

SUPREME COURT OF UTAH

In re Discipline of Brian W. Steffensen

Steffensen, 2021 UT 1 (Utah 2021) · No. 20190146-SC · Decided January 7, 2021

SUMMARY

The Utah Supreme Court affirmed the disbarment of Brian W. Steffensen based on violations of Utah Rule of Professional Conduct 8.4(b) and (c), concluding that presumptive disbarment was appropriate for the dishonest conduct. The court also affirmed the denial of Steffensen’s motions concerning judicial disqualification, prosecutorial misconduct, a continuance, reopening the evidence, and vacating prior orders.

CASE DETAILS

COURT	Supreme Court of Utah
WRITING FOR THE COURT	Justice Himonas; Chief Justice Durrant; Associate Chief Justice Lee; Justice Pearce; Justice Petersen
JURISDICTION	Utah
DECIDED	January 7, 2021
DOCKET	20190146-SC
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from a district court order imposing disbarment after remand for a new determination of the appropriate sanction in an attorney-discipline proceeding.
STANDARD OF REVIEW	Professional-discipline cases receive a unique standard of review: the Supreme Court gives deference to the district court but independently determines the correctness of the discipline imposed. The denial of motions for disqualification, prosecutorial misconduct, continuance, stay, reopening of evidence, and vacatur of prior orders was reviewed for abuse of discretion. A continuance ruling is not overturned unless the district court clearly abused its substantial discretion.
PRECEDENTIAL VALUE	precedential
PARTIES	Brian W. Steffensen v. Office of Professional Conduct

TOPICS

sanctions

appellate procedure

standard of review

civil procedure

harmless error

PRACTICE AREAS

attorney discipline

professional responsibility

appellate procedure

civil procedure

QUESTIONS PRESENTED

1. Whether disbarment was an appropriate sanction for Steffensen's violation of Utah Rule of Professional Conduct 8.4(c) under Supreme Court Rules of Professional Practice 14-605(a)(3).
2. Whether the district court abused its discretion in denying Steffensen's motions concerning judicial disqualification, alleged prosecutorial misconduct, and a continuance.
3. Whether the mandate rule barred Steffensen's motions to stay the proceedings, reopen the evidence, and vacate prior orders.

HOLDINGS

1. Disbarment is the appropriate presumptive sanction under Supreme Court Rules of Professional Practice 14-605(a)(3) when a lawyer intentionally engages in misconduct involving dishonesty, fraud, deceit, or misrepresentation that seriously adversely reflects on the lawyer's fitness to practice law, including intentional failure to remit tax withholdings held in a fiduciary or fiduciary-like capacity.
2. The district court did not abuse its discretion in denying Steffensen's motions concerning disqualification, alleged prosecutorial misconduct, and a continuance.
3. When an appellate court remands with narrowing instructions to decide specified issues, the lower court may not reconsider other issues or reopen the proceedings beyond the scope of the mandate.

KEY QUOTATIONS

“This unique standard allows us to pay deference to the determinations made by the district court but requires that we “make an independent determination of the correctness of the discipline the district court imposed.””
(¶ 16)

“When an appeals court vacates a judgment with narrowing instructions which direct the district court to consider certain issues, the district court does not have a mandate to reconsider other issues.” (¶ 29)

“An attorney who holds funds as a fiduciary, or in a fiduciary-like capacity, and then intentionally and knowingly fails to pay those funds to the party to whom they are owed engages in conduct that . . . seriously adversely reflects on the attorney’s fitness to practice law” (¶ 36)

FACTUAL BACKGROUND

Steffensen, a Utah lawyer, failed over a period of years to properly file withholding-tax returns, remit withholding taxes, and submit employee withholding funds to the State of Utah. He entered a diversion agreement concerning related criminal charges and later paid the taxes and penalties owed. The disciplinary court found that he represented to employees that withholding funds had been paid when they had not, and that he intentionally mishandled funds held in a fiduciary or fiduciary-like capacity. On remand, the district court

determined that this conduct seriously adversely reflected on his fitness to practice law and warranted presumptive disbarment.

PROCEDURAL HISTORY

The Office of Professional Conduct charged Steffensen with violations of Utah Rule of Professional Conduct 8.4(b) and (c) based on his failure to remit employee withholding taxes. The district court initially ordered disbarment under Supreme Court Rules of Professional Practice 14-605(a)(1) and (a)(2); the Utah Supreme Court affirmed the misconduct findings but remanded for reconsideration of the sanction. On remand, the district court imposed disbarment under rule 14-605(a)(3) and denied Steffensen's motions for disqualification, prosecutorial misconduct, continuance, stay, reopening of evidence, and vacatur of prior orders. The Utah Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- In re Discipline of Steffensen, 2018 UT 53, 428 P.3d 1104
- In re Discipline of Steffensen, 2016 UT 18, 373 P.3d 186
- In re Discipline of Lundgren, 2015 UT 58, 355 P.3d 984
- State v. Hamilton, 827 P.2d 232 (Utah 1992)
- Brown v. Glover, 2000 UT 89, 16 P.3d 540
- Christenson v. Jewkes, 761 P.2d 1375 (Utah 1988)
- State v. Booker, 709 P.2d 342 (Utah 1985)
- Clarke v. Clarke, 2012 UT App 328, 292 P.3d 76
- Layton City v. Longcrier, 943 P.2d 655 (Utah Ct. App. 1997)
- In re Discipline of Reneer, 2014 UT 18, 325 P.3d 104
- IHC Health Servs., Inc. v. D & K Mgmt., Inc., 2008 UT 73, 196 P.3d 588
- Wasatch Cnty. v. Okelberry, 2015 UT App 192, 357 P.3d 586
- Gildea v. Guardian Title Co. of Utah, 2001 UT 75, 31 P.3d 543
- In re Discipline of Babilis, 951 P.2d 207 (Utah 1997)
- In re Discipline of Tanner, 960 P.2d 399 (Utah 1998)