

SUPREME COURT OF KENTUCKY

Kentucky Bar Association v. Christopher David Wiest

2017-SC-000039-KB · No. 2017-SC-000039-KB · Decided August 28, 2017

SUMMARY

The Kentucky Supreme Court imposed reciprocal discipline on Christopher David Wiest following his suspension by the Supreme Court of Ohio for professional misconduct involving the use of confidential client information and failure to communicate with his client. The court rejected Wiest's claims of fraud and that substantially different discipline was warranted, and suspended him from practicing law in Kentucky for two years, with the second year stayed, to run concurrently with his Ohio suspension.

CASE DETAILS

COURT	Supreme Court of Kentucky
JURISDICTION	Kentucky
DECIDED	August 28, 2017
DOCKET	2017-SC-000039-KB
DISPOSITION	other
PROCEDURAL POSTURE	Reciprocal attorney-discipline proceeding initiated by the Kentucky Bar Association after the Supreme Court of Ohio suspended Wiest for two years, with the second year stayed.
STANDARD OF REVIEW	Under SCR 3.435(4), the respondent bears the burden of proving by substantial evidence a lack of jurisdiction or fraud in the out-of-state disciplinary proceeding, or that the established misconduct warrants substantially different discipline. The Kentucky Supreme Court does not reweigh the evidence or determine whether it would have reached a different result.
PRECEDENTIAL VALUE	Published Kentucky Supreme Court opinion and order; precedential unless otherwise limited by subsequent authority.
PARTIES	Kentucky Bar Association v. Christopher David Wiest

TOPICS

appellate procedure

remedies

constitutional law

PRACTICE AREAS

attorney discipline

professional responsibility

reciprocal discipline

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QUESTIONS PRESENTED

1. Whether Wiest proved by substantial evidence that the Ohio disciplinary proceeding involved fraud within the meaning of SCR 3.435(4)(a).
2. Whether Wiest's misconduct warranted substantially different discipline in Kentucky under SCR 3.435(4)(b).
3. Whether the Kentucky Supreme Court was required to recognize the Ohio Supreme Court's final adjudication of misconduct under SCR 3.435(4)(c).

HOLDINGS

1. Wiest failed to prove by substantial evidence that the Ohio disciplinary proceeding was fraudulent. His disagreement with the Ohio Supreme Court's interpretation of the charges, assessment of the evidence, or treatment of due-process arguments did not establish fraud.
2. Because Wiest failed to establish either fraud or another exception under SCR 3.435(4)(a) and (b), the Ohio Supreme Court's final adjudication conclusively established the misconduct for purposes of Kentucky's reciprocal-discipline proceeding.
3. Wiest's misconduct did not warrant substantially different discipline in Kentucky, and the court exercised its discretion not to impose a lesser sanction.

KEY QUOTATIONS

“this Court shall impose the identical discipline unless Respondent proves by substantial evidence: (a) a lack of jurisdiction or fraud in the out-of-state disciplinary proceeding, or (b) that misconduct established warrants substantially different discipline in this State.” (5)

“The mere fact that Wiest disagrees with our sister state's high court does not amount to fraud.” (8)

“a final adjudication in another jurisdiction that an attorney has been guilty of misconduct shall establish conclusively the misconduct for purposes of a disciplinary proceeding in this State.” (8)

FACTUAL BACKGROUND

While representing Stanley Works in matters involving potential mergers and acquisitions, Wiest purchased 35,000 shares of InfoLogix stock after receiving confidential information that Stanley was considering acquiring the company. He did not communicate with Stanley or obtain its informed consent before purchasing the stock. After Stanley later acquired InfoLogix at a higher price, Wiest sold the shares for a substantial profit. The Ohio disciplinary authorities found that his use of confidential information and failure to communicate constituted dishonest and deceitful conduct.

PROCEDURAL HISTORY

The Supreme Court of Ohio found that Wiest violated Ohio Rule of Professional Conduct 8.4(c) by using confidential client information in connection with personal stock trading and failing to communicate with his client. The KBA petitioned the Supreme Court of Kentucky for reciprocal discipline under SCR 3.435(4). After the Kentucky court issued a show-cause order, Wiest argued that the Ohio proceeding involved fraud and that his misconduct warranted substantially different discipline. The Kentucky Supreme Court rejected those arguments and imposed reciprocal discipline.

DISPOSITION

other

CASES CITED

- Cincinnati Bar Assn. v. Wiest, No. 2016-0263, 2016 WL 7386245 (Ohio Dec. 19, 2016)
- Kentucky Bar Association v. Ward, 467 S.W.3d 785, 788 (Ky. 2015)
- Kentucky Bar Association v. Fish, 2 S.W.3d 786, 787 (Ky. 1999)
- Kentucky Bar Association v. Truman, 457 S.W.3d 325, 327 (Ky. 2015)

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