

SUPREME COURT OF KANSAS

In re Arnett

274 Kan. 366 (2002) · Decided July 12, 2002

SUMMARY

The Kansas Supreme Court suspended Debra J. Arnett from practicing law for one year based on misconduct involving failure to diligently pursue a custody matter, inadequate communication, failure to return unearned fees, dishonesty, and noncooperation with disciplinary investigations. The suspension was ordered effective on the date of the opinion, with reinstatement subject to applicable requirements and proof of appropriate professional help.

CASE DETAILS

COURT	Supreme Court of Kansas
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Kansas
DECIDED	July 12, 2002
DISPOSITION	other
PROCEDURAL POSTURE	Original attorney-discipline proceeding brought by the Disciplinary Administrator against a Kansas attorney. The respondent did not object to the hearing panel's findings, conclusions, or recommended discipline.
PRECEDENTIAL VALUE	Published precedential opinion

TOPICS

- family law procedure
- child custody
- family law

PRACTICE AREAS

- legal ethics
- attorney discipline
- professional responsibility
- family law

QUESTIONS PRESENTED

- Whether the respondent violated the Kansas Rules of Professional Conduct and Kansas Supreme Court rules by failing to diligently represent a client, communicate with the client, safeguard and return unearned fees, protect the client's interests upon termination of representation, cooperate with the disciplinary investigation, and comply with disciplinary procedures.

2. What discipline should be imposed for the respondent's admitted and established misconduct, including the effect of her ongoing mental illness and prior disciplinary history.
3. Whether the recommended one-year suspension should be effective when the opinion was filed or retroactive to the date on which the respondent voluntarily stopped practicing law.

HOLDINGS

1. The court adopted the hearing panel's findings and conclusions that Arnett violated KRPC 1.3, KRPC 1.4, KRPC 1.15(b), KRPC 1.16(d), KRPC 8.1(b), KRPC 8.4(a), KRPC 8.4(c), KRPC 8.4(d), KRPC 8.4(g), Kan. Sup. Ct. R. 207(b), and Kan. Sup. Ct. R. 211(b).
2. A one-year suspension from the practice of law was warranted, with reinstatement subject to the requirements of Kan. Sup. Ct. R. 219, including proof that Arnett obtained appropriate professional help to prevent recurrence of the misconduct.

KEY QUOTATIONS

"Suspension is generally appropriate when a lawyer knowingly fails to perform services for a client and causes injury or potential injury to a client." (372)

"It Is Therefore Ordered that Debra J. Arnett be suspended from the practice of law in the State of Kansas for a period of 1 year, effective the date of this opinion, in accordance with Supreme Court Rule 203(a)(2) (2001 Kan. Ct. R. Annot. 224)." (373)

FACTUAL BACKGROUND

Debra J. Arnett was retained to file a motion to change custody and limit visitation for Jennifer Burkhart after Burkhart's former husband had been convicted of child endangerment and driving under the influence. Arnett failed to file the motion, falsely told Burkhart that it had been filed and was awaiting service, failed to return Burkhart's calls, failed to respond to a letter requesting action or a refund of unearned fees, and did not return those fees. Arnett also failed to respond to disciplinary-investigation requests and did not comply with the hearing panel's order requiring a complete evaluation by a licensed psychiatrist in support of her request for supervised probation.

PROCEDURAL HISTORY

The Kansas Board for Discipline of Attorneys held a hearing after the Disciplinary Administrator filed a formal complaint alleging violations of the Kansas Rules of Professional Conduct and Kansas Supreme Court rules. The hearing panel found multiple violations by clear and convincing evidence and recommended a one-year suspension, a reinstatement hearing, and assessment of costs. The Kansas Supreme Court reviewed the record, concurred in the panel's findings, conclusions, and recommendation, and ordered a one-year suspension effective on the filing date of the opinion.

DISPOSITION

other

