

SUPREME COURT OF KANSAS

In re Sutton

No. 117,357 (Kan. May 26, 2017) · No. No. 117,357 · Decided May 26, 2017

SUMMARY

The Kansas Supreme Court reviewed an uncontested attorney-discipline proceeding involving Jeffery A. Sutton. The court adopted findings that Sutton violated Kansas Rules of Professional Conduct 1.4(b), 8.4(c), and 8.4(d) by inadequately explaining a school-attendance order and sending inaccurate information to school principals, and imposed published censure.

CASE DETAILS

COURT	Supreme Court of Kansas
WRITING FOR THE COURT	Per Curiam; Kathryn Gardner, assigned
JURISDICTION	Kansas
DECIDED	May 26, 2017
DOCKET	No. 117,357
DISPOSITION	other
PROCEDURAL POSTURE	Original proceeding in attorney discipline. The Kansas Disciplinary Administrator filed a formal complaint, and the Kansas Board for Discipline of Attorneys hearing panel found violations of Kansas professional-conduct rules and recommended published censure. The Supreme Court reviewed the uncontested matter and determined the violations and appropriate discipline.
STANDARD OF REVIEW	The Supreme Court independently considers the evidence, the disciplinary panel's findings, and the parties' arguments to determine whether violations exist and what discipline should be imposed. Attorney misconduct must be established by clear and convincing evidence.
PRECEDENTIAL VALUE	published and precedential
PARTIES	Office of the Disciplinary Administrator v. Jeffery A. Sutton

TOPICS

family law procedure

divorce

family law

PRACTICE AREAS

legal ethics and attorney discipline

family law

QUESTIONS PRESENTED

1. Whether the evidence established that Sutton violated KRPC 1.4(b), 8.4(c), and 8.4(d).
2. Whether the appropriate discipline for Sutton's misconduct was published censure or a more severe sanction.

HOLDINGS

1. The uncontested panel findings and the evidence established by clear and convincing evidence that Sutton failed to adequately explain the effect of the court's school-attendance order to his client and provided inaccurate information that prejudiced the administration of justice.
2. Sutton violated KRPC 8.4(c) by falsely stating to the school principals that no court order regarding school attendance was in effect when such an order was in effect.
3. Published censure was the appropriate discipline for Sutton's violations.

KEY QUOTATIONS

"In a disciplinary proceeding, this court considers the evidence, the findings of the disciplinary panel, and the arguments of the parties and determines whether violations of KRPC exist and, if they do, what discipline should be imposed." (at 10)

"Dishonest statements usually are inaccurate. But inaccuracy is not necessarily indicative of dishonesty, hence the questionable result of "negligent dishonesty."" (at 11)

"IT IS THEREFORE ORDERED that Jeffery A. Sutton be and he is hereby disciplined by published censure" (at 12)

FACTUAL BACKGROUND

Sutton represented a mother in a Kansas divorce proceeding in which the court ordered that the children primarily reside with her but continue attending school in McLouth, where their father lived. After the mother enrolled the children in Tonganoxie schools and Sutton filed a motion seeking permission for that change, Sutton sent letters to both school principals stating that no order resolved where the children would attend school, although an existing order required attendance in McLouth. The letters confused the client and contributed to her violation of the court order; Sutton acknowledged that the letters were inaccurate and that he had not carefully read them before sending them.

PROCEDURAL HISTORY

The Disciplinary Administrator filed a formal complaint on September 7, 2016. Sutton answered after receiving an extension of time, and a hearing panel conducted a hearing on November 10, 2016. The panel found violations of KRPC 1.4(b), 8.4(c), and 8.4(d), recommended published censure, and assessed costs. Sutton filed

no exceptions, so the panel's factual findings were deemed admitted. The Supreme Court adopted the findings and conclusions and imposed published censure.

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)
- Mahler v. Keenan Real Estate, Inc., 255 Kan. 593, 604-06, 876 P.2d 609 (1994)