

Supreme Court of Kentucky

2017-SC-000100-KB

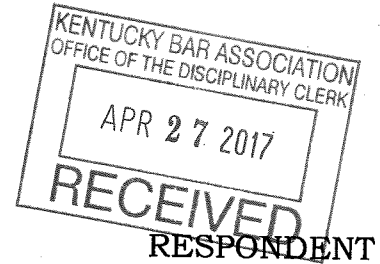
CHRISTOPHER LEE STANSBURY

MOVANT

V.

IN SUPREME COURT

KENTUCKY BAR ASSOCIATION



OPINION AND ORDER

Christopher Lee Stansbury, pursuant to Supreme Court Rule (SCR) 3.480(2), moves this Court to enter an Order resolving the pending disciplinary proceeding against him (KBA File Nos. 20721 and 22253) by imposing a two-year suspension from the practice of law, with the condition that he undergo a Kentucky Lawyer Assistance Program (KYLAP) assessment before any request for reinstatement is made. The Kentucky Bar Association (KBA) has no objection to Stansbury's motion. Stansbury was admitted to the practice of law in the Commonwealth of Kentucky on October 29, 1999; his KBA number is 87899. Stansbury's bar roster address is 120 Deer Crossing, Nicholasville, KY 40356.

I. BACKGROUND.

File No. 20721

From December 2010 through January 2012, Stansbury conducted twenty-two real estate closings at which he held himself out as an approved

agent for Old Republic Title, issuing closing protection and title commitment letters on behalf of Old Republic, and also collecting title insurance premiums, while knowing he was not authorized to do so. Although Stansbury ultimately remitted those premiums to Old Republic, Stansbury acknowledges that his conduct violated SCR 3.130(8.4)(c) ("It is professional misconduct for a lawyer to . . . engage in conduct involving dishonesty, fraud, deceit or misrepresentation."). Stansbury also acknowledges that he violated SCR 3.130(8.1)(b) in that he knowingly failed to respond to a lawful demand for information from the Office of Bar Counsel in August 2012, as well as a subpoena *duces tecum* served on him by a sheriff on December 11, 2012.

File No. 22253

Stansbury acknowledges that he violated SCR 3.130(1.4)(a) (failure to keep the client reasonably informed) in his representation of Linda Curry in a divorce case. During Stansbury's representation of Ms. Curry, an agreement was filed on July 6, 2012 requiring Stansbury to prepare a Qualified Domestic Relations Order (QDRO). Stansbury failed to do so, although he informed Ms. Curry that he had. Additionally, Stansbury failed to communicate to Ms. Curry that he had been suspended from the practice of law on August 29, 2013.

Stansbury failed to provide Ms. Curry with a copy of her file after his representation ended due to his suspension. SCR 3.130(1.16)(d) states: "Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as . . . surrendering papers and

property to which the client is entitled.” He acknowledges that his conduct violated this rule.

Finally, during the disciplinary investigation of Ms. Curry’s complaint, the KBA asked Stansbury to provide a copy of the documentation he purportedly submitted regarding the QDRO, and he failed to do so. Stansbury acknowledges that his conduct violated SCR 1.30(8.1)(b).

Prior Discipline

In *Stansbury v. Kentucky Bar Association*, 405 S.W.3d 470 (Ky. 2013), Stansbury was suspended from the practice of law for 181 days, with 61 days to be served and the balance probated upon the condition that he successfully complete the next Ethics and Professionalism Enhancement Program. Stansbury’s discipline originated from two instances of improper conduct. In the first instance, Stansbury represented a bank in a loan closing involving real estate in Ohio. Although he had not yet received the title opinion from another attorney, Stansbury informed his client that he had performed the title search and gave the bank authorization to close. The bank closed on the loan before discovering a week later that the property was encumbered with two prior mortgages and a tax lien. The bank repeatedly attempted to contact Stansbury; however, their attempts to contact him went unanswered.

Stansbury admitted that he had violated the Rules of the Supreme Court by failing to diligently represent the bank, by not obtaining a title opinion prior to closing, by failing to properly record the mortgage in Ohio, by failing to keep the bank reasonably informed about the matter, by not promptly replying to the

bank's request for information concerning the title opinion, by failing to convey information concerning the title opinion to the bank so that the bank could make an informed decision, and by misrepresenting the authorization to close when he had not received any authorization from the attorney who conducted the title search.

