

LOUISIANA ATTORNEY DISCIPLINARY BOARD

IN RE: W. GLENN SOILEAU

DOCKET NO. 22-DB-052

REPORT OF HEARING COMMITTEE # 22

INTRODUCTION

This attorney disciplinary matter arises out of formal charges filed by the Office of Disciplinary Counsel (“ODC”) against W. Glenn Soileau (“Respondent”), Louisiana Bar Roll Number 12249.¹ ODC alleges that Respondent violated the following Rules of Professional Conduct: Rules 8.4(a) & (b).²

PROCEDURAL HISTORY

The formal charges were filed on October 18, 2022. By letter dated October 20, 2022, the formal charges were mailed via certified mail to Respondent’s primary registration address.³ The mailing was received on October 24, 2022. Respondent failed to file an answer to the charges. Accordingly, on December 5, 2022, ODC filed a motion to deem the factual allegations admitted pursuant to Louisiana Supreme Court Rule XIX, §11(E)(3).⁴ By order signed

¹ Respondent was admitted to the practice of law in Louisiana on September 21, 1972. Respondent is currently suspended from the practice of law on an interim basis. *In re Soileau*, 2018-0394 (La. 3/23/18), 238 So.3d 972. Respondent has prior discipline. Respondent received a formal private reprimand (with notice) on September 27, 1985. In 1999, Respondent was suspended from the practice of law for two years, with one year deferred, for violating the Migratory Bird Treaty Act. *In re Soileau*, 99-0441 (La. 6/18/99), 737 So.2d 23. Respondent received an admonition in 2013 for violating Rule 1.16(d).

² Rule 8.4 states, in pertinent part: “It is professional misconduct for a lawyer to: (a) Violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another; (b) Commit a criminal act especially one that reflects adversely on the lawyer’s honesty, trustworthiness or fitness as a lawyer in other respects; ...”

³ 219 W. Bridge St., Breaux Bridge, LA 70517.

⁴ This rule states:

The Respondent shall file a written answer with the Board and serve a copy on disciplinary counsel within twenty (20) days after service of the formal charges, unless the time is extended by the chair of the hearing Committee. In the event, Respondent fails to answer within the prescribed time, or

December 12, 2022, the factual allegations contained in the formal charges were deemed admitted.

On February 10, 2023, ODC filed its submission on sanction.

For the following reasons, this Committee finds Respondent has violated Louisiana Rules of Professional Conduct Rule 8.4 (a) and 8.4(b), and recommends that, in light of the numerous, serious aggravating factors and complete absence of mitigating factors, Respondent be suspended from the practice of law for a period of three years.

FORMAL CHARGES

The deemed admitted formal charges read, in pertinent part:

The ODC, during a sworn statement with Louisiana State Police Trooper Leon Defelice on another matter involving Respondent, was notified that Respondent had been arrested for suspicion of operating a motor vehicle while under the influence of an intoxicating substance. Investigation into the matter revealed that Respondent, on June 23, 2021, was operating a silver 2015 Ford F-250 truck, Louisiana license plate number C516653. Detective Roger Oubre of the Ascension Parish Sheriff's Office, was traveling on LA-73 west towards LA-61. Dispatch advised Uniform Patrol that a Ford F-250 truck, silver in color, was operating on LA-61 nearby in a reckless manner. The truck was reported as moving southbound on the shoulder at a very slow rate of speed. At the next traffic signal at Post Office Road, the silver Ford remained stationary when the traffic light cycled to green. The vehicle behind the Ford sounded his vehicle horn, after which the truck began forward movement. Det. Oubre observed the truck swerve across the fog line. The truck then moved over, occupying both lanes of travel. Det. Oubre initiated a traffic stop at that time and informed Dispatch of the pending stop.

Det. Oubre made contact with Respondent, who appeared to be disoriented. Respondent was disoriented to the point that he forgot to put the truck in park before exiting the vehicle. Det. Oubre, concerned about Respondent's condition, contacted Dispatch to request a medical check for him. The fire department was the first to

the time as extended, the factual allegations contained within the formal charges shall be deemed admitted and proven by clear and convincing evidence. Disciplinary Counsel shall file a motion with the chair of the hearing Committee to which the matter is assigned requesting that the factual allegations be deemed proven with proof of service of the formal charges upon the Respondent. The order signed by the hearing Committee chair shall be served upon Respondent as provided by Section 13C. Within twenty (20) days of the mailing of the order of the hearing Committee chair deeming the factual allegations contained in the formal charges proven, the Respondent may move the hearing Committee chair to recall the order thus issued upon demonstration of good cause why imposition of the order would be improper or would result in a miscarriage of justice.

arrive. Fire department personnel checked Respondent's vitals and determined that it was not a medical emergency. Acadian Ambulance arrived shortly afterwards, but Respondent refused to be transported. At that time, Det. Oubre contacted Louisiana State Police to assist.

