet served the defendant with the petition.

### **DISCIPLINARY PROCEEDINGS**

In May 2018, the ODC filed formal charges against respondent, alleging that his conduct violated the following provisions of the Rules of Professional Conduct: Rules 1.3 (failure to act with reasonable diligence and promptness in representing a client), 1.4 (failure to communicate with a client), 3.2 (failure to make reasonable efforts to expedite litigation), 8.4(a) (violation of the Rules of Professional Conduct), 8.4(b) (commission of a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer),<sup>1</sup> 8.4(c)

(engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation), and 8.4(d) (engaging in conduct prejudicial to the administration of justice).

In his answer, respondent admitted to the misconduct as set forth in the formal charges. He also identified several mitigating circumstances with respect to both his personal life and professional life.

#### *Hearing Committee Report*

After considering the evidence and testimony presented at the hearing, the hearing committee summarized the testimony and made factual findings as follows:

Judge Reed testified that Ms. Pittman was inquiring about the trial date for her case. The clerk's office investigation disclosed that there was no order setting her case for trial. Ms. Pittman produced a purported order that was allegedly signed by Judge Reed, who testified that the signature was not hers. She concluded that the purported pleading containing the fraudulent order had been forged by respondent. Therefore, she notified the ODC and submitted a formal complaint against respondent.

Ms. Pittman testified that, after several efforts to determine the status of her case by contacting respondent, she received from him a document purportedly setting the case for trial and signed by Judge Reed. After she contacted Judge Reed's office and learned that the case was not set for trial, she contacted respondent, who admitted that her case was not, in fact, set for trial and that he had signed Judge Reed's name to an order that he prepared.

Respondent admitted he had created a false motion and order purporting to set the case for trial and forged Judge Reed's signature. He testified that, at the time, he was under significant professional and personal stress due to being named as a defendant in a multi-million dollar damage suit, losing his secretary, and also having attorneys he practiced with leave the office. He further testified that he was responsible for caring for his elderly parents. During the course of his testimony, respondent showed convincing remorse and apologized to Judge Reed and Ms. Pittman. The evidence also showed that Ms. Pittman has continued to employ respondent as her attorney in the lawsuit at issue here as well as another lawsuit, and she did not state that she sustained damages as a result of the incident.

Based on these facts, the committee determined respondent violated the Rules of Professional Conduct as charged, with the exception of Rule 8.4(b). With respect to Rule 8.4(b), the committee concluded that respondent's conduct did not rise to the level of a criminal act because the forgery of Judge Reed's signature was not done with the intent to gain a pecuniary benefit.

The committee determined respondent violated duties owed to the legal system and the legal profession. He acted intentionally but caused no actual harm. Based

on the ABA's *Standards for Imposing Lawyer Sanctions*, the committee determined the baseline sanction is suspension.

In aggravation, the committee found only a prior disciplinary record.<sup>2</sup> In mitigation, the committee found personal or emotional problems and remorse. In further mitigation, the committee noted that respondent apologized to Judge Reed and Ms. Pittman and that Ms. Pittman has continued to employ respondent as her attorney.

Under these circumstances, the committee recommended respondent be suspended from the practice of law for one year, with all but one month deferred. The committee also recommended that respondent be assessed with the costs and expenses of this proceeding.

The ODC filed an objection to the committee's report, arguing that a greater actual period of suspension is warranted and that respondent should be required to attend the Louisiana State Bar Association's Ethics School.

#### *Disciplinary Board Recommendation*

After review, the disciplinary board adopted the hearing committee's factual findings. Based on those facts, the board determined that the evidence supports the committee's conclusions as to the violations of the Rules of Professional Conduct.

The board explained that, by the time respondent provided Ms. Pittman with the fabricated motion and order, he had not been acting in accordance with her wish to go to trial or maintaining adequate communication with her, in violation of Rules 1.3, 1.4, and 3.2. In fabricating the motion and order, respondent engaged in conduct involving dishonesty, deceit, or misrepresentation, in violation of Rule 8.4(c), and in conduct prejudicial to the administration of justice, in violation of Rule 8.4(d). The board further explained that, in violating the above rules, respondent also violated Rule 8.4(a). Finally, the board agreed with the committee that respondent did not violate Rule 8.4(b) because he did not fabricate the trial court's order with the intent to injure or prejudice the rights of his client. Rather, the board found that respondent took the action he did to pacify his client while he put her case back on track.

