

## SUPREME COURT OF MINNESOTA

# In re Petition for Disciplinary Action Against Bradley C. Rhodes

740 N.W.2d 574 (Minn. 2007) · No. A04-2252 · Decided November 1, 2007

### SUMMARY

The Minnesota Supreme Court disbarred Bradley C. Rhodes for repeated client neglect, failures to communicate, mishandling and failure to account for client funds, failure to comply with probation conditions, and noncooperation with disciplinary investigations. The court treated Rhodes's prior discipline and the absence of mitigating evidence as aggravating factors and ordered immediate disbarment, compliance with Rule 26, and payment of \$900 in costs.

### CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Minnesota                                                                                                                                                                                                                                                                                                                                                                                                                      |
| WRITING FOR THE COURT | Per Curiam                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| JURISDICTION          | Minnesota                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| DECIDED               | November 1, 2007                                                                                                                                                                                                                                                                                                                                                                                                                                |
| DOCKET                | A04-2252                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| DISPOSITION           | other                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| PROCEDURAL POSTURE    | The Director of the Office of Lawyers Professional Responsibility filed a disciplinary petition alleging violations of the Minnesota Rules of Professional Conduct, the Minnesota Rules on Lawyers Professional Responsibility, and a prior probation order. Rhodes failed to respond, so the allegations were deemed admitted. After oral argument concerning the appropriate sanction, the Supreme Court determined the discipline to impose. |
| PRECEDENTIAL VALUE    | Published precedential opinion of the Supreme Court of Minnesota                                                                                                                                                                                                                                                                                                                                                                                |

### TOPICS

appellate procedure remedies administrative law

### PRACTICE AREAS

legal ethics and professional responsibility attorney discipline appellate procedure remedies

### QUESTIONS PRESENTED

1. What discipline is appropriate for an attorney who repeatedly neglects client matters, fails to communicate with clients, fails to return client property, and fails to account for client funds?
2. Whether violation of the conditions of a prior disciplinary probation constitutes an independent act of professional misconduct warranting discipline.
3. Whether repeated failure to cooperate with a disciplinary investigation constitutes separate misconduct and an aggravating factor.
4. Whether the cumulative misconduct, prior discipline for similar conduct, and absence of mitigating evidence warrant disbarment rather than a lesser sanction.

## HOLDINGS

1. Rhodes's repeated neglect of client matters, failure to communicate with clients, failure to return client property, and failure to account for more than \$5,000 in client funds constituted serious professional misconduct warranting severe discipline.
2. Failure to comply with conditions of a disciplinary probation order is an independent act of professional misconduct warranting discipline.
3. A lawyer's failure to cooperate with an investigation into professional misconduct is separate misconduct and may serve as a serious aggravating factor increasing the sanction.
4. The cumulative weight and severity of multiple disciplinary violations, together with prior discipline for similar misconduct and the absence of mitigating evidence, warranted disbarment.

## KEY QUOTATIONS

*"We do not impose disciplinary sanctions to punish a lawyer; rather, we do so "to protect the public, to guard the administration of justice and to deter future misconduct" by both the individual lawyer and by other members of the legal profession."* (575)

*"The misappropriation of client funds is particularly serious misconduct and usually warrants disbarment "absent 'clear and convincing evidence of substantial mitigating factors.'""* (579)

*"When the weight of these violations are combined and considered in light of his prior professional discipline for similar misconduct and the complete lack of mitigating facts in the record of this case, we conclude that the appropriate sanction in this case is disbarment."* (581-582)

## FACTUAL BACKGROUND

Rhodes failed to comply with conditions of a prior disciplinary probation, including requirements to identify a probation supervisor, provide case information and office procedures, attend compliance meetings, and respond to communications. In seven client matters, he neglected legal work, failed to communicate, failed to return client files or property, failed to account for fees, and in some matters failed to safeguard client funds in trust. He also failed to respond to 11 investigation notices and related communications, and did not appear before the Supreme Court. Rhodes had prior discipline for similar neglect, fee, and noncooperation violations.

## PROCEDURAL HISTORY

Rhodes was previously admonished twice and, in 2005, admonished and placed on supervised probation for professional misconduct and noncooperation. The current petition alleged violations of the probation conditions, misconduct in seven client matters, and failure to cooperate with the ensuing investigation. Because Rhodes did not answer the petition or participate in the proceedings, the allegations were admitted and the Director recommended disbarment. The Supreme Court disbarred Rhodes, imposed Rule 26 compliance requirements, and assessed \$900 in costs.

## DISPOSITION

other

## CASES CITED

- In re Rhodes, 696 N.W.2d 328, 329 (Minn. 2005)
- In re Grzybek, 567 N.W.2d 259, 262-65 (Minn. 1997)
- In re Brooks, 696 N.W.2d 84, 86-89 (Minn. 2005)
- In re Nelson, 733 N.W.2d 458, 463-64 (Minn. 2007)
- In re Harp, 560 N.W.2d 696, 701 (Minn. 1997)
- In re De Rycke, 707 N.W.2d 370, 374-75 (Minn. 2006)
- In re Swerine, 513 N.W.2d 463, 466 (Minn. 1994)
- In re Danielson, 620 N.W.2d 718, 721 (Minn. 2001)
- In re Anderson, 734 N.W.2d 238 (Minn. 2007)
- In re Mayrand, 723 N.W.2d 261, 269 (Minn. 2006)
- In re Weems, 540 N.W.2d 305, 309 (Minn. 1995)
- In re Grzybek, 552 N.W.2d 215, 215-17 (Minn. 1996)
- In re Oberhauser, 679 N.W.2d 153, 160 (Minn. 2004)