

Nerri v. Adu-Gyamfi

Virginia Supreme Court

June 9, 2005

This case involves a suspended lawyer signing pleadings.

The plaintiffs in an automobile accident case hired a lawyer who was duly licensed at the time they hired him. Sometime thereafter his license to practice law was suspended for failure to perform the appropriate CLE and pay his bar dues, as well as failure to file a certificate of insurance. After his license was suspended he filed a lawsuit on behalf of the plaintiffs. Some months later the defense counsel, discovering that the plaintiff's attorney had been suspended, moved to dismiss the pleadings. The plaintiff's lawyer admitted in open court that his license had been suspended and that at that moment he had not yet been reinstated. The plaintiff's then, acting pro se, moved for a nonsuit, which the trial judge granted over the objection of the defense counsel. The defense appealed, and the Virginia Supreme Court reversed, saying that a pleading signed by a lawyer who has been suspended is a nullity, therefore no action had ever been filed from which a nonsuit could be taken. The statute of limitations is not mentioned in the opinion, but it is doubtful that this case would be in this posture if it had not run.

Justice Koontz dissented, saying basically that this literal interpretation of the law mainly hurts an innocent client who hired an attorney in good faith, and never knew that the attorney he hired had been suspended. The client will suffer for the sins of the attorney.