

TO BE PUBLISHED

Supreme Court of Kentucky

FINAL

2004-SC-0891-KB

DATE 1-4-05 EIA Crow:td,c

KENTUCKY BAR ASSOCIATION

PETITIONER

V.

IN SUPREME COURT

ROBERT L. TEMPLETON
(KBA Member No. 7020)

RESPONDENT

OPINION AND ORDER

Respondent, Robert L. Templeton, of Ashland, Kentucky, was admitted to the practice of law in the Commonwealth of Kentucky on April 1, 1975. At the time the current charges were filed, he was still serving suspensions from the practice of law for unrelated matters. See Kentucky Bar Association v. Robert L. Templeton, Ky., 111 S.W.3d 865 (2003); Robert L. Templeton v. Kentucky Bar Association, Ky., 54 S.W.3d 154 (2001); Inquiry Commission v. Robert L. Templeton, Ky., 48 S.W.3d 570 (2000).

Based on a complaint filed by Timothy Stapleton against Respondent, the Inquiry Commission authorized a four (4) count charge alleging a violation of SCR 3.130-1.3 (Diligence), SCR 3.130-3.2 (Expediting Litigation), SCR 3.130-1.4(a) (Communication), and SCR 3.130-8.1(b) (Failing to Respond to a Disciplinary Authority). Attempts were made to serve Respondent with a copy of the charge, at his KBA Roster address, but were unsuccessful. He was served through the Secretary of State pursuant to SCR 3.175.

The Board of Governors of the Kentucky Bar Association found Respondent guilty of four (4) counts of professional misconduct and recommended that he be suspended from the practice of law for a term of five (5) years.

All four (4) counts of misconduct arise from Respondent's handling of an appeal of a criminal conviction in the United States Court of Appeals for the Fourth Circuit. Respondent represented Timothy Stapleton in the appeal of a criminal conviction in the United States Court of Appeals for the Fourth Circuit. Respondent timely filed a Notice of Appeal on behalf of Mr. Stapleton on January 24, 2000, and also timely filed an Entry of Appearance and Docketing Statement on May 22, 2000, on Mr. Stapleton's behalf. Thereafter, Respondent failed to file a brief on behalf of Mr. Stapleton which resulted in the court dismissing Mr. Stapleton's appeal on October 11, 2000, for failure to prosecute pursuant to Local Rule 45.

On April 30, 2004, the Inquiry Commission charged Respondent with four (4) counts of professional misconduct in his representation of Mr. Stapleton. In summary:

- (1) Count I alleged that Respondent violated SCR 3.130-1.3 which provides that "a lawyer shall act with reasonable diligence and promptness in representing a client;"
- (2) Count II alleged that Respondent violated SCR 3.130-3.2 which provides in part that, "a lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client;"
- (3) Count III alleged that Respondent violated SCR 3.130-1.4(a) which provides that, "a lawyer should keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information;" and
- (4) Count IV alleged that Respondent violated SCR 3.130-8.1(b) which provides in part that, "a lawyer shall not knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority."

On October 18, 2004, the Board of Governors, by a vote of 17-0, concluded that Respondent was guilty of all four (4) counts of professional misconduct and recommended that Respondent be suspended from the practice of law for a period of five (5) years. Respondent has not formally contested any stage of these proceedings; therefore, we accept the recommendation of the Board. SCR 3.370(10).

Accordingly, it is hereby **ORDERED** that:

1. Respondent, Robert L. Templeton, is suspended from the practice of law in this Commonwealth for a period of five (5) years. This period of suspension shall continue thereafter until Respondent is reinstated to the practice of law by order of this Court. SCR 3.510.
2. Pursuant to SCR 3.390, Respondent is directed to notify all of his clients and all courts in which he had matters pending of his inability to practice law in this Commonwealth, within ten days from the date of entry of this Opinion and Order. Respondent shall deliver copies of all letters of notification to the Director of the Kentucky Bar Association. In addition, Respondent shall immediately, to the extent possible, cancel and cease any advertising activities in which he is engaged.
3. Pursuant to SCR 3.450, Respondent is directed to pay the costs associated with this matter, said sum being \$486.62, for which execution may issue from this Court upon finality of this Opinion and Order.

All concur.

