

SUPREME COURT OF OKLAHOMA

State of Oklahoma ex rel. Oklahoma Bar Association v. Robert I. Mayes, Jr.

66 P.3d 398 (Okla. 2003) · No. SCBD4720 · Decided March 11, 2003

SUMMARY

The Oklahoma Supreme Court reviewed disciplinary charges against Robert I. Mayes, Jr. involving the misappropriation of settlement funds belonging to two minor heirs and failure to cooperate with the Oklahoma Bar Association's grievance investigation. Upon de novo review, the court ordered disbarment and assessed \$653.57 in costs.

CASE DETAILS

COURT	Supreme Court of Oklahoma
WRITING FOR THE COURT	Kauger, J.
JURISDICTION	Oklahoma
DECIDED	March 11, 2003
DOCKET	SCBD4720
DISPOSITION	other
PROCEDURAL POSTURE	Original attorney-discipline proceeding brought by the Oklahoma Bar Association under Rule 6. The trial panel found clear and convincing evidence of trust-account mismanagement and failure to cooperate with the grievance investigation, recommended disbarment and costs, and the Supreme Court of Oklahoma conducted a de novo review.
STANDARD OF REVIEW	De novo review. Disciplinary charges must be established by clear and convincing evidence, and the Supreme Court is not bound by the trial panel's findings, legal conclusions, or disciplinary recommendation.
PRECEDENTIAL VALUE	Published Oklahoma Supreme Court opinion; precedential authority.
PARTIES	State of Oklahoma ex rel. Oklahoma Bar Association v. Robert I. Mayes, Jr.

TOPICS

[probate](#)[estate administration](#)[trust administration](#)[trustee duties](#)[remedies](#)

PRACTICE AREAS

legal ethics and attorney discipline

probate

trust-account management

professional misconduct

QUESTIONS PRESENTED

1. Whether clear and convincing evidence established that Mayes mismanaged and misappropriated settlement funds belonging to two minor children.
2. Whether clear and convincing evidence established that Mayes failed to cooperate and provide a full, fair, and timely response during the grievance investigation.
3. Whether Mayes's misconduct, prior disciplinary history, and comparable disciplinary cases warranted disbarment and assessment of \$653.57 in costs.

HOLDINGS

1. Clear and convincing evidence established misappropriation, rather than merely commingling or simple conversion, because Mayes purposefully deprived the minor beneficiaries of funds entrusted for their benefit through deceitful representations and use of the money for his own purposes.
2. Clear and convincing evidence established that Mayes failed to cooperate because he did not provide a full, fair, and timely response to the grievance and did not produce requested trust-account records.
3. Disbarment and assessment of \$653.57 in proceeding costs were warranted by Mayes's misappropriation, failure to cooperate, prior disciplinary history, and the discipline imposed in similar cases.

KEY QUOTATIONS

“Upon a de novo review, we hold that clear and convincing evidence supports findings of the respondent's misappropriation of settlement funds belonging to two minors and his failure to cooperate in the grievance process.” (400)

“RESPONDENT DISBARRED; COSTS IMPOSED.” (409)

FACTUAL BACKGROUND

Mayes handled a wrongful-death settlement for the estate of Yolanda King, whose two minor children were beneficiaries. Approximately \$29,975 was deposited into Mayes's trust account, but the children were not timely paid and the account was repeatedly depleted and overdrawn while Mayes used funds for personal living expenses and to pay his secretary. Mayes also failed to provide a full and timely response to the Bar Association's grievance inquiries and failed to provide requested trust-account records.

PROCEDURAL HISTORY

The Bar Association filed the disciplinary proceeding on May 10, 2002. After a hearing on August 23, 2002, the trial panel filed a report recommending disbarment and costs. Mayes filed no brief in response to the Supreme Court's order, and the Supreme Court independently reviewed the record and imposed discipline.