In the second instance of misconduct, Stansbury represented a corporation in a civil action in Boyle Circuit Court. Stansbury moved for summary judgment and judgment on the pleadings. Both motions were granted, however, Stansbury did not tender the proposed orders. The case remained open until more than a year later, at which time the court issued a Notice to Dismiss for Lack of Prosecution. After receiving the notice from the court, Stansbury mailed his response, but the response was returned for insufficient postage and was not filed with the court prior to the scheduled hearing date. The client attempted to contact Stansbury, by phone and in writing, regarding the status of its case, but Stansbury failed to respond timely. When Stansbury did respond, he did not explain that the case had been dismissed, instead, he represented that he was waiting on a response from the court. After a bar complaint against him, Stansbury claimed that he had tendered the proposed order to the court on four different occasions, all before the scheduled deadline. A review of the firm's computer system by one of Stansbury's former partners revealed that Stansbury had created those documents only three days before the scheduled deadline.

Stansbury admitted that he had violated the Rules of the Supreme Court by: failing to tender the proposed order in a timely manner; permitting the file to remain open and inactive; failing to appear before the court; misinforming the client as to the status of the matter; failing to respond to the client's requests for information; failing to reasonably expedite the litigation; providing misleading information to the Office of Bar Counsel concerning the date of the proposed orders; and misrepresenting that he had tendered the orders to the court in a timely manner.

Additionally, Stansbury received a private admonition in December 2014 from the Inquiry Commission. This admonition arose from his above-noted suspension, after three of Stansbury's clients informed the Office of Bar Counsel that they had not received a notification of suspension letter pursuant to SCR 3.390(b). The Commission found that this constituted a violation of SCR 3.130-3.4(c).

II. ANALYSIS.

In *Kentucky Bar Association v. Thornsberry*, 399 S.W.3d 773 (Ky. 2013), attorney Thornsberry, who had been previously suspended for failure to pay dues, was hired to represent a client in a divorce. He later advised the client that he had filed the petition for divorce, though he had not. Thornsberry, like Stansbury, had a significant disciplinary history, having been suspended for 30 days, 61 days, and 181 days in previous cases. This Court held that a two-year suspension from the practice of law was appropriate.

In *Kentucky Bar Association v. Burgin*, 469 S.W.3d 832 (Ky. 2015), attorney Burgin was hired in a contract suit and led the client to believe he had filed a complaint when, in fact, he had done no work on the case. After his suspension in another matter took effect, he asked the client to file a complaint he had drafted on her behalf, and continued representing her. Based, in part, on his lengthy discipline history, which included a private admonition, probated 30-day suspension, 60-day suspension, and 181-day suspension, this Court suspended Burgin for one year.

Based on our review of the record, the preceding caselaw, the severity of the conduct in which Stansbury engaged, and our disciplinary precedent, we agree that a two-year suspension from the practice of law is appropriate. Furthermore, based on Stansbury's admission that he is undergoing counseling, we agree that, as a condition for requesting reinstatement, Stansbury must undergo a KYLAP assessment. Therefore, we grant Stansbury's motion for suspension from the practice of law.

It is, therefore, ORDERED that:

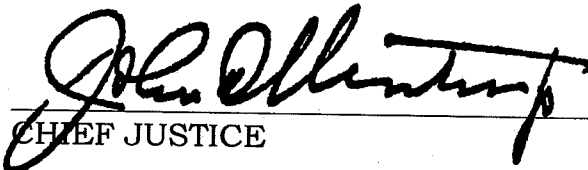
1. Movant, Christopher Lee Stansbury, KBA No. 87899, is suspended from the practice of law in the Commonwealth of Kentucky for two years, to commence on the date of this order. As a condition to requesting reinstatement, Stansbury is required to undergo an assessment through KYLAP;
2. Pursuant to SCR 3.390, Stansbury, if he has not already done so, shall, within ten days from the entry of this Opinion and Order, notify all clients

in writing of his inability to represent them, and notify all courts in which he has matters pending of his suspension from the practice of law, and furnish copies of said letters of notice to the Office of Bar Counsel;

3. Pursuant to SCR 3.390, Stansbury shall, to the extent he has not already done so and to the extent it is possible and necessary, immediately cancel and cease any advertising activities in which he is engaged;
4. In accordance with SCR 3.450, Stansbury is directed to pay the costs of this action in the amount of \$1,458.76, for which execution may issue from this Court upon finality of this Opinion and Order.

