

Summary of SC99550, *In re: Lorenzo Antoine Hester*

Original discipline proceeding

Argued and submitted September 20, 2022; opinion issued November 22, 2022

Attorneys: The chief disciplinary counsel was represented by Carolyn Gail Vasterling of the chief disciplinary counsel's office in Jefferson City, (573) 625-7400. Hester was represented by Michael P. Downey and Paige A.E. Tungate of Downey Law Group LLC in St. Louis, (314) 961-6644.

This summary is not part of the opinion of the Court. It is provided by communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.

Overview: An attorney challenges a disciplinary hearing panel's decision recommending he be disbarred. In a unanimous decision written by Judge Robin Ransom, the Supreme Court of Missouri disbars the attorney. The preponderance of the evidence shows he committed multiple acts of professional misconduct, which, in consideration of aggravating and mitigating factors, warrant disbarment.

Facts: St. Louis attorney Lorenzo Antoine Hester, who also holds a master of business administration degree, primarily handles personal injury and workers' compensation matters. In 2011, the chief disciplinary counsel's office sent him a letter of caution for failing to reconcile his trust account in violation of Rule 4-1.15. The letter advised Hester to register for a continuing legal education course titled "Fundamentals of Trust Accounting" and to report his attendance. Hester never did attend the course. In 2021, the chief disciplinary counsel's office filed a four-count information against Hester, alleging violations of the rules of professional conduct with respect to four clients and an audit of his trust account. Following an evidentiary hearing, a disciplinary hearing panel found Hester had violated multiple rules of professional conduct. As to one client, the panel found Hester violated Rule 4-1.15 by failing to deposit an insurance settlement check into his trust account and failing to notify his client he had received the check. As to another client, the panel found Hester violated Rule 4-1.4 by failing to explain what his fee would be for reducing liens and provider bills and Rule 4-1.8 by providing financial assistance to his client. As to two other clients, the panel found Hester violated Rule 4-1.8 by advancing funds to one and having the other sign an agreement – without independent legal representation – prospectively limiting the client's ability to sue Hester for malpractice. The panel also found Hester violated Rule 4-1.15 by giving one of the clients a check from his trust account, in full settlement of the client's claim, without having received or deposited any settlement proceeds. The panel found this disbursement also violated Rule 4-8.4 by misappropriating a different client's money. As to the trust account audit – which revealed pervasive mismanagement, including, at one point, a shortfall of approximately \$540,000 between the trust account balance and the unpaid balance of funds from cases settled and deposited – the panel found multiple violations of Rule 4-1.5 by collecting an unreasonable fee and not explaining how his contingency fee agreement would work; Rule 4-1.15 by failing to safekeep client property in several ways; and Rule 4-8.4 by retaining all reductions in liens and provider bills he negotiated on behalf of his clients and by misappropriating client funds. The disciplinary hearing panel recommended Hester be disbarred. The chief disciplinary counsel accepted the recommendation; Hester rejected it, arguing his conduct warrants only a two-year suspension.

DISBARRED.

Court en banc holds: (1) The preponderance of the evidence shows Hester violated the rules as found by the disciplinary hearing panel, amounting to multiple acts of professional misconduct.

(2) After consideration of mitigating and aggravating factors, the Court orders Hester disbarred. Using various American Bar Association standards as guidance, disbarment is the presumptive discipline in this case. He commingled funds, failed to reconcile his trust account, and failed to pay money owed to his clients. He also failed to make any restitution to his clients in the three years between the beginning of the audit and the disciplinary hearing. Because he failed to maintain adequate records, the magnitude of injury is unknown, and his clients likely never can be made whole. While qualities referenced in his character reference letters and his work in the community are commendable, such mitigating evidence does not address the specific misconduct. Aggravating evidence includes that he failed to attend the trust accounting course after 2011; had his clients sign contingency fee agreements that were misleading regarding his fees; kept as his own fees all portions of reductions in claims by lienholders or providers without notifying his clients how he was managing the reductions; failed to resolve trust account problems after the audit began; failed to respond to repeated requests from the chief disciplinary counsel's office for settlement statements and a breakdown of payments to providers; and attempted to admit into evidence at his hearing a document he created after the fact with inaccurate information about his accounts. He engaged in conduct resulting in a financial benefit to himself and a loss to his clients; his conduct was pervasive and impacted a large number of clients; and his engagement with the disciplinary proceedings impeded an efficient resolution.