

TO BE PUBLISHED

Supreme Court of Kentucky

FINAL

2002-SC-0272-KB

DATE 6-28-04 EJA Growth, DC
MOVANT

L. GREGORY YOPP

v.

IN SUPREME COURT

KENTUCKY BAR ASSOCIATION

RESPONDENT

OPINION AND ORDER

This matter having come before the Court upon the Movant L. Gregory Yopp's ("Yopp") Verified Motion for Consensual Discipline and Motion for Withdrawal of Application for Reinstatement ("Motions"); the Court having reviewed the record and being otherwise sufficiently advised, hereby grants Yopp's Motions.

Both Yopp, whose last known address is 3024 Meadowville Circle, Louisville, Kentucky 40220, and the Kentucky Bar Association recommend that he be suspended from the practice of law in the Commonwealth of Kentucky for a period of one (1) year for the following violations: (1) his failure to exercise reasonable diligence and promptness in representing a client as required by SCR 3.130-1.3, (2) his failure to keep the client informed about legal matters and to promptly comply with the client's reasonable request for information as required by SCR 3.130-1.4(a), (3) his failure to return funds that belonged to the client pursuant to SCR 3.130-1.15(b), and (4) his failure to correct the client's erroneous belief that a lawsuit had been filed and that he was in a position to provide legal services in violation of SCR 3.130-8.3(c).

In October of 1999, Frank Crenshaw ("Crenshaw") retained Yopp to pursue collection on debts owed to his business Crenshaw & Sons. An alleged debtor that we will refer to as "Rosemount" was the first debtor Yopp was to pursue. Yopp exchanged correspondence with Rosemount's attorney, prepared a draft of a complaint, and obtained the filing fee from Crenshaw; however, Yopp failed to file the complaint or return the filing fee to his client. Yopp did not pursue collection against Rosemount.

In October of 2001, Crenshaw requested that Yopp pursue collection from another alleged debtor that we will refer to as "Faith and Brown." At that time Yopp was suspended from practicing law in the Commonwealth of Kentucky and was awaiting the resolution of a second disciplinary proceeding. Nonetheless, Yopp indicated that he was or would be in a position to provide legal assistance and did not inform Crenshaw that he was suspended from the practice of law. Yopp did not pursue collection against Faith and Brown.

Yopp led Crenshaw to believe that at least one lawsuit had been filed as he alluded to scheduled court appearances. Crenshaw made numerous attempts, without success, to contact Yopp to obtain an update on the matters, and Crenshaw's wife even sent a certified letter to Yopp requesting any information on the status of the collection efforts. Yet, Yopp never responded to the Crenshaws' inquiries.

ACCORDINGLY, IT IS HEREBY ORDERED:

(1) Yopp is suspended from the practice of law in the Commonwealth of Kentucky for a period of one (1) year. The period of suspension shall commence on the date of entry of this Order.

(2) In accordance with SCR 3.450, Yopp is ordered to pay all costs associated with these disciplinary proceedings, including the amount of \$53.46 assessed against him, and for which execution may issue from this Court upon finality of this Opinion and Order.

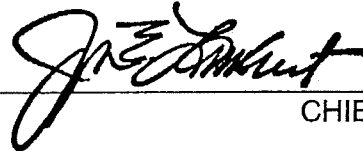
(3) Pursuant to SCR 3.390, Yopp shall, within ten (10) days from the entry of this Opinion and Order, notify in writing all courts in which he may have matters pending and all clients, of his inability to provide further legal services, and furnish the Director of the Kentucky Bar Association with a copy of all such letters.

(4) Yopp is ordered to return the filing fee to Crenshaw within thirty (30) days of the date of the entry of this order.

(5) Yopp's Application for Reinstatement is hereby withdrawn without prejudice.

All concur.