ENTERED: December 16, 2004.


Chief Justice

TO BE PUBLISHED

Supreme Court of Kentucky **FINAL**

2003-SC-0330-KB

DATE 9-3-03 EJA/Graunt, DC.

KENTUCKY BAR ASSOCIATION

COMPLAINANT

V. IN SUPREME COURT

ROBERT L. TEMPLETON

RESPONDENT

OPINION AND ORDER

The Board of Governors of the Kentucky Bar Association ("KBA") petitions this Court to find Respondent, Robert Lee Templeton, guilty of violating SCR 3.130-1.3, SCR 3.130-1.16(d), and SCR 3.130-8.3(c) and to suspend his license to practice law for two years.

In 2001, the KBA received two complaints against Templeton: one filed by Allen Conley, the other by Regis Linn. Templeton had represented Conley and Linn on unrelated matters during the late 1990's. On December 13, 2001, the Inquiry Commission issued two charges against Templeton relating to his representation of Conley and Linn. Each charge contained three counts. The two charges were consolidated into a single disciplinary case along with an additional third charge which had been issued against Templeton by the Inquiry Commission in October 2000. The third charge was resolved by the issuance of a private admonition on July 5, 2002, and is not a part of this petition.

When the two charges were issued against Templeton on December 13, 2001, he was already serving a year-long suspension ("first suspension") from the practice of law commencing December 21, 2000. Templeton v. Kentucky Bar Association, Ky., 54 S.W.3d 154 (2001). In issuing the first suspension, this Court held that:

[Templeton] is adjudged to have violated the Rules of Professional Conduct . . . and is hereby suspended from the practice of law in the Commonwealth of Kentucky for one year. The period of suspension shall commence on December 21, 2000 and continue until such time as [Templeton] is reinstated to the practice of law by order of this Court

Templeton v. KBA, 54 S.W.3d at 157. In effect, after December 21, 2001, Templeton would be free to seek reinstatement to the bar. Templeton maintains that since his first suspension ended on December 21, 2001, subsequent suspensions (which he does not contest) should be applied retroactively to that date because the new charges were issued against him on December 13, 2001, when he still had one week left to serve on his first suspension.

The two charges against Templeton arising from his representation of Conley and Linn were consolidated on January 24, 2002. The trial commissioner conducted an evidentiary hearing on July 24, 2002. On September 23, 2002, the trial commissioner found Templeton guilty on four separate counts of professional misconduct and recommended that he be suspended from the practice of law for a period of one year. The trial commissioner further recommended that the suspension commence retroactively to December 21, 2001, the date his first suspension ended. Templeton did not contest his guilt or punishment (one-year-retroactive suspension) before the KBA.

The KBA did not accept the trial commissioner's recommendation and on April 23, 2003 issued its recommendation that Templeton be suspended for two (2) years, not one(1), commencing from the date of any disciplinary order entered by this Court (no retroactive application). Although Templeton's first suspension ended December 21, 2001, the KBA determined that 1) Templeton had failed to meet mandatory CLE requirements necessary to obtain re-instatement; 2) Templeton never was evaluated by an independent medical professional, which was a court-ordered condition of his reinstatement; and 3) most significantly, Templeton did not apply for reinstatement with the Character and Fitness Committee.

The two charges against Templeton arise from his representation of Conley and Linn. Templeton represented Conley in a slip-and-fall case in Carter Circuit Court which arose from an accident at Grayson Lake Marina in August 1996. During discovery, Templeton, despite obtaining several extensions of time, failed to respond or file any responses to discovery requests. As a result, on October 5, 1998, the defendant filed a motion to dismiss and to be awarded attorney's fees. The motion was heard in the Carter Circuit Court on October 19, 1998, but Templeton did not appear and failed to advise the court of the reason for his absence. The court granted defendant's motion to dismiss and ordered Conley to pay \$1,611.45 in costs and attorney's fees, plus interest.

After entry of the Carter Circuit Court's order, Templeton assured Conley that he would personally pay the judgment on Conley's behalf. However, Templeton failed to do so, and, as a result, a judgment lien was placed on Conley's property and several garnishments were filed against Conley's bank accounts. On February 21,

2000, Templeton wrote Conley, acknowledging that he was responsible for the judgment and would pay it. However, Templeton never paid the judgment. Finally, on January 16, 2001, Conley filed a bar complaint, at which time Templeton paid the judgment.