Louisiana State Police Troopers Blackburn and Cannon arrived on-scene. Contact was made with Respondent, who showed incoherent speech, delayed reaction, drowsiness, lack of balance, and pinpoint pupils. Respondent had agreed to a Horizontal Gaze Nystagmus Test but did not follow the stimulus shortly after the test began. Trooper Blackburn did notice that Respondent did not have smooth pursuit. Respondent then refused to cooperate with the remainder of the test. Respondent would not perform the walk and turn or the one-leg stand tests. Respondent was placed under arrest for DWI, Third Offense. A search of Respondent's truck revealed a pill bottle for Benzodiazepines. [FN3. A class of psychoactive drugs whose core chemical structure is the fusion of a benzene ring and a diazepine ring. As depressants, drugs which lower brain activity, they are prescribed to treat conditions such as anxiety, insomnia, and seizures.] Respondent admitted to having taken one that morning. Respondent was transported to the Ascension Parish Sheriff substation for further testing. A breath test showed a 0.00% BAC reading. Blood was drawn and sent to the Louisiana State Police Crime Lab for testing. A copy of Respondent's toxicology report was attached to the ODC's request to file formal charges. The report showed the following substances in Respondent's blood sample at the time he was operating a motor vehicle on a Louisiana public roadway: Methamphetamine, Benzodiazepines, Alprazolam, Diazepam, Oxazepam, Temazepam, Cannabinoids (THC), Tramadol, and Cyclobenzaprine.

Respondent, by engaging in the above listed misconduct, has violated Louisiana Rules of Professional Conduct Rule 8.4 (a) (b).

EVIDENCE

The Committee reviewed the exhibits submitted by ODC, which are Exhibits ODC 1-7. Respondent did not submit evidence or argument for the Committee's consideration, nor did he request to be heard in mitigation pursuant to Rule XIX, §11(E)(4).

FINDINGS OF FACT

Based on Respondent's refusal to cooperate, at all, in the disciplinary process, a "deemed admitted" order has been issued regarding the formal charges. Therefore, the Committee finds all allegations of Respondent's conduct on June 23, 2021, to be proven.

The formal charges make reference to a single OWI event on June 23, 2021. However, the Office of Disciplinary Counsel has submitted additional evidence (ODC Exhibits 2 and 3) which show that the June 2021 arrest was, in fact, Respondent's 4th known arrest since 2013 for operating a vehicle while intoxicated. As such, the Committee finds that Respondent has demonstrated a pattern of behavior in reckless disregard to the safety of the public.

RULES VIOLATED

This is a straightforward matter wherein Respondent clearly violated Louisiana Rules of Professional Conduct Rule 8.4(a) & (b). The relevant criminal act was driving while intoxicated which was observed by a law enforcement officer and confirmed by Respondent's post-arrest blood test showing the presence of Methamphetamine, Benzodiazepines, Alprazolam, Diazepam, Oxazepam, Temazepam, Cannabinoids (THC), Tramadol, and Cyclobenzaprine.

The Committee finds that, by the behavior deemed admitted in this matter, Respondent has violated Louisiana Rules of Professional Conduct Rule 8.4 (a) & (b), namely:

It is professional misconduct for a lawyer to:

- (a) Violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- (b) Commit a criminal act especially one that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;

SANCTION

Louisiana Supreme Court Rule XIX, §10(C), states that when imposing a sanction after a finding of lawyer misconduct, a Committee shall consider the following factors:

- (1) Whether the lawyer has violated a duty owed to a client, to the public, to the legal system, or to the profession;
- (2) Whether the lawyer acted intentionally, knowingly, or negligently;

- (3) The amount of the actual or potential injury caused by the lawyer's misconduct; and
- (4) The existence of any aggravating or mitigating factors.

Here, Respondent violated duties owed to the public and to the legal profession. He acted knowingly and intentionally in repeatedly committing the criminal act of operating a vehicle while intoxicated.

Respondent's impaired driving has caused potential harm to everyone he encountered on the roadways as he operated his vehicle with his abilities compromised by intoxication. His June 2021 arrest for operating a motor vehicle while in an intoxicated and impaired condition is merely the latest instance that he has actually been caught while engaging in an ongoing pattern of dangerous behavior.