The board determined that respondent violated duties owed to his client and the legal profession. His neglect and failure to communicate with his client was negligent or knowing, but his fabrication of the motion and order was intentional. Nevertheless, respondent's misconduct caused no actual harm with the possible exception of the inconvenience to the court in having to field the calls from Ms. Pittman. After considering the ABA's *Standards for Imposing Lawyer Sanctions*, the board determined that the baseline sanction is suspension.

In aggravation, the board found a prior disciplinary record, multiple offenses, and substantial experience in the practice of law (admitted 1985). In mitigation, the board found personal or emotional problems, timely good faith effort to rectify the consequences of the misconduct, full and free disclosure to the disciplinary board and a cooperative attitude toward the proceedings, and remorse.

After further considering this court's prior jurisprudence addressing similar misconduct, the board recommended respondent be suspended from the practice of law for one year, with all but thirty days deferred, subject to the condition that any misconduct during the period of the deferred suspension may be grounds for making the deferred suspension executory or imposing additional discipline, as appropriate. The board also recommended that respondent be assessed with the costs and expenses of this proceeding.

<sup>1</sup> The ODC alleged that respondent's conduct constituted forgery, a violation of La. R.S. 14:72. That statute provides that it is "unlawful to forge, with intent to defraud, any signature to, or any part of, any writing purporting to have legal efficacy." The definition of "forge" in the statute includes altering, making, completing, executing, or authenticating any writing so that it purports to be the act of another who did not authorize that act.

<sup>2</sup> In 2014, we accepted a joint petition for consent discipline and publicly reprimanded respondent for failing to properly supervise a non-lawyer assistant and mishandling his client trust account. *In re: Thompson*, 14-0210 (La. 2/26/14), 134 So. 3d 579.

*In re Thompson*, 290 So. 3d 650, 652-54 (La. 2020).

On these undisputed facts, the Louisiana Supreme Court found that Thompson violated duties owed to his client and the legal profession. *Id.* at 655. The court noted that Thompson's neglect and failure to communicate with his client was negligent or knowing and the fabrication of the motion and order was intentional, but his misconduct did not cause actual harm. *Id.* Guided by its decision in *In re Ellis*, 710 So. 2d 794 (La. 1998), where an attorney undergoing cancer treatment who falsified a judgment was suspended for three years with all but one year and one day deferred, the court suspended Thompson for three years with all but six months deferred. *In re Thompson*, 290 So. 3d at 655-56. The suspension was to be followed by a two-year period of unsupervised probation during which Thompson was ordered to attend and successfully complete the Louisiana State Bar Association's Ethics School. *Id.* at 656. One justice dissented, stating that he would require at least one year of actual suspension. *Id.*

Thompson did not report to this Court the discipline imposed by the Louisiana Supreme Court.<sup>8</sup> However, he did not submit any filings or participate in any conferences in this Court during the term of his state-imposed discipline.<sup>9</sup> On November 24, 2020, the Clerk of Court of the United States District Court for the Eastern District of Louisiana notified Thompson that the Court had received a copy of the Louisiana Supreme Court's order imposing discipline and that he was required to file a written response with the Clerk within 14 days.<sup>10</sup> After Thompson failed to timely respond, the *en banc* court issued a rule to show cause why Thompson should not be suspended for three years, with all but one year deferred.<sup>11</sup> Thompson responded that the discipline should be reciprocal to that imposed by the Louisiana Supreme Court, namely, suspension for three years, with all but six months deferred, notwithstanding his failure to timely respond to the Clerk of Court's notice<sup>12</sup>

Pursuant to Rules 6.5.2 and 7.2 of the Rules for Lawyer Disciplinary Enforcement, this matter was randomly allotted to Section M of this Court for hearing and all other necessary proceedings.<sup>13</sup> The Court appointed the LDC to investigate and prosecute the action.<sup>14</sup> On June 3, 2021, the Court held a status conference at which the LDC stated that it and Thompson intended to propose a consent discipline, without the need for a hearing.<sup>15</sup> On June 15, 2021, the parties submitted their joint proposal in which they agree to a public reprimand and a three-year suspension, with all but one year deferred.<sup>16</sup> They note that Thompson took no action (that is, did not practice law) in this Court between March 9, 2020 (the date of the Louisiana Supreme

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<sup>8</sup> R. Doc. 13 at 7.