The Inquiry Commission charged Templeton with three counts of professional misconduct in his representation of Conley for: I) violations of his duty of diligent representation under SCR 3.130-1.3; II) violations of his duty to obey the rules of a tribunal under SCR 3.130-3.4(c); and III) violations of his duties upon termination of representation under SCR 3.130-1.16(d). The trial commissioner found Respondent guilty under Counts I and III and not guilty under Count II. The KBA concurred.

The second charge arises from Templeton's representation of Regis Linn, for whom he filed a claim under the Federal Tort Claims Act in federal district court. Summary judgment was granted and Templeton filed a notice of appeal on August 10, 1997. At Templeton's request, the Sixth Circuit Court clerk's office extended the filing deadline for appellant's brief three times, with the final due date set for October 21, 1997. Despite getting three extensions, Templeton failed to file a brief. On November 4, 1997, the Sixth Circuit dismissed Templeton's appeal for lack of prosecution. Templeton filed a motion for reconsideration, but failed to take any further action and never filed a brief in Linn's case.

Eight months later, on July 13, 1998, Linn wrote to Templeton requesting an update on the status of his case. Templeton sent Linn a letter, dated July 14, 1998, informing him that:

I am proceeding with efforts to have the adverse
Judgment rendered by the U. S. District Court for the

Eastern District Court reversed by the U. S. Court of Appeals for the Sixth Circuit. By separate mailing, which you should receive within the next few days, we are transmitting a copy of the brief submitted on your behalf to the Court. However, as we have previously discussed, I am not particularly optimistic about our chances of success even though I believe that Judge Henry R. Wilhoit, Jr. should not have Dismissed the complaint. . . . Please let me know if you have any questions or comments after you have received a copy of the brief.

Templeton had not filed, nor did he ever file, a brief in the Sixth Circuit Court of Appeals in Linn's case. As a result of Templeton's deceit, dishonesty, misrepresentation, and unethical conduct, the trial commissioner found Templeton had violated his duty of diligent representation under SCR 3.130-1.3, and the prohibition against conduct involving dishonesty, fraud, deceit, or misrepresentation under SCR 3.130-8.3(c). The KBA voted unanimously to uphold the trial commissioner's findings.

Since Templeton does not contest his guilt (professional misconduct) or punishment (suspension of license), the only issue for this Court to decide is the length and commencement date of the suspension. We agree with the recommendation of the KBA and hold that Templeton's license to practice law is hereby suspended for one year for violations arising from his representation of Conley and for two years for violations arising from his representation of Linn. These sentences will run concurrently, will not be retroactive, and will become effective upon entry of this Opinion and Order.

This Court has applied suspensions retroactively where a respondent is under temporary suspension for the same conduct involved in the disciplinary case. Kentucky Bar Ass'n v. Hickey, Ky., 31 S.W.3d 434 (2000). Such retroactive application is

determined on a case-by-case basis, taking into account mitigating evidence and an attorney's progress toward rehabilitation. Id. at 435-36; see Futrell v. Kentucky Bar Association, Ky., 950 S.W.2d 480 (1997).

Here, Templeton's first suspension arose from charges completely unrelated to the charges brought by Linn and Conley: they arose from Templeton's representation of a different client in a different matter. The first suspension is relevant to this case only to the extent it sets a date, December 21, 2001, at which time Templeton would be able to seek reinstatement to practice law. However, Templeton did not seek reinstatement nor was he eligible for reinstatement at that time due to his failure to maintain his CLE credits or to get an independent medical examination. During his suspension, Templeton failed to get an independent medical examination as required by this Court, he failed to get required CLE credits, and he did not actually seek reinstatement. Logic dictates that for Templeton to be appropriately punished for his professional misconduct, he must suffer real consequences, which in this case means his suspension will become effective only upon order of this Court and this order shall not be applied retroactively. Otherwise, Templeton would be getting credit for time when he was not eligible to practice law and had made no effort to become eligible.

