

SUPREME COURT OF NEBRASKA

State ex rel. Counsel for Discipline of the Nebraska Supreme Court v.
Wilson

262 Neb. 653 (2001) · Decided September 28, 2001

SUMMARY

The Nebraska Supreme Court disciplines an attorney who threatened a former client with disclosure of immigration and divorce-related information to obtain payment for legal services. The court held that the conduct violated the attorney’s oath and DR 1-102(A)(1) and (6), rejecting the respondent’s due-process arguments. The court imposed a two-year suspension from the practice of law.

CASE DETAILS

COURT	Supreme Court of Nebraska
WRITING FOR THE COURT	Per Curiam; Connolly; Gerrard; Hendry; Lerman; McCormack; Miller; Stephan; Wright
JURISDICTION	Nebraska
DECIDED	September 28, 2001
DISPOSITION	other
PROCEDURAL POSTURE	Original attorney-discipline proceeding brought by the Counsel for Discipline of the Nebraska Supreme Court. Because respondent's answer admitted the essential factual allegations and raised only issues of law, the Supreme Court proceeded directly to briefing without appointing a referee.
STANDARD OF REVIEW	Attorney-discipline proceedings are reviewed de novo on the record, and disciplinary charges must be established by clear and convincing evidence.
PRECEDENTIAL VALUE	Published opinion; precedential Nebraska Supreme Court decision
PARTIES	State ex rel. Counsel for Discipline of the Nebraska Supreme Court v. Joseph Lopez Wilson

TOPICS

- immigration
- divorce
- family law
- marriage

PRACTICE AREAS

legal ethics

attorney discipline

professional responsibility

immigration law

family law

QUESTIONS PRESENTED

1. Whether respondent violated his attorney's oath and DR 1-102(A)(1) and (6) by threatening to disclose client information and use legal proceedings to coerce payment and retaliate against a former client.
2. Whether respondent was denied due process because the Committee on Inquiry allegedly failed to notify him of its decision within 30 days.
3. Whether the Supreme Court could forgo appointing a referee under Nebraska Supreme Court Rule of Discipline 10(K) when respondent's answer raised only issues of law.
4. What discipline was appropriate for respondent's misconduct.

HOLDINGS

1. The Nebraska Supreme Court Rules of Discipline did not require that respondent be notified of the Committee on Inquiry's decision within 30 days; the 30-day requirement applied to the Committee's determination whether reasonable grounds existed for discipline.
2. The court did not violate respondent's due-process rights by declining to appoint a referee under Rule 10(K) because the answer raised only issues of law and respondent had received notice, an opportunity to appear, and an opportunity to examine witnesses and present evidence.
3. By clear and convincing evidence, respondent violated DR 1-102(A)(1) and (6), as well as his oath of office, by using threats to disclose client information and to invoke legal proceedings in order to coerce payment and exact personal retaliation against a former client.
4. A two-year suspension from the practice of law was warranted.

KEY QUOTATIONS

“This court was within its authority under rule 10(K) to order the parties in this matter to proceed directly to briefing before this court.” (659)

“However, a disciplinary rule prohibiting disclosure of client confidences except in certain limited circumstances, including when an attorney reasonably believes disclosure is necessary for resolution of a fee dispute, does not permit an attorney to threaten a former client with disclosure of client confidences in order to resolve a fee dispute.” (661)

“Based on the above, we find in our de novo review that respondent should be suspended from the practice of law for a period of 2 years from the date of this opinion.” (663)

FACTUAL BACKGROUND

Joseph Lopez Wilson, a Nebraska attorney, represented Carlos Moreno in immigration and divorce matters and provided other legal services. After learning that Moreno was involved in an intimate relationship with Wilson's former wife, Wilson threatened to report Moreno's changed employment and immigration status to the INS and

to reopen Moreno's divorce case unless Moreno paid him money for prior legal services. Wilson made threatening calls, faxes, and visits to Moreno's home, and Moreno obtained a harassment protection order.

PROCEDURAL HISTORY

The Committee on Inquiry of the Second Disciplinary District conducted a hearing and found reasonable grounds to believe that respondent had violated professional-conduct rules. Formal charges were filed in the Nebraska Supreme Court, respondent answered pro se, and the court determined that the answer raised only legal issues. The court conducted a trial de novo on the record, found violations by clear and convincing evidence, and ordered a two-year suspension.

DISPOSITION

other

CASES CITED

- State ex rel. NSBA v. Flores, 261 Neb. 256, 622 N.W.2d 632 (2001)
- State ex rel. NSBA v. Mefferd, 258 Neb. 616, 604 N.W.2d 839 (2000)
- State ex rel. NSBA v. Freese, 259 Neb. 530, 611 N.W.2d 80 (2000)
- State ex rel. NSBA v. Brown, 251 Neb. 815, 560 N.W.2d 123 (1997)
- State ex rel. NSBA v. Gridley, 249 Neb. 804, 545 N.W.2d 737 (1996)
- State ex rel. NSBA v. Gleason, 248 Neb. 1003, 540 N.W.2d 359 (1995)
- State ex rel. NSBA v. Ogborn, 248 Neb. 767, 539 N.W.2d 628 (1995)
- Discipline of Boelter, 139 Wash. 2d 81, 985 P.2d 328 (1999)
- In re Rosenblatt, 253 A.D.2d 106, 687 N.Y.S.2d 23 (1999)
- State v. Hawes, 251 Neb. 305, 310, 556 N.W.2d 634, 638 (1996)
- In re Appeal of Lane, 249 Neb. 499, 544 N.W.2d 367 (1996)
- Disciplinary Counsel v. Levin, 35 Ohio St. 3d 4, 517 N.E.2d 892 (1988)
- State ex rel. NSBA v. Scott, 252 Neb. 698, 564 N.W.2d 588 (1997)
- State ex rel. NSBA v. Zakrzewski, 252 Neb. 40, 560 N.W.2d 150 (1997)