

Memorandum

TO: Jodi Terwilliger-Stacey, Attorney

FROM: Antony Hebblethwaite, Paralegal

RE: *Attorney Grievance Comm'n of Maryland v. Hallmon*, 343 Md. 390, 681 A.2d 510 (1996).

DATE: October 17, 2015

HISTORY

The Maryland Court of Appeals review of the Attorney Grievance Comm'n of Maryland's case finding that Morgan Joseph Hallmon violated Maryland Lawyers' Rules of Professional Conduct.

QUESTION PRESENTED

Whether Morgan Joseph Hallmon, a lawyer admitted to the District of Columbia and Maryland bars, assisted an unlicensed person in the unauthorized practice of law in violation of Maryland Lawyers' Rules of Professional Conduct?

FACTS

Hallmon represented The Church of the Great Commission. The church required a special zoning exception to expand their parking lot. Carole Cloud, a law school graduate not admitted to practice in any jurisdiction, prepared the application for special exception, the statement of justification for the exception, and a letter requesting expedited handling of the application. She signed and filed these documents at the zoning commission with Hallmon's signature. *Attorney Grievance Comm'n of Maryland v. Hallmon*, 343 Md. 390, 396, 681 A.2d 510, 513 (1996). At the zoning hearing before Richard A. Romine, a Zoning Hearing Examiner for Prince George's County, Hallmon stated, "Let me point out that this is my first time attending such a hearing. Therefore, I am not familiar with the procedure." *Hallmon*, 343 Md. at 402, 681 A.2d at 516. He also stated, "*I will defer to my associate, Ms. Cloud.*",

when the hearing examiner asked a question. *Hallmon*, 343 Md. at 401, 681 A.2d at 516. After the Examiner determined that Cloud was not authorized to practice law in Maryland, Hallmon continued to make deferrals to Cloud. “The record before Examiner Romine supports finding that Hallmon never applied his legal knowledge and training to evaluating the presentation that had been worked up by Carole Cloud.” *Hallmon*, 343 Md. at 401, 681 A.2d at 515-16. According to the *Hallmon* court, Cloud prepared the hearing strategy and Hallmon was not aware of that strategy and he could not answer the examiner’s questions:

Hallmon did not know whether the strategy was to rest on the record or whether a presentation, in addition to the client’s previously filed justification and the technical staff’s report, would be made at the hearing. It is also apparent from Hallman’s immediate and later deferrals to Carole Cloud that Hallmon did not know how to respond to any questions that the examiner may have had.

Hallmon, 343 Md. at 406, 681 A.2d at 518.

Examiner Romine filed a complaint with Bar Counsel raising the issue of Hallmon assisting Cloud in the unauthorized practice of law by Cloud.

RULES

The *Hallmon* court quoted the comment to Rule 5.5 of the Maryland Lawyers’ Rules of Professional Conduct, which allows attorneys to delegate to paralegals substantive legal work, “so long as the lawyer supervises the delegated work and retains responsibility for their work.” *Hallmon*, 343 Md. at 398, 681 A.2d at 514 (quoting Rule 5.5 comment). After examining laws regarding the unauthorized practice of law from other jurisdictions, the court stated, “The key in all of these examples is supervision,” and that the attorney may “not under any circumstance delegate to [a law clerk] the exercise of the lawyer’s professional judgement on behalf of the client.” *Hallmon*, 343 Md. at 400, 681 A.2d at 515 (quoting *Louisiana State Bar Ass’n v. Edwins*, 540 So. 2d 294, 300 (La. 1989)). The court

referred to Rule 1.1 in the Maryland Lawyers' Rules of Professional Conduct which requires lawyers to act with competence. *Hallmon*, 343 Md. at 407, 681 A.2d at 518.

Finally, the court stated that an "essential function of the lawyer in a special exception application of the subject type is evaluation of the data that has been gathered by lay assistants, by the client, and by the Commission's staff in order for the lawyer to determine whether the data presents a sufficient and persuasive case." *Hallmon*, 343 Md. at 401, 681 A.2d at 515.

ANALYSIS

The *Hallmon* court found that the zoning hearing transcript demonstrated an "abdication of supervision" by Hallmon resulting in the unauthorized practice of law by Cloud:

This record demonstrates, to the standard of clear and convincing evidence, the lack of supervision of Carole Cloud by Hallmon. Hallmon did not know whether the strategy was to rest on the record or whether a presentation, in addition to the client's previously filed justification and the technical staff's report, would be made at the hearing. It is also apparent from Hallman's immediate and later deferrals to Carole Cloud that Hallmon did not know how to respond to any questions that the examiner may have had. The hearing record demonstrates by clear and convincing evidence an abdication of supervision by Hallmon and that the lay legal assistant was unauthorizedly practicing law.

Hallmon, 343 Md. at 406, 681 A.2d at 518.

The court affirmed that Hallmon violated Rule 1.1 in the Maryland Lawyers' Rules of Professional Conduct "by failing to handle the Church's zoning application with competence." *Hallmon*, 343 Md. at 407, 681 A.2d at 518. For the purposes of appropriate sanctions, the *Hallmon* court decided to use Rule 5.5 as the "more serious under these facts." *Hallman*, 343 Md. at 407, 681 A.2d at 518.

CONCLUSION

The *Hallmon* court found that Hallmon “assisted an unlicensed person in the unauthorized practice of law in violation of the Maryland Lawyers' Rules of Professional Conduct.” *Hallmon*, 343 Md. at 393, 681 A.2d at 512. The court suspended Hallmon’s license to practice law for ninety days, mandated that he notify clients of his suspension, required additional education on administering a law firm and required that he pay for all the court costs. *Hallmon*, 343 Md. at 410-13, 681 A.2d at 520-21.