Templeton has raised a new argument before this Court that he did not raise before the trial commissioner or the KBA Board of Governors, arguing that his mental health created mitigating circumstances which warrant retroactive application of his suspension. For the first time, Templeton now maintains that his misconduct was the result of his suffering from attention deficit disorder ("ADD"), a recognized disability under the Americans with Disabilities Act. He claims that the heightened stress of a

heavy workload in his solo practice in the late 1990's through 2000 exacerbated his symptoms of impulsivity, distractibility, organizational difficulties, and anxiety beginning or completing tasks.

After careful review of the record, this Court notes that Templeton never presented any medical records or medical testimony before the trial commissioner or the KBA Board of Governors. Indeed, Templeton never even argued that he had a medical condition which contributed to or caused his violations of the professional rules of conduct. The record is completely devoid of any argument or evidence concerning Templeton's medical health. Templeton admits that he still has failed to get the independent medical exam which was required by this Court as a condition of his being reinstated after his first suspension

Further, even though Templeton has supplemented his brief with many items not in the record, the only medical evidence submitted to this Court, which is not part of the official record, is a April 20, 2001, letter from Dr. Borders stating that he had been seeing Templeton and his wife in therapy for three months. Dr. Borders diagnoses Templeton as "suffer[ing] from Adult Attention Deficit Hyperactivity Disorder and Bipolar Mood Disorder, Type II, Mixed."

But in arguing for mitigation and thus retroactive application, Templeton nowhere even mentions, much less argues, to this Court that he has a bipolar mood disorder. Yet, of Templeton's two diagnoses, bipolar disorder would certainly warrant as much mitigating consideration by this Court as ADD. Further, although Templeton states that he "now has had the benefit of both medication and other forms of treatment," Templeton provides no evidence that he has continued in therapy or is taking

medication. All Templeton has shown this Court is that he was in marital therapy 2-½ years ago during which time he was diagnosed with ADD and bipolar disorder. Since then, all we know is that Templeton has failed to get an independent medical examination and we have no proof that he has received any other medical treatment.

This Court has a strong policy of promoting lawyers' physical, mental, and emotional well-being and encourages attorneys to seek professional assistance and pursue rehabilitation as needed. Due to our concerns for lawyers' well-being, although it is not procedurally proper, we are willing to consider Templeton's mental health argument. However, after considering the entire record in light of Templeton's new argument, we come to the same conclusion: Templeton engaged in professional misconduct and no mitigation of punishment is warranted. Templeton never once argued, to the trial commissioner or the KBA Board of Governors, that he was medically impaired. Templeton's new medical health argument completely lacks any current, supporting documentation and is not persuasive. In short, Templeton fails to present any evidence to support his new claim. Based on the lack of evidence provided by Templeton, this Court will not remand this case for a supplementary evidentiary hearing.

Based upon the foregoing facts, charges, and precedents, it is ordered that:

(1) Court II of the charge brought by Conley and Count II of the charge brought by Linn against Templeton are both dismissed.

(2) Templeton is adjudged to have violated the Rules of Professional Conduct as described in Counts I and III of the charges brought by both Conley and Linn and is hereby suspended from the practice of law in the Commonwealth of Kentucky for two

years. The period of suspension shall commence from the date of the entry of this Opinion and Order and shall continue until such time as Respondent is reinstated to the practice of law by order of this Court pursuant to SCR 3.510 or any controlling amendment to SCR 3.510.

(3) In accordance with SCR 3.450 and SCR 3.480(3), Templeton is directed to pay all costs associated with the disciplinary proceedings against him, said sum being \$1,536.82, for which execution may issue from this Court upon finality of this Opinion and Order.

(4) Pursuant to SCR 3.390, Templeton shall within ten (10) days from the entry of this Opinion and Order, if he has not already done so, 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 Director of the Kentucky Bar Association.

All concur.

Entered: August 21, 2003.


CHIEF JUSTICE

TO BE PUBLISHED

Supreme Court of Kentucky

2001 -SC-0459-KB

FINAL

DATE 10-8-01 21AC 10-11-01 H.D.C.
MOVANT

ROBERT L. TEMPLETON

V.