All sitting. All concur.

ENTERED: April 27, 2017.


CHIEF JUSTICE

Supreme Court of Kentucky

2013-SC-000418-KB

CHRISTOPHER L. STANSBURY

MOVANT

V.

IN SUPREME COURT

KENTUCKY BAR ASSOCIATION

RESPONDENT

OPINION AND ORDER

Christopher L. Stansbury petitions this Court to impose the sanction of a 181-day suspension from the practice of law, with 61 days to be served and the balance probated upon the condition that he successfully complete the next Ethics and Professionalism Enhancement Program (“EPEP”), for his violations of Supreme Court Rule (“SCR”) 3.130-1.3, SCR 3.130-1.4(a)(3), SCR 3.130-1.4(a)(4), SCR 3.130-1.4(b), SCR 3.130-3.2, SCR 3.130-8.1(a), and SCR 3.130-8.4(c). The Kentucky Bar Association (“KBA”) states no objection to this proposed discipline, which was negotiated pursuant to SCR 3.480(2). Finding the negotiated sanction appropriate, we grant Stansbury’s motion. Stansbury, whose KBA number is 87899 and whose last known bar roster address is 213 S. Main Street, Suite 101, Nicholasville, KY 40356, was admitted to the practice of law in the Commonwealth of Kentucky on October 29, 1999.

File 19360

In 2009, Stansbury represented Town and Country Bank of Nicholasville in a loan closing involving real estate in Ohio. Stansbury informed the bank

that Gregory Van Zant, an Ohio attorney, had performed the title search and had given the authorization to proceed with the closing. Upon receiving this information, the bank closed on the loan on December 30, 2009. In actuality, Stansbury did not receive Van Zant's title opinion until January 6, 2010. The title opinion revealed two prior mortgages and a tax lien on the property.

The bank attempted to contact Stansbury six separate times over the course of four months in an effort to obtain the final title opinion. When emails to Stansbury went unanswered, the bank contacted Van Zant directly in November, 2010. Van Zant informed the bank that he had never given the authorization to close on the loan on December 30. In fact, it was on that date that Stansbury had first contacted Van Zant requesting the title exam. Van Zant provided the bank his final title report, updated as of November 4th, on November 5, 2010. Van Zant's second title opinion included two additional superior mortgages on the property.

The Inquiry Commission issued a five-count charge alleging that Stansbury violated SCR 3.130-1.3 (lack of diligence and/or promptness), SCR 3.130-1.4(a)(3) (failure to communicate with client), SCR 3.130-1.4(a)(4) (failure to comply with client's request for information), SCR 3.130-1.4(b) (failure to explain matters to client), and a SCR 3.130-8.4(c) (engaging in acts of fraud, deceit, dishonesty, or misrepresentation).

Stansbury admits that he violated these rules by failing to diligently represent the bank, by not obtaining a title opinion prior to closing, by failing to properly record the mortgage in Ohio, by failing to keep the bank reasonably

informed about the matter, by not promptly replying to the bank's requests for information concerning the title opinion, by failing to convey information concerning the title opinion to the bank so that the bank could make informed decisions, and by misrepresenting the authorization to close when he had not received any authorization from the attorney who conducted the title search.

File 19385

Stansbury represented a corporation in a civil action in Boyle Circuit Court. In August, 2009, Stansbury moved for summary judgment on his client's, the plaintiff's, claim and judgment on the pleadings with regard to a counterclaim filed against his client. The court granted both motions, but Stansbury failed to tender the proposed orders. The case remained open but inactive on the court's docket until the court issued a Notice to Dismiss for Lack of Prosecution on August 31, 2010. After receiving the Notice, Stansbury mailed his Response to the Notice to Dismiss for Lack of Prosecution on October 1, 2010. The response, which was subsequently returned for insufficient postage, was not filed with the court prior to the October 7 hearing date. Stansbury never attempted to confirm that the response had been filed and, as a result, failed to appear at the dismissal hearing.

