

SUPREME COURT OF NEBRASKA

State of Nebraska ex rel. Counsel for Discipline of the Nebraska Supreme Court v. Elaine A. Waggoner

267 Neb. 583 (2004) (Neb. 2004) · No. No. S-03-1290 · Decided March 12, 2004

SUMMARY

The Nebraska Supreme Court approved Elaine A. Waggoner's conditional admission to attorney-discipline charges involving neglect of legal matters, failure to deposit client funds in a trust account, and related violations of professional conduct rules. The court imposed a public reprimand, 18 months of probation with monitoring, and costs.

CASE DETAILS

COURT	Supreme Court of Nebraska
WRITING FOR THE COURT	Per Curiam; Hendry, C.J.; Wright, J.; Connolly, J.; Gerrard, J.; Stephan, J.; McCormack, J.; Miller-Lerman, J.
JURISDICTION	Nebraska
DECIDED	March 12, 2004
DOCKET	No. S-03-1290
DISPOSITION	other
PROCEDURAL POSTURE	Attorney-discipline proceeding in which the respondent filed a conditional admission of formal disciplinary charges in exchange for a stated consent judgment of public reprimand and 18 months of probation with monitoring.
STANDARD OF REVIEW	Independent review of the record; disciplinary violations must be established by clear and convincing evidence.
PRECEDENTIAL VALUE	Published Nebraska Supreme Court opinion; precedential
PARTIES	State of Nebraska ex rel. Counsel for Discipline of the Nebraska Supreme Court v. Elaine A. Waggoner

TOPICS

administrative law

agency adjudication

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the court should approve the respondent's conditional admission under Nebraska Court Rule of Discipline 13.
2. Whether the admitted conduct violated DR 1-102(A)(1), DR 6-101(A)(3), DR 9-102(A)(2), and the respondent's oath of office as an attorney.
3. Whether public reprimand and 18 months of probation with monitoring were appropriate sanctions.

HOLDINGS

1. The court approved the conditional admission because the respondent knowingly admitted the essential relevant facts and violations and waived all proceedings connected with the formal charges, as permitted by Nebraska Court Rule of Discipline 13.
2. By clear and convincing evidence, Waggoner violated DR 1-102(A)(1), DR 6-101(A)(3), and DR 9-102(A)(2), as well as her oath of office as an attorney.
3. The appropriate sanction was a formal public reprimand and 18 months of probation with monitoring, with costs and expenses taxed to the respondent.

KEY QUOTATIONS

“Based on the conditional admission of respondent, the recommendation of the Counsel for Discipline, and our independent review of the record, we find by clear and convincing evidence that respondent has violated DR 1-102(A)(1), DR 6-101(A)(3), and DR 9-102(A)(2), as well as her oath of office as an attorney, and that respondent should be and hereby is publicly reprimanded.” (689)

“JUDGMENT OF PUBLIC REPRIMAND AND PROBATION.” (689)

FACTUAL BACKGROUND

Waggoner was admitted to practice law in Nebraska in 1978 and practiced privately in Lincoln. In representing two clients, she unduly delayed completing entrusted legal matters. In representing a third client, she failed to deposit a retainer into her attorney trust account. She conditionally admitted the material facts and disciplinary violations.

PROCEDURAL HISTORY

Formal charges were filed against Waggoner on November 13, 2003, alleging neglect of two client matters, failure to deposit a client retainer into a trust account, violations of specified disciplinary rules, and violation of her attorney's oath. Waggoner filed a conditional admission on January 27, 2004, knowingly admitting the essential facts and rule violations and waiving further proceedings. The Nebraska Supreme Court independently reviewed the record, approved the conditional admission, and imposed the agreed discipline.

DISPOSITION

other

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