IN SUPREME COURT

KENTUCKY BAR ASSOCIATION

RESPONDENT

OPINION AND ORDER

Pursuant to SCR 3.480(3), Movant, Robert L. Templeton, requests that Kentucky Bar Association (KBA) proceedings against him be terminated on the basis of his admission that he violated those provisions of the Rules of Professional Conduct set forth in Counts I, II, IV and V of the Inquiry Commission's charge against him, and by imposition of a penalty of suspension from the practice of law for one year. For the reasons described herein, the KBA concurs with this request.

On February 6, 2001, the Inquiry Commission issued a seven-count amended charge against Movant regarding his representation of Michelle Rowe. In August 1995, Rowe's father, John Petry, died leaving his entire estate to his spouse. Rowe retained Movant to file a lawsuit against Petry's widow alleging fraud in her dealings with Petry. On November 29, 1995, Rowe and her husband caused Petry's home to be sold. As a condition of the sale, \$10,000.00 of the proceeds was placed in Movant's escrow

account to protect the buyers if the widow challenged the sale. After the conditions of the sale had been met, Movant was to deduct his fee from the \$10,000.00 and release the balance to Rowe. At the time these charges were filed, Movant had not done so.

On October 4, 1999, Rowe terminated her attorney/client relationship with Movant and requested, by letter, that he send her an itemized bill, deduct his fee from the escrow account, and forward to her the balance of the account and her file. Rowe repeated her demands by letter of January 28, 2000. Movant failed to respond to either letter or to comply with the requests. On May 17, 2000, Rowe's husband filed a Bar Complaint against Movant. Movant did not respond. The Kentucky Bar Association sent Movant a letter reminding him of his failure to respond. Movant still did not respond. The Inquiry Commission then ordered Movant to respond before August 12, 2000. Again, he did not respond. On August 29, 2000, the Inquiry Commission initiated proceedings seeking temporary suspension of Movant's license to practice law. On December 21, 2000, this Court entered an order temporarily suspending Movant from the practice of law. Inquiry Commission v. Templeton, Ky., 48 S.W.3d 570 (2000). Movant has not been reinstated.

On January 8, 2001, Movant filed a petition requesting that the order of temporary suspension be dissolved. Attached to this petition was an invoice dated "January 2001" containing an itemization of legal services performed on behalf of Rowe and charging a total fee of \$8,654.00. On January 12, 2001, Rowe received from Movant her file, the January 2001 invoice, and a check drawn on Movant's escrow account in the sum of \$1,346.00. Along with an affidavit filed with the Kentucky Bar Association, Mrs. Rowe and her husband furnished an invoice they received from Movant, dated April 7, 1998, containing an itemization of services performed as of that

date supporting a total fee of approximately \$4,000.00. The Rowes contended that any services performed by Movant on their behalf after April 7, 1998 were negligible.

Count I of the amended charge filed against Movant by the Inquiry Commission alleged a violation of SCR 3.130-I .16(d), "Declining or terminating representation," for failing to "surrender[] papers and property to which the client is entitled and refund[] any advance payment of fee that has not been earned."

Count II alleged a violation of SCR 3.130-I. 15(b), "Safekeeping property," for failing to "promptly deliver to the client . . . any funds or other property that the client . . . is entitled to receive and, upon request by the client . . . promptly render a full accounting regarding such property."

Count III alleged a violation of SCR 3.130-8.3(c), "Misconduct," for "engaging in conduct involving dishonesty, fraud, deceit or misrepresentation" for failing to return Rowe's funds and belongings after being requested to do so on two different occasions. The KBA explains that this Count differed from Count II in that it was premised upon Movant's having either commingled Rowe's money with his own or misappropriated Rowe's money to his own use.

Count IV alleged a violation of SCR 3.130-I .4(a), "Communication," for failing to "keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information" by not responding to telephone calls and the two letters requesting return of funds and property belonging to Rowe.

Count V alleged a violation of SCR 3.130-8.1(b), "Bar admission and disciplinary matters," for "knowingly fail[ing] to respond to a lawful demand for information from an admissions or disciplinary authority" by failing to respond to the Bar Complaint filed by Rowe.

Count VI alleged another violation of SCR 3.130-8.3(c), "Misconduct," for "engaging in conduct involving dishonesty, fraud, deceit or misrepresentation" by preparing and sending an incorrect itemized invoice to Rowe.

