

SUPREME COURT OF IOWA

Iowa Supreme Court Attorney Disciplinary Board v. Stanley A. Roush

827 N.W.2d 711 (Iowa 2013) · No. No. 12–2089 · Decided March 1, 2013

SUMMARY

The Iowa Supreme Court reviewed an attorney disciplinary proceeding arising from Stanley A. Roush’s federal conviction for possession of cocaine base. The court found that his criminal conduct violated Iowa Rule of Professional Conduct 32:8.4(b), considering his substance-abuse history, prior drug conviction, and relationship to his criminal-defense practice. The court concluded that a sixty-day suspension of his Iowa law license was appropriate.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                              |
|-----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Iowa                                                                                                                                                                                                                                                                        |
| WRITING FOR THE COURT | Mansfield, Justice                                                                                                                                                                                                                                                                           |
| JURISDICTION          | Iowa                                                                                                                                                                                                                                                                                         |
| DECIDED               | March 1, 2013                                                                                                                                                                                                                                                                                |
| DOCKET                | No. 12–2089                                                                                                                                                                                                                                                                                  |
| DISPOSITION           | other                                                                                                                                                                                                                                                                                        |
| PROCEDURAL POSTURE    | Attorney disciplinary proceeding brought by the Iowa Supreme Court Attorney Disciplinary Board following the respondent's federal conviction for possession of cocaine base. The Supreme Court of Iowa reviewed the Grievance Commission's recommendation of a six-month suspension de novo. |
| STANDARD OF REVIEW    | Attorney disciplinary proceedings are reviewed de novo. The court gives respectful consideration to the commission's findings and recommendations but is not bound by them. The Board bears the burden of proving misconduct by a convincing preponderance of the evidence.                  |
| PRECEDENTIAL VALUE    | published and precedential                                                                                                                                                                                                                                                                   |
| PARTIES               | Iowa Supreme Court Attorney Disciplinary Board v. Stanley A. Roush                                                                                                                                                                                                                           |

TOPICS

administrative law

agency adjudication

judicial review of agency action

criminal procedure

## PRACTICE AREAS

attorney discipline

professional responsibility

legal ethics

substance-abuse-related misconduct

## QUESTIONS PRESENTED

1. Whether Roush's federal conviction for possession of cocaine base constituted professional misconduct under Iowa Rule of Professional Conduct 32:8.4(b).
2. What sanction was appropriate in light of the violation, aggravating and mitigating circumstances, and prior disciplinary cases.
3. Whether reinstatement should be conditioned on mental-health and substance-abuse evaluations and on Roush's disengagement from representing a longtime client who was also his AA sponsor.

## HOLDINGS

1. Roush's criminal conduct violated rule 32:8.4(b) because it had a rational connection to his fitness to practice law beyond the mere fact that the conduct was criminal.
2. A sixty-day suspension of Roush's Iowa law license was appropriate.
3. Reinstatement was properly conditioned on Roush's obtaining a qualifying mental-health evaluation and a substance-abuse evaluation demonstrating fitness to practice law and compliance with recommended treatment.
4. Reinstatement should not be conditioned on Roush's disengaging from representation of the client because the record did not establish a conflict of interest and did not provide sufficient information for the court to determine that a conflict existed.

## KEY QUOTATIONS

*“The mere commission of a criminal act does not necessarily reflect adversely on the fitness of an attorney to practice law.”* (at 9–10)

*“After weighing the commission’s recommendation, the seriousness of Roush’s violation, the aggravating factors, the mitigating factors, and our precedents, we conclude the appropriate discipline is a sixty-day suspension of Roush’s license to practice law.”* (at 17–18)

## FACTUAL BACKGROUND

Stanley Roush, a federal criminal defense attorney, had an untreated alcohol-dependence and substance-abuse problem that progressed from marijuana use to recurring crack-cocaine use. In 2011, a DEA controlled-buy operation resulted in his arrest and federal conviction for possessing cocaine base; he had previously received a private admonition after a 2003 marijuana-possession conviction. Roush self-reported the conduct, admitted the ethical violation, sought substance-abuse treatment and participated in Alcoholics Anonymous, and continued practicing law with a reduced workload.