Further, Respondent likely suffers from a significant substance abuse condition, one for which he has not demonstrated an intent to seek treatment of any kind. Such behavior poses serious harm to the legal profession.

The *ABA Standards for Imposing Lawyer Sanctions* suggest that suspension is the baseline sanction for Respondent's misconduct.

The ABA Guidelines for cases involving the commission of a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer, are discussed under ABA Standard 5.0. Specifically, Standard 5.12 advises that suspension is generally appropriate when a lawyer knowingly engages in criminal conduct which does not contain the elements listed in Standard 5.11 and which seriously adversely reflects on the lawyer's fitness to practice.

ABA Standard 7.2 suggests that suspension is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional and causes injury or potential injury to a client, the public, or the legal system.

One of the guiding cases involving DWI violations and attorney misconduct is *In re: Deborah Harkins Baer*, 2009-1795 (La. 11/20/09); 21 So.3d 941. The respondent, Baer, was charged with DWI for two separate incidents, which also included property damage. The disciplinary prosecution proceeded as a Deemed Admitted matter. Baer was charged with violations of Rule 8.4(a) and Rule 8.4(b) and was ultimately suspended for one year and one day, retroactive to date of an interim suspension.

In *Baer*, the Court commented upon its prior caselaw involving DWI, stating:

We have imposed sanctions ranging from actual periods of suspension to fully deferred suspensions in prior cases involving attorneys who drive while under the influence of alcohol. However, as a general rule, we tend to impose an actual suspension in those instances in which multiple DWI offenses are at issue, as well as in cases in which the DWI stems from a substance abuse problem that appears to remain unresolved."

This Committee finds additional guidance in the matter of *In re: Holliday*, 2009-0116 (6/26/09), 15 So.3d 82, wherein an attorney received a three year suspension after he was arrested for two DWIs (one of which involved property damage and fleeing the scene), and arrested for damaging property in a domestic incident.

This committee also looks to *In re: Aubrey M Alexander, III*; 2010-0950 (La. 6/25/10), 37 So.3d 999, where the Respondent was convicted of distribution of a controlled dangerous substance (Xanax) and was sentenced to three years in jail. He was charged by the ODC with one count of a violation of Rule 8.4(a) & (b). Respondent's absolute refusal to acknowledge the wrongful nature of his conduct was found to be an aggravating factor. No mitigating factors were found. Alexander was sanctioned with disbarment.

Aggravating Factors

This Committee finds that the following ABA Standard 9.22 aggravating factors are present with regard to the disciplinary charges presented herein:

- (a) Multiple prior disciplinary offenses;⁵
- (b) A pattern of misconduct (at least 4 arrests for intoxicated driving);
- (c) Bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency;
- (d) Refusal to acknowledge wrongful nature of conduct;
- (e) Substantial experience in the practice of law (admitted in 1972); and
- (f) Illegal conduct, including that involving the use of controlled substances.

Mitigating Factors

The Committee identifies no ABA Standard 9.32 mitigating factors present.

While it seems likely that Respondent is beholden to chemical dependency issues, his complete failure to participate in the disciplinary process has left this Committee with no evidence that would satisfy the multifactor test that would lead to chemical dependency being considered a mitigating factor.

CONCLUSION

Respondent violated the Rules of Professional Conduct by knowingly engaging in a criminal act. The jurisprudence in *Baer* provides for a baseline sanction of a suspension for one year and one day. However, the multiple, serious aggravating factors in this matter suggest that a deviation upward is entirely merited, as in *Holliday*. As such, this Committee recommends that

⁵ Respondent received a formal private reprimand (with notice) on September 27, 1985. In 1999, Respondent was suspended from the practice of law for two years, with one year deferred, for violating the Migratory Bird Treaty Act. *In re Soileau*, 99-0441 (La. 6/18/99), 737 So.2d 23. Respondent received an admonition in 2013 for violating Rule 1.16(d)

Respondent, W. Glenn Soileau, be subject to an actual suspension of three years, with no portion deferred, and that the Respondent be assessed with all costs and expenses of these proceeding, pursuant to Rule XIX, §10.1.

This opinion is unanimous and has been reviewed by each Committee member, who fully concur and who have authorized Brandon Wallace to sign on their behalf.

Lafayette, Louisiana, this 1st day of March, 2023.

**Louisiana Attorney Disciplinary Board
Hearing Committee # 22**

**Brandon O. Wallace, Committee Chair
Jennifer B. Frederick, Lawyer Member
Bradley J. Pellegrin, Public Member**



BY:

**Brandon O. Wallace, Committee Chair
For the Committee**