DISPOSITION

other

CASES CITED

- State ex rel. Oklahoma Bar Ass'n v. Phillips, 2002 OK 86, 60 P.3d 1030
- State ex rel. Oklahoma Bar Ass'n v. Erickson, 2001 OK 66, 29 P.3d 550
- State ex rel. Oklahoma Bar Ass'n v. Israel, 2001 OK 42, 25 P.3d 909
- State ex rel. Oklahoma Bar Ass'n v. Smolen, 2000 OK 95, 17 P.3d 456
- State ex rel. Oklahoma Bar Ass'n v. Wolfe, 1997 OK 47, 937 P.2d 988
- State ex rel. Oklahoma Bar Ass'n v. Holden, 1995 OK 25, 895 P.2d 707
- State ex rel. Oklahoma Bar Ass'n v. Dunlap, 1994 OK 81, 880 P.2d 364
- State ex rel. Oklahoma Bar Ass'n v. Cummings, 1993 OK 127, 863 P.2d 1164
- State ex rel. Oklahoma Bar Ass'n v. Busch, 1998 OK 103, 976 P.2d 38
- State ex rel. Oklahoma Bar Ass'n v. Tully, 2000 OK 93, 20 P.3d 813
- State ex rel. Oklahoma Bar Ass'n v. Smith, 1980 OK 126, 615 P.2d 1014
- State ex rel. Oklahoma Bar Ass'n v. Lowe, 1982 OK 20, 640 P.2d 1361
- State ex rel. Oklahoma Bar Ass'n v. Hall, 1977 OK 117, 567 P.2d 975
- State ex rel. Oklahoma Bar Ass'n v. Patterson, 2001 OK 51, 28 P.3d 551
- State ex rel. Oklahoma Bar Ass'n v. Eakin, 1995 OK 106, 914 P.2d 644
- State ex rel. Oklahoma Bar Ass'n v. Bolton, 1994 OK 53, 880 P.2d 339
- State ex rel. Oklahoma Bar Ass'n v. Doris, 1999 OK 94, 991 P.2d 1015
- State ex rel. Oklahoma Bar Ass'n v. Rozin, 1991 OK 132, 824 P.2d 1127
- State ex rel. Oklahoma Bar Ass'n v. Raskin, 1982 OK 39, 642 P.2d 262
- State ex rel. Oklahoma Bar Ass'n v. Southern, 2000 OK 88, 15 P.3d 1
- State ex rel. Oklahoma Bar Ass'n v. Rennie, 1997 OK 108, 945 P.2d 494
- State ex rel. Oklahoma Bar Ass'n v. Butler, 1992 OK 150, 848 P.2d 540
- State ex rel. Oklahoma Bar Ass'n v. Wilkins, 1995 OK 59, 898 P.2d 147
- State ex rel. Oklahoma Bar Ass'n v. Mayes, 1999 OK 9, 977 P.2d 1073
- State ex rel. Oklahoma Bar Ass'n v. Parsons, 2002 OK 72, 57 P.3d 865
- State ex rel. Oklahoma Bar Ass'n v. Abbott, 2000 OK 64, 11 P.3d 1239
- State ex rel. Oklahoma Bar Ass'n v. Taylor, 2000 OK 35, 4 P.3d 1242
- State ex rel. Oklahoma Bar Ass'n v. Stow, 1998 OK 105, 975 P.2d 869
- State ex rel. Oklahoma Bar Ass'n v. Patmon, 1997 OK 62, 939 P.2d 1155
- State ex rel. Oklahoma Bar Ass'n v. Gray, 1997 OK 140, 948 P.2d 1221
- State ex rel. Oklahoma Bar Ass'n v. Briery, 1996 OK 46, 914 P.2d 1046
- State ex rel. Oklahoma Bar Ass'n v. Lavelle, 1995 OK 96, 904 P.2d 78

- State ex rel. Oklahoma Bar Ass'n v. Meek, 1994 OK 118, 895 P.2d 692
- State ex rel. Oklahoma Bar Ass'n v. Farrant, 1994 OK 13, 867 P.2d 1279
- State ex rel. Oklahoma Bar Ass'n v. Miskovsky, 1992 OK 40, 832 P.2d 814
- State ex rel. Oklahoma Bar Ass'n v. Herlihy, 1991 OK 123, 827 P.2d 164
- State ex rel. Oklahoma Bar Ass'n v. Kessler, 1991 OK 81, 818 P.2d 463
- State ex rel. Oklahoma Bar Ass'n v. Gasaway, 1991 OK 33, 810 P.2d 826
- State ex rel. Oklahoma Bar Ass'n v. Moore, 1987 OK 21, 741 P.2d 445
- State ex rel. Oklahoma Bar Ass'n v. Wallace, 1998 OK 65, 961 P.2d 818
- Tweedy v. Oklahoma Bar Ass'n, 1981 OK 12, 624 P.2d 1049

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