## PROCEDURAL HISTORY

Roush self-reported his conduct to the Board after pleading guilty in federal court to a second-offense violation of 21 U.S.C. § 844. The Board filed a complaint alleging violation of Iowa Rule of Professional Conduct 32:8.4(b), and Roush admitted the factual allegations and violation. After a hearing, the Grievance Commission recommended a six-month suspension with reinstatement conditions. The Supreme Court of Iowa independently reviewed the matter, imposed a sixty-day suspension, adopted some reinstatement conditions, and rejected the proposed restriction on Roush's representation of his longtime client and AA sponsor.

## DISPOSITION

other

## CASES CITED

- Iowa Supreme Ct. Att’y Disciplinary Bd. v. Cannon, 821 N.W.2d 873 (Iowa 2012)
- Iowa Supreme Ct. Att’y Disciplinary Bd. v. Fields, 790 N.W.2d 791, 793 (Iowa 2010)
- Iowa Supreme Ct. Att’y Disciplinary Bd. v. Lickiss, 786 N.W.2d 860, 864 (Iowa 2010)
- Iowa Supreme Ct. Bd. of Prof’l Ethics & Conduct v. Lett, 674 N.W.2d 139, 142 (Iowa 2004)
- Iowa Supreme Ct. Bd. of Prof’l Ethics & Conduct v. Ronwin, 557 N.W.2d 515, 517 (Iowa 1996)
- Iowa Supreme Ct. Att’y Disciplinary Bd. v. Murphy, 800 N.W.2d 37, 42 (Iowa 2011)
- Iowa Supreme Ct. Att’y Disciplinary Bd. v. Templeton, 784 N.W.2d 761, 766–68 (Iowa 2010)
- Iowa Supreme Ct. Att’y Disciplinary Bd. v. Weaver, 812 N.W.2d 4, 10–11 (Iowa 2012)
- Iowa Supreme Ct. Att’y Disciplinary Bd. v. Schmidt, 796 N.W.2d 33, 41 (Iowa 2011)
- Iowa Supreme Ct. Att’y Disciplinary Bd. v. Axt, 791 N.W.2d 98, 101, 103 (Iowa 2010)
- Iowa Supreme Ct. Att’y Disciplinary Bd. v. Barry, 762 N.W.2d 129, 138 (Iowa 2009)
- Iowa Supreme Ct. Att’y Disciplinary Bd. v. Kallsen, 814 N.W.2d 233, 239 (Iowa 2012)
- Iowa Supreme Ct. Att’y Disciplinary Bd. v. Humphrey, 812 N.W.2d 659, 666 (Iowa 2012)
- Iowa Supreme Ct. Att’y Disciplinary Bd. v. Cohrt, 784 N.W.2d 777, 783 (Iowa 2010)
- Iowa Supreme Ct. Att’y Disciplinary Bd. v. Rhinehart, \_\_\_\_ N.W.2d \_\_\_\_, \_\_\_\_ (Iowa 2013)
- Iowa Supreme Ct. Att’y Disciplinary Bd. v. Van Ginkel, 809 N.W.2d 96, 110 (Iowa 2012)
- Iowa Supreme Ct. Att’y Disciplinary Bd. v. Sloan, 692 N.W.2d 831, 832–33 (Iowa 2005)
- Iowa Supreme Ct. Bd. of Prof’l Ethics & Conduct v. Stefani, 616 N.W.2d 550, 552 (Iowa 2000)
- Iowa Supreme Ct. Bd. of Prof’l Ethics & Conduct v. Marcucci, 543 N.W.2d 879, 882–83 (Iowa 1996)
- Iowa Supreme Ct. Att’y Disciplinary Bd. v. Weaver, 750 N.W.2d 71, 79–80, 90–92 (Iowa 2008)
- Iowa Supreme Ct. Bd. of Prof’l Ethics & Conduct v. Bernard, 653 N.W.2d 373, 374–76 (Iowa 2002)
- Iowa Supreme Ct. Att’y Disciplinary Bd. v. Cunningham, 812 N.W.2d 541, 553 (Iowa 2012)