

INDIANA SUPREME COURT

In re Wallsmith

952 N.E.2d 197 (Ind. 2011) · Decided August 19, 2011

SUMMARY

The Indiana Supreme Court approved a conditional agreement disciplining an attorney for misconduct arising from representation of two clients in a will contest. The Court suspended the attorney for 180 days, with 45 days to be actively served and the remainder stayed subject to 24 months of probation, mental-health treatment, and monitoring.

CASE DETAILS

COURT	Indiana Supreme Court
WRITING FOR THE COURT	All Justices
JURISDICTION	Indiana
DECIDED	August 19, 2011
DISPOSITION	approved
PROCEDURAL POSTURE	The Indiana Supreme Court reviewed and approved a Statement of Circumstances and Conditional Agreement for Discipline submitted by the Indiana Supreme Court Disciplinary Commission and the respondent attorney.
PRECEDENTIAL VALUE	Published disciplinary order; binding as to the court's approval of the agreement and imposition of discipline, but not a general merits precedent on the underlying estate dispute.

TOPICS

- estate litigation
- probate
- will contests

PRACTICE AREAS

- legal ethics and professional responsibility
- probate and estate litigation

QUESTIONS PRESENTED

- Whether the court should approve the parties' Statement of Circumstances and Conditional Agreement for Discipline.

2. What discipline was appropriate for respondent's violations of Indiana Professional Conduct Rules 1.2(a), 1.3, 1.7(a), and 3.3(a)(1).

HOLDINGS

1. The court approved the Statement of Circumstances and Conditional Agreement for Discipline submitted by the Disciplinary Commission and respondent.
2. Respondent was suspended from the practice of law for 180 days, with 45 days actively served and the remaining suspension stayed subject to 24 months of probation involving mental-health treatment and monitoring.

KEY QUOTATIONS

“For Respondent’s professional misconduct, the Court suspends Respondent from the practice of law for a period of 180 days, beginning September 30, 2011, with 45 days actively served and the remainder stayed subject to completion of 24 months of probation.” (198)

FACTUAL BACKGROUND

Respondent represented two brothers in a contest concerning their father's will and estate property. Although one client refused to consent to a sale, respondent signed an agreed order representing that both clients had consented and reviewed a petition containing the same inaccurate representation. Respondent later failed to take material action or communicate with one client for an extended period while the representation continued; respondent was subsequently diagnosed with major depression and began treatment.

PROCEDURAL HISTORY

The Disciplinary Commission and respondent submitted an agreed statement of facts and proposed discipline under Indiana Admission and Discipline Rule 23(11). The court approved the agreement, imposed a 180-day suspension with 45 days actively served and the remainder stayed subject to 24 months of probation, assessed costs, and discharged the appointed hearing officer.

DISPOSITION

approved