

SUPREME COURT OF KANSAS

In re Conwell

271 Kan. 304 (2001) · Decided April 20, 2001

SUMMARY

The Kansas Supreme Court reviewed an attorney-discipline proceeding involving Gary L. Conwell's cocaine, marijuana, and drug-paraphernalia possession and his stipulated violations of Kansas Rules of Professional Conduct 8.4(b) and 8.4(d). Accepting the hearing panel's findings and recommendation, the court imposed published censure and assessed costs against Conwell.

CASE DETAILS

COURT	Supreme Court of Kansas
JURISDICTION	North Dakota
DECIDED	April 20, 2001
DISPOSITION	other
PROCEDURAL POSTURE	Original attorney-discipline proceeding initiated by the Disciplinary Administrator. A hearing panel of the Kansas Board for Discipline of Attorneys found that Conwell violated KRPC 8.4(b) and 8.4(d) and recommended public censure with additional monitoring. Conwell filed no exceptions.
STANDARD OF REVIEW	The Kansas Supreme Court independently considered the record and the hearing panel's report and recommendation in the original attorney-discipline proceeding.
PRECEDENTIAL VALUE	Published opinion; precedential attorney-discipline decision
PARTIES	Disciplinary Administrator v. Gary L. Conwell

TOPICS

administrative law agency adjudication

PRACTICE AREAS

legal ethics attorney discipline professional responsibility

QUESTIONS PRESENTED

- Whether Conwell's stipulated conduct violated KRPC 8.4(b) and KRPC 8.4(d).

2. What discipline was appropriate for the violations, considering the misconduct, mitigating circumstances, prior sanctions, and comparable disciplinary cases.

HOLDINGS

1. Conwell violated KRPC 8.4(b) by committing a criminal act that adversely reflected on his fitness as a lawyer and violated KRPC 8.4(d) by engaging in conduct prejudicial to the administration of justice.
2. Published censure was appropriate discipline for Conwell's violations, and the court assessed the costs of the proceeding against him.

KEY QUOTATIONS

“Because the mitigating circumstances present in Diehl and Smoot are present in this case, the Hearing Panel unanimously recommends that Respondent be publicly censured.” (at 308)

“The court, having considered the record and report of the panel, accepts and concurs in the findings, conclusion, and recommendation of the hearing panel.” (at 308-309)

FACTUAL BACKGROUND

On April 10, 1999, law enforcement officers executing a search warrant at Gary L. Conwell's residence found a tube and vial containing 0.12 grams of cocaine, as well as marijuana and drug paraphernalia. Conwell was later charged in Shawnee County District Court with possession offenses, entered into a 24-month diversion agreement, and voluntarily ceased practicing law. He stipulated to the facts and to violations of KRPC 8.4(b) and 8.4(d), but had not completed all 50 hours of required community service at the disciplinary hearing.

PROCEDURAL HISTORY

The Disciplinary Administrator filed a formal complaint alleging professional misconduct arising from Conwell's possession and use of cocaine, marijuana, and drug paraphernalia. After a formal hearing, the disciplinary panel found violations based on Conwell's stipulation and recommended public censure and participation with the Impaired Lawyers Committee. The Kansas Supreme Court accepted and concurred in the panel's findings, conclusions, and recommendation, ordered published censure, and assessed costs against Conwell.

DISPOSITION

other

CASES CITED

- In re Diehl, 243 Kan. 580, 757 P.2d 732 (1988)
- In re Smoot, 243 Kan. 589, 757 P.2d 327 (1988)