Entered: June 17, 2004



CHIEF JUSTICE

COUNSEL FOR MOVANT:

Peter L. Ostermiller
Kentucky Home Life Building
239 South Fifth Street
Suite 1800
Louisville, Kentucky 40202

COUNSEL FOR APPELLEE:

Bruce K. Davis
Executive Director
Kentucky Bar Association
514 West Main Street
Frankfort, Kentucky 40601

Dana Cox Nickles
Kentucky Bar Association
Deputy Bar Counsel
514 West Main Street
Frankfort, Kentucky 40601

TO BE PUBLISHED

Supreme Court of Kentucky

FINAL

2001 -SC-0428-KB

DATE 9-4-2001 *Eric D. Bell, P.C.*

KENTUCKY BAR ASSOCIATION

COMPLAINANT

V. IN SUPREME COURT

L. GREGORY YOPP

RESPONDENT

OPINION AND ORDER

L. Gregory Yopp of Louisville, was admitted to the practice of law in Kentucky on October 15, 1980.

On October 9, 2000, the Inquiry Commission of the Kentucky Bar Association charged him with two counts of professional misconduct. Count I alleges a violation of SCR 3.130-I .3 for failing to act with reasonable diligence and promptness in representing a client. Count II alleges a violation of SCR 3.130-I .4(a) for failing to keep a client reasonably informed about the status of a matter and for failing to promptly comply with a reasonable request for information by the client.

In 1999, Yopp was retained to investigate issues between a client and his union. Yopp was paid a retainer of \$500, but there was no written agreement regarding fee or representation. Yopp did review the records of the employer and the union as well as

the union by-laws and in November of 1999, the client and counsel decided to file a lawsuit against the union. Yopp drafted a complaint and had the client sign it. The client paid Yopp \$120 for the filing fee. In December of 1999, Yopp suffered business reverses in relation to a nonlegal business in which he was a partner. He claims that these business circumstances distracted him from his client's case. In February of 2000, the client telephoned him to inquire about the status of his case and was told that he would "get something going" in June or July. Yopp admits that he should have filed the complaint at that point, but did not, and that he put it aside and forgot about it. In April and May of 2000, the client repeatedly telephoned Yopp in unsuccessful attempts to learn about the status of his case. Yopp did not return the telephone calls and in July of 2000, the client discharged him and obtained his file. During this period, there was no written correspondence between the lawyer and the client. The client did not request a return of the retainer or the filing fee, and Yopp did not refund those payments.

The Board of Governors of the KBA considered these charges and recommended to this Court that L. Gregory Yopp be suspended from the practice of law in Kentucky for 30 days and that he refund to the client the filing fee of \$120.00.

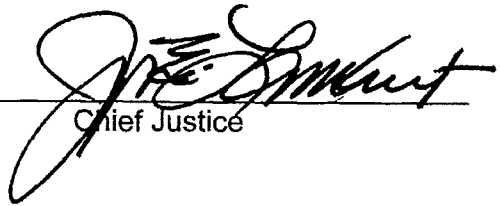
Upon review of the record in this matter, we conclude that the evidence supports the recommendation of the Board of Governors. Therefore it is ORDERED that:

1) L. Gregory Yopp be suspended from the practice of law in Kentucky for 30 days. The period of suspension shall commence on the date of entry of this Opinion and Order. Further, he shall refund to the client the filing fee of \$120.00 within ten days from the date of this Opinion and Order.

2) In accordance with SCR 3.450, Yopp shall pay the costs incurred in this proceeding in the amount of **\$472.31**, for which execution may issue.

All concur except that **Lambert, C.J.**, in addition to the penalty imposed, would require the refund of the \$500.00 retainer; Johnstone, J., would impose a 14-day suspension.

Entered: August 23, 2001



Chief Justice

COUNSEL FOR COMPLAINANT:

Bruce K. Davis
Executive Director

Jane L. **Herrick**
Bar Counsel
Kentucky Bar Association
514 West Main Street
Frankfort, KY 40601

COUNSEL FOR RESPONDENT:

L. Gregory Yopp
412 Kentucky Home Life Building
239 South Fifth Street
Louisville, KY 40202