

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Lawyer Disciplinary Board v. Lakin, 217 W. Va. 134

617 S.E.2d 484 (2005) · No. No. 30559 · Decided June 24, 2005

SUMMARY

The Supreme Court of Appeals of West Virginia adopted a disciplinary recommendation prohibiting Illinois lawyer L. Thomas Lakin from practicing in West Virginia for twelve months, subject to limited exceptions. The court also imposed restrictions on the Lakin Law Firm based on improper solicitation of West Virginia personal-injury claimants and affirmed the recommendation under its de novo review of legal ethics matters.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Per Curiam
JURISDICTION	West Virginia
DECIDED	June 24, 2005
DOCKET	No. 30559
DISPOSITION	approved
PROCEDURAL POSTURE	Original lawyer-disciplinary proceeding before the Supreme Court of Appeals of West Virginia on the recommendation of the Hearing Panel Subcommittee of the West Virginia Lawyer Disciplinary Board.
STANDARD OF REVIEW	De novo review applies to questions of law, application of law to facts, and appropriate sanctions; the Court gives respectful consideration to the Board's recommendations while exercising independent judgment. The Court gives substantial deference to factual findings unless they are unsupported by reliable, probative, and substantial evidence on the whole record.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Lawyer Disciplinary Board v. L. Thomas Lakin

TOPICS

appellate procedure

standard of review

judicial review of agency action

agency adjudication

administrative law

PRACTICE AREAS

legal ethics

attorney discipline

professional responsibility

appellate procedure

administrative law

QUESTIONS PRESENTED

1. Whether the Supreme Court of Appeals should adopt the Hearing Panel Subcommittee's recommendation and the parties' agreement on sanctions.
2. What standard governs the Court's review of the Hearing Panel Subcommittee's findings, legal conclusions, and recommended sanctions in a lawyer-disciplinary proceeding.
3. Whether the record supported prohibiting Lakin from practicing law in West Virginia for twelve months, subject to limited exceptions, and imposing specified solicitation-related prohibitions on Lakin and the Lakin Law Firm.

HOLDINGS

1. The Court reviews de novo questions of law, the application of law to facts, and appropriate sanctions, while giving substantial deference to factual findings supported by reliable, probative, and substantial evidence.
2. The Supreme Court of Appeals is the final arbiter of legal-ethics problems and independently determines appropriate public reprimands, suspensions, or annulments of attorneys' licenses.
3. The Court adopted the Hearing Panel Subcommittee's recommendation and agreement on sanctions, prohibiting Lakin from practicing law in West Virginia for twelve months subject to limited exceptions and prohibiting Lakin and the Lakin Law Firm from specified solicitation-related conduct.

KEY QUOTATIONS

“A de novo standard applies to a review of the adjudicatory record made before the Committee on Legal Ethics of the West Virginia State Bar [currently, the Hearing Panel Subcommittee of the Lawyer Disciplinary Board] as to questions of law, questions of application of the law to the facts and questions of appropriate sanctions; this Court gives respectful consideration to the Committee's recommendations while ultimately exercising its own independent judgment.” (217 W. Va. at 138)

“This Court is the final arbiter of legal ethics problems and must make the ultimate decisions about public reprimands, suspensions or annulments of attorneys' licenses to practice law.” (217 W. Va. at 138-39)

FACTUAL BACKGROUND

L. Thomas Lakin, an Illinois lawyer and owner of the Lakin Law Firm, was not licensed to practice law in West Virginia. The disciplinary charges concerned efforts to obtain West Virginia personal-injury clients Kevin James Berry and Denver Copley through former clients, firm personnel, and lawyers, although both individuals were already represented by West Virginia counsel. The conduct was alleged to constitute improper solicitation and a pattern and practice of solicitation in violation of multiple West Virginia Rules of Professional Conduct. Lakin denied personally engaging in improper solicitation, but the record included evidence linking him and the firm to contacts with the prospective clients.

PROCEDURAL HISTORY

The Investigative Panel filed a formal Statement of Charges alleging that L. Thomas Lakin violated the West Virginia Rules of Professional Conduct by soliciting West Virginia personal-injury claimants, including individuals already represented by counsel. After a two-day evidentiary hearing, the Hearing Panel Subcommittee received an agreement on sanctions and recommended that Lakin be prohibited from practicing in West Virginia for twelve months, subject to limited exceptions, and that the Lakin Law Firm be prohibited from specified solicitation-related conduct. The Supreme Court independently reviewed the record de novo and adopted the recommendation and agreement.

DISPOSITION

approved

CASES CITED

- Committee on Legal Ethics v. McCorkle, 192 W. Va. 286, 452 S.E.2d 377 (1994)
- Lawyer Disciplinary Board v. Barber, 211 W. Va. 358, 566 S.E.2d 245 (2002)
- Lawyer Disciplinary Board v. Turgeon, 210 W. Va. 181, 557 S.E.2d 235 (2000)
- Lawyer Disciplinary Board v. Farber, 200 W. Va. 185, 488 S.E.2d 460 (1997)
- Committee on Legal Ethics v. Blair, 174 W. Va. 494, 327 S.E.2d 671 (1984), cert. denied, 470 U.S. 1028 (1985)
- Lawyer Disciplinary Board v. Lusk, 212 W. Va. 456, 574 S.E.2d 788 (2002)
- Lawyer Disciplinary Board v. Frame, 198 W. Va. 166, 479 S.E.2d 676 (1996)
- Lawyer Disciplinary Board v. Cunningham, 195 W. Va. 27, 464 S.E.2d 181 (1995)
- Office of Lawyer Disciplinary Counsel v. Jordan, 204 W. Va. 495, 513 S.E.2d 722 (1998)
- Lawyer Disciplinary Board v. Battistelli, 206 W. Va. 197, 523 S.E.2d 257 (1999)
- Lawyer Disciplinary Board v. Keenan, 208 W. Va. 645, 542 S.E.2d 466 (2000)
- Committee on Legal Ethics v. Walker, 178 W. Va. 150, 358 S.E.2d 234 (1987)