

SUPREME COURT OF VERMONT

In re McCoy-Jacien

204 A.3d 660 (Vt. 2018) · No. 18-075 · Decided December 17, 2018

SUMMARY

The Vermont Supreme Court addressed respondent Phyllis McCoy-Jacien's failure to comply with an earlier contempt order and her failure to appear at the purge hearing. The Court issued a daytime-only arrest warrant and specified conditions for purging the contempt, including providing client and financial information to the appointed trustee and allowing access to client files.

CASE DETAILS

COURT	Supreme Court of Vermont
WRITING FOR THE COURT	Paul L. Reiber, Chief Justice; Marilyn S. Skoglund, Associate Justice; Beth Robinson, Associate Justice; Harold E. Eaton, Jr., Associate Justice; Karen R. Carroll, Associate Justice
JURISDICTION	Vermont
DECIDED	December 17, 2018
DOCKET	18-075
DISPOSITION	other
PROCEDURAL POSTURE	Original-jurisdiction contempt enforcement proceeding arising from respondent's failure to comply with a Vermont Supreme Court order.
PRECEDENTIAL VALUE	Published Vermont Supreme Court opinion

TOPICS

contempt sanctions civil procedure remedies

PRACTICE AREAS

attorney discipline contempt client protection

QUESTIONS PRESENTED

1. Whether respondent had failed to purge the contempt arising from her noncompliance with the Vermont Supreme Court's prior order.

2. What enforcement and purge conditions were appropriate to secure respondent's compliance with the court's client-protection and accounting requirements.

HOLDINGS

1. Respondent failed to purge the contempt because she did not appear at the purge hearing and did not complete the required actions.
2. The court authorized respondent's arrest and continued incarceration, subject to release upon satisfaction of the specified purge conditions, including disclosure of client information, accounting for client funds and unearned fees, and permitting the trustee access to Vermont client files.

KEY QUOTATIONS

“Unless otherwise ordered, respondent will be released from custody following the hearing if she does the following, to the extent not addressed during the hearing, to purge her contempt:” (662)

“If respondent fails to comply with ANY of these purge conditions, she is subject to re-arrest and incarceration until she fully complies with this Court's order.” (663)

FACTUAL BACKGROUND

Respondent, a Vermont attorney, failed to comply with prior orders requiring her to provide information and access concerning Vermont clients, client files, client property, and client funds. She did not appear at the scheduled purge hearing and failed to purge the contempt by the court-ordered deadline. The court required her to provide client and counsel contact information, identify client property and funds, account for unearned fees, and permit the trustee physical access to Vermont client files.

PROCEDURAL HISTORY

The Vermont Supreme Court previously held Phyllis McCoy-Jacien in contempt for failing to comply with a court order and gave her until November 30, 2018, to purge the contempt. A purge hearing was held on December 4, 2018; respondent did not appear and had not completed the required actions. The court simultaneously issued a daytime-only arrest warrant and specified conditions for purging the contempt after arrest.

DISPOSITION

other