

SUPREME COURT OF KANSAS

In re Gamble

301 Kan. 13 (2014) · No. No. 112,037 · Decided December 5, 2014

SUMMARY

The Kansas Supreme Court considers attorney discipline arising from Eric Michael Gamble's communication with an unrepresented biological mother in a contested adoption proceeding. The court found violations of Kansas Rule of Professional Conduct 8.4(d) and 8.4(g) and imposed a six-month suspension.

CASE DETAILS

COURT	Supreme Court of Kansas
WRITING FOR THE COURT	Per Curiam; Michael J. Malone, Senior Judge, assigned
JURISDICTION	Kansas
DECIDED	December 5, 2014
DOCKET	No. 112,037
DISPOSITION	other
PROCEDURAL POSTURE	Original proceeding in attorney discipline brought by the Office of the Disciplinary Administrator against Eric Michael Gamble.
STANDARD OF REVIEW	The Kansas Supreme Court considers the evidence, the disciplinary panel's findings, and the parties' arguments to determine whether violations occurred and what discipline should be imposed. Attorney misconduct must be established by clear and convincing evidence; unchallenged hearing-panel findings are deemed admitted.
PRECEDENTIAL VALUE	Published Kansas Supreme Court opinion; precedential.

TOPICS

adoption parental rights family law procedure family law

PRACTICE AREAS

legal ethics and professional responsibility attorney discipline adoption parental rights

QUESTIONS PRESENTED

1. Whether Gamble's communication with the unrepresented biological mother constituted conduct prejudicial to the administration of justice under KRPC 8.4(d).
2. Whether Gamble's communication adversely reflected on his fitness to practice law under KRPC 8.4(g).
3. What discipline should be imposed for the violations.

HOLDINGS

1. Gamble violated KRPC 8.4(d) by sending the communication to the biological mother, which attempted to manipulate an unrepresented participant, interfered with the administration of justice, included false statements of fact and law, and provided legal advice without recommending that she obtain counsel.
2. Gamble violated KRPC 8.4(g) because his emotionally coercive and bullying communication to the biological mother adversely reflected on his fitness to practice law.
3. Attorney misconduct must be established by clear and convincing evidence.
4. A six-month suspension was warranted, rather than the hearing panel's recommended 60-day suspension, and a reinstatement hearing was required.

KEY QUOTATIONS

“Consequently, we hold that the respondent should be suspended for a period of 6 months.” (20)

“At the reinstatement hearing, the respondent is required to present clear and convincing evidence that he understands the gravity of his conduct and that he has successfully completed anger management and any other treatment or therapy that has been recommended by a physical or mental health care professional.” (21)

FACTUAL BACKGROUND

While representing a biological father in a contested termination-of-parental-rights and adoption proceeding, Gamble deposed the unrepresented biological mother, who had consistently expressed her desire to proceed with the adoption. Two days later, Gamble sent her a Facebook message urging her to revoke her adoption consent and attached a revocation document for her to sign, including emotional pressure and statements about the adoption and hearing. The biological mother did not revoke her consent, and the adoption and termination proceeding proceeded. Gamble self-reported the communication to the disciplinary administrator.

PROCEDURAL HISTORY

The Disciplinary Administrator filed a formal complaint alleging violations of the Kansas Rules of Professional Conduct. After a hearing, a panel of the Kansas Board for Discipline of Attorneys found violations of KRPC 8.4(d) and 8.4(g) and recommended a 60-day suspension. Gamble filed no exceptions, so the panel's factual findings were deemed admitted. The Kansas Supreme Court independently reviewed the record, imposed a six-month suspension, and ordered a reinstatement hearing.

DISPOSITION

other

CASES CITED

- In re Foster, 292 Kan. 940, 945, 258 P.3d 375 (2011)
- In re Lober, 288 Kan. 498, 505, 204 P.3d 610 (2009)
- In re Dennis, 286 Kan. 708, 725, 188 P.3d 1 (2008)
- In re Kline, 298 Kan. 96, 125, 311 P.3d 321, 343 (2013)

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