The client attempted to contact Stansbury, both by phone and in writing, regarding the status of the case prior to its dismissal. Stansbury, however, failed to respond to the client's inquiries. When he finally responded to the client, Stansbury did not explain that the case had been dismissed, but instead represented that he was waiting on a response from the court. When a bar

complaint arising from the matter was filed, Stansbury claimed that he had tendered the proposed order and judgment to the court on four different occasions, all before the October 7, 2010 deadline. However, a former partner of Stansbury revealed that by accessing the firm's computer system, he had learned that Stansbury had created those documents on October 4, 2010.

The Inquiry Commission issued a six-count charge against Stansbury, alleging that he violated SCR 3.130-1.3 (lack of diligence and/or promptness), SCR 3.130-1.4(a)(3) (failure to communicate with a client), SCR 3.130-1.4(a)(4) (failure to comply with client's requests for information), SCR 3.130-3.2 (failure to expedite litigation), SCR 3.130-8.1(a) (making false statements in connection with a disciplinary matter), and SCR 3.130-8.4(c) (engaging in acts of fraud, deceit, dishonesty, or misrepresentation).

Stansbury admits that he engaged in the charged misconduct, which included his failure to tender the proposed order and judgment in a timely manner, permitting the file to remain open and inactive, failing to appear before the court, not accurately informing the client as to the status of the matter, failing to respond to the client's requests for information, failing to reasonably expedite the litigation, providing misleading information to the Office of Bar Counsel concerning the date of the proposed orders, and misrepresenting that he had tendered the orders to the court in a timely manner.

Proceedings Before this Court

The Inquiry Commission consolidated Stansbury's files pursuant to SCR 3.260(1).¹ Stansbury now moves this Court to enter an order suspending him for 181 days, 61 days to be served and the balance probated upon the condition that he attend and successfully complete the KBA's Ethics and Professionalism Enhancement Program ("EPEP"), at his own expense, within one year of the entry of the order. The KBA states no objections to the proposed discipline, which were negotiated pursuant to SCR 3.480(2). Stansbury has no prior disciplinary history.

Upon review of the record and pertinent precedent,² this Court finds the proposed consensual discipline to be appropriate and declines further review. SCR 3.480(2). Therefore it is hereby ORDERED:

1. Christopher L. Stansbury is suspended from the practice of law in this Commonwealth for a period of 181 days, with 61 days to be served and the balance probated from the date of the Court's Order on the condition that he comply with the remainder of this Order;

¹ SCR 3.260(1) provides, in pertinent part, that: "Separate charges may, by order of the Inquiry Commission, be consolidated and tried as a single disciplinary case."

² See *Kentucky Bar Association v. Leadingham*, 281 S.W.3d 284 (Ky. 2009) (suspending an attorney sixty-one days after the attorney failed to file a complaint on a client's behalf and did not return any of the client's phone calls); *Myles v. Kentucky Bar Association*, 289 S.W.3d 561 (Ky. 2009) (attorney received a 181-day probated suspension for various ethical violations, including his failure to take any action on a lawsuit prior to the expiration of the statute of limitations, and his failure to adequately communicate with his clients).


2. Pursuant to SCR 3.390, Stansbury shall, within ten days from the entry of this Opinion and Order, notify in writing all courts in the Commonwealth of Kentucky in which he may have matters pending and all clients of his inability to provide further legal services during his suspension, and furnish the Office of Bar Counsel with a copy of all such letters. Upon issuance of this order, Stansbury shall immediately, to the extent possible, cancel and cease any advertising activities in which he is engaged.

3. Stansbury shall attend, at his expense, and successfully complete the next scheduled Ethics and Professionalism Enhancement Program ("EPEP") offered by the Office of Bar Counsel, separate and apart from his fulfillment of any other continuing education requirement within one year after entry of this Order. Stansbury shall furnish a release and waiver to the Office of Bar Counsel for the purpose of reviewing CLE records for compliance with this Order, and the release and waiver shall continue in effect until one year after he completes his remedial education.

4. Pursuant to SCR 3.450, Stansbury is directed to pay all costs associated with this proceeding in the amount of \$271.81, for which execution may issue from this Court upon finality of this Opinion and Order.

All sitting. All concur.

ENTERED: August 29, 2013.


CHIEF JUSTICE