Count VII alleged a violation of SCR 3.130-3.3(a)(l), "Candor towards the tribunal," by making a false statement of material fact or law to a tribunal" by knowingly filing an incorrect itemized invoice with this Court in support of Movant's petition to dissolve the order of temporary suspension.

Movant denies Counts III, VI, and VII, asserting that he did not engage in dishonesty, fraud, deceit or misrepresentation with respect to Rowe's money and that the January 2000 itemized invoice was correct in that he performed all of the work listed in the invoice. Movant asks that these charges be dismissed. Movant admits the charges set forth in Counts I, II, IV and V.

In concurring with the proposed disposition, the KBA advises that, after investigating and obtaining additional documentation with respect to the services itemized in the January 2000 invoice, it is satisfied that those services were, in fact, performed; and, thus, Counts VI and VII, which were premised upon the filing of an incorrect itemized invoice, should be dismissed. The KBA also advises that its investigation also revealed that Movant neither commingled Rowe's money with his own nor misappropriated it to his own use; thus, the charge in Count III essentially merged with the charges in Count II.

In agreeing to Movant's motion for a one-year suspension, the KBA relies on prior cases in which one-year suspensions were imposed for similar violations. These cases involved attorneys who had failed to promptly return unearned portions of fees upon termination of representation. Kentucky Bar Association v. Thomas, Ky., 894

S.W.2d 639 (1995); Kentucky Bar Association v. Boling, Ky., 892 S.W.2d 597 (1995);
Kentucky Bar Association v. Harris, Ky., 875 S.W.2d 97 (1994).

Upon the foregoing facts, charges, and precedents, it is ordered that:

1. Counts III, VI, and VII of the charges against Movant are dismissed.
2. Movant is adjudged to have violated the Rules of Professional Conduct as described in Counts I, II, IV and V and is hereby suspended from the practice of law in the Commonwealth of Kentucky for one year. The period of suspension shall commence on December 21, 2000 and continue until such time as Movant is reinstated to the practice of law by order of this Court pursuant to SCR 3.510 or any controlling amendment to SCR 3.510.

3. In accordance with SCR 3.450 and SCR 3.480(3), Movant is directed to pay all costs associated with the disciplinary proceedings against him, said sum being \$165.90, for which execution may issue from this Court upon finality of this opinion and order.

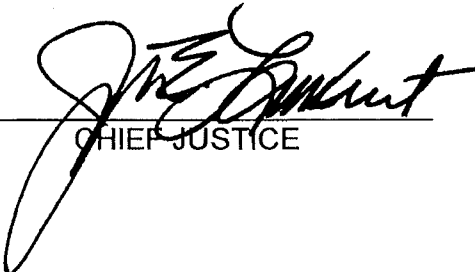
4. Pursuant to SCR 3.390, Movant shall, within ten (10) days from the entry of this order, if he has not already done so, notify all clients in writing of his inability to represent them, and notify all courts in which he has matters pending of his suspension from the practice of law, and furnish copies of said letters of notice to the Director of the Kentucky Bar Association.

5. Pursuant to an additional agreement between the KBA and Movant, before seeking reinstatement to the practice of law, Movant shall be evaluated by an independent medical professional chosen by the Character and Fitness Committee, but subject to selection of a different medical professional should a conflict of interest arise

with the original selection. Movant shall pay all fees and costs associated with the evaluation.

Cooper, Johnstone, Keller and Stumbo, JJ., concur. Graves, J., dissents by separate opinion, with Lambert, C.J., and Wintersheimer, J., joining that dissent.

ENTERED: September 27, 2001.


CHIEF JUSTICE

Supreme Court of Kentucky

2001 -SC-0459-KB

ROBERT L. TEMPLETON

MOVANT

V.

IN SUPREME COURT

KENTUCKY BAR ASSOCIATION

RESPONDENT

DISSENTING OPINION BY JUSTICE GRAVES

Respectfully, I must dissent. The Kentucky Bar Association desires to dismiss Counts III, VI, and VII and punish Respondent in accordance with his admitted guilt of Counts I, II, IV, and V. Given the evidence that Respondent padded his bill and did not return Rowe's escrow money until forced to do so, dismissal of Counts III, VI, and VII is not justified. This Court should instead resolve these issues to determine whether Respondent is guilty and deserving of greater punishment. If so, Rocky and Michelle Rowe are entitled to repayment of the money taken by Respondent.