<sup>9</sup> *Id.*

<sup>10</sup> R. Doc. 1

<sup>11</sup> R. Doc. 4; *see* Lawyer Disciplinary Rule 4.4.

<sup>12</sup> R. Doc. 5.

<sup>13</sup> R. Doc. 6.

<sup>14</sup> R. Doc. 7.

<sup>15</sup> R. Doc. 11.

<sup>16</sup> R. Doc. 13.

Court's disciplinary decree) and January 25, 2021.<sup>17</sup> As a result, Thompson requests that he be credited with having served ten months of the proposed term of actual suspension and that the remaining two months be imposed prospectively from the date of any court-ordered discipline in this matter.<sup>18</sup> The LCD consents to and concurs in the proposed discipline, including Thompson's request for credit.<sup>19</sup>

## II. LAW & ANALYSIS

Considering the undisputed facts of this case, the sanctions imposed by the Louisiana Supreme Court, the Rules of Professional Conduct, and the decisions in *In re Ellis* and *State ex rel. Oklahoma Bar Association v. Gentry*, 80 P.3d 135 (Okla. 2003) (public censure for failure to notify Oklahoma Bar Association of discipline imposed by California Bar), the Court finds that the requested discipline of a public reprimand and a three-year suspension, all but one year deferred, is appropriate. Thompson admits to violating the following Rules of Professional Conduct: 1.3 (failure to act with reasonable diligence and promptness in representing a client), 1.4 (failure to communicate with a client), 3.2 (failure to make reasonable efforts to expedite litigation), 8.4(a) (violation of the Rules of Professional Conduct), 8.4(c) (engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation), and 8.4(d) (engaging in conduct prejudicial to the administration of justice).<sup>20</sup> As noted by the Louisiana Supreme Court, Thompson had aggravating factors of a prior disciplinary record, multiple offenses, and substantial experience in the practice of law, but also the mitigating factors of personal or emotional problems, timely good faith effort to rectify the consequences of his misconduct, full and free disclosure to the disciplinary board and a cooperative attitude toward the proceedings,

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<sup>17</sup> Thompson acknowledges that after January 25, 2021, he participated in two events in this Court – a scheduling conference on January 26, 2021, and a settlement conference on April 14, 2021. R. Doc. 13 at 11.

<sup>18</sup> *Id.* at 11-12.

<sup>19</sup> *Id.* at 1 & 12.

<sup>20</sup> *Id.* at 8; *see also In re Thompson*, 290 So. 3d at 654-55.

and remorse. *See In re Thompson*, 290 So. 3d at 654. Because the proposed consent sanction accounts for all of the violations (including, now, Thompson's failure to notify this Court of the discipline imposed on him by the Louisiana Supreme Court as required by Rule 2 of the Rules for Lawyer Disciplinary Enforcement) as well as the aggravating and mitigating factors, it is approved and will be imposed by this Court.

### III. CONCLUSION

Accordingly, for the foregoing reasons,

IT IS ORDERED that the consent discipline petition (R. Doc. 13) is APPROVED.

IT IS FURTHER ORDERED that Thompson be publicly reprimanded and suspended from the practice of law in this Court for three years, all but one year deferred. Thompson is credited with having served ten months of the actual suspension (from March 9, 2020, through January 25, 2021), and the remaining two months shall be imposed prospectively from the date of this Order.

New Orleans, Louisiana, this 7<sup>th</sup> day of February, 2022.

  
NANNETTE JOLIVETTE BROWN  
CHIEF JUDGE  
FOR THE EN BANC COURT