Respondent's tardiness in returning Rocky and Michelle Rowe's money and the irregularities in Respondent's bill lie at the heart of the complaint against Respondent. The present arrangement, wherein Respondent gains the dismissal of the three more serious charges by admitting to the lesser counts, does not produce a just result. Not only does this decision leave the Rowes without a remedy for their loss, it also prevents

further inquiry into events which could warrant a much stiffer penalty for Respondent. Respondent himself requested that he be suspended for one year in return for dropping charges III, VI, and VII, perhaps because he knew that a close examination of the facts would result in greater punishment.

In their affidavit, the Rowes stated that they expected Respondent's bill to be very close to \$4,000. They were understandably alarmed when the bill proved to be more than twice that figure. Even more disconcerting were the charges for work done years before which were not included in any prior invoices up to that date. Given the delays and incompetence that Respondent has already admitted, it is more than probable that the Rowes' claims are well-founded. Regardless of the positions of both the Kentucky Bar Association and Respondent, justice requires that this Court examine charges III, VI, and VII so that the Rowes will have a potential remedy and Respondent will receive his proper punishment.

Respondent's actions have accelerated the decline in the public's perception of the morality of lawyers, and have undermined the public confidence in the legal profession.

Lambert, C.J., and Wintersheimer, J., join in this dissent.

TO BE PUBLISHED

Supreme Court of Kentucky

2000-SC-0758-KB

FINAL

DATE 7-30-01 ELIAC Stevitt, D.C.

INQUIRY COMMISSION

COMPLAINANT

V.

IN THE SUPREME COURT

ROBERT L. TEMPLETON

RESPONDENT

ORDER OF TEMPORARY SUSPENSION

Pursuant to SCR 3.165, the Inquiry Commission petitions this Court to enter an order temporarily suspending the respondent from the practice of law in the Commonwealth of Kentucky. The Inquiry Commission alleges probable cause exists to believe that the respondent, Robert L. Templeton, whose bar roster address is in Ashland, Kentucky and who was admitted to the practice of law in this Commonwealth on April 1, 1975, has misappropriated client funds for his own use or has otherwise improperly dealt with client funds.

On September 5, 2000, after receipt of the Inquiry Commission's Petition for Temporary Suspension, this Court entered an Order directing Templeton:

... to file with the Clerk of this Court within twenty (20) days from the date of this order, his Response to the Petition of the Inquiry Commission filed in this Court, and to show cause, why he should not be temporarily suspended from the practice of law in the Commonwealth of Kentucky.

On September 7, 2000, the order from this Court was delivered to Templeton's bar roster address by registered mail, and Templeton himself signed the return receipt. Templeton has not, however, filed any response in this Court to either the Petition for Temporary Suspension or the Order to Show Cause.

After a review of the Inquiry Commission's Petition for Temporary Suspension and the supporting notarized bar complaints, this Court finds probable cause to believe that Templeton "is or has been misappropriating funds the attorney holds for others to his/her own use or has been otherwise improperly dealing with said funds." SCR 3.165(1)(a).

IT IS THEREFORE ORDERED THAT:

1. Robert L. Templeton is temporarily suspended from the practice of law in this Commonwealth effective this date and until superseded by subsequent order.

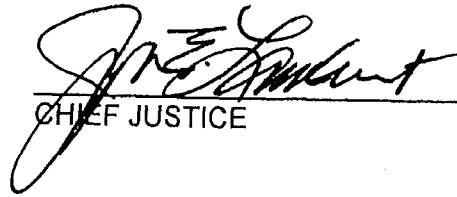
2. Disciplinary proceedings against Templeton shall be initiated by the Inquiry Commission pursuant to SCR 3.160, unless already begun or unless Templeton resigns under terms of disbarment.

3. Pursuant to SCR 3.165(5), Templeton shall, within twenty (20) days of the date of entry of this order, notify all clients in writing of his inability to continue to represent them and shall furnish copies of such letters of notice to the Director of the Kentucky Bar Association.

4. Pursuant to SCR 3.165(6), Templeton shall immediately, to the extent reasonably possible, cancel and cease any advertising activities in which he is engaged.

All concur.

Entered: December 21, 2000


CHIEF JUSTICE