

SUPREME COURT OF KANSAS

In re Phillips

272 Kan. 200 (2001) · Decided October 18, 2001

SUMMARY

The Kansas Supreme Court revoked Daniel H. Phillips's supervised probation after he tested positive for cocaine on three occasions, including after being warned that another relapse could result in suspension. The court indefinitely suspended Phillips from practicing law in Kansas, effective September 13, 2000, and ordered compliance with Supreme Court Rule 218 and payment of costs.

CASE DETAILS

COURT	Supreme Court of Kansas
JURISDICTION	Kansas
DECIDED	October 18, 2001
DISPOSITION	other
PROCEDURAL POSTURE	Original attorney-discipline proceeding to determine whether respondent's supervised probation should be revoked and discipline imposed after alleged violations of probation conditions.
STANDARD OF REVIEW	The court independently determined, after considering the Disciplinary Administrator's argument and respondent's response to the show-cause order, whether the conditions of supervised probation had been violated and what discipline was appropriate.
PRECEDENTIAL VALUE	Published precedential opinion

TOPICS

appellate procedure

remedies

PRACTICE AREAS

legal ethics

attorney discipline

professional responsibility

QUESTIONS PRESENTED

- Whether Phillips violated the conditions of his supervised probation by repeatedly using cocaine and testing positive for cocaine.
- Whether the court should revoke supervised probation and impose additional attorney discipline.

3. Whether indefinite suspension was necessary to protect the public.

HOLDINGS

1. Repeated cocaine use and positive cocaine tests violated the conditions of Phillips's supervised probation, even though he characterized the conduct as relapse during recovery.
2. When an attorney fails to comply with the conditions of supervised probation and fails to show cause why probation should not be revoked, the court may revoke probation and impose appropriate discipline.
3. Indefinite suspension was warranted because Phillips's continued illegal drug use violated probation and placed his legal practice and clients at risk.

KEY QUOTATIONS

“Our ultimate goal here is to protect the public.” (272 Kan. at 201)

FACTUAL BACKGROUND

Daniel H. Phillips, a Kansas attorney, had been placed on three years of supervised probation with specified conditions in an earlier disciplinary proceeding. He tested positive for cocaine on three occasions, including once after being warned that another relapse would lead to a recommendation for suspension. Phillips acknowledged his cocaine addiction and characterized the recent uses as relapses during recovery, but the court found that the relapses violated probation and placed his practice and clients at risk.

PROCEDURAL HISTORY

In an earlier disciplinary proceeding, the court placed Daniel H. Phillips on three years of supervised probation subject to specified conditions. After the Disciplinary Administrator alleged that Phillips had tested positive for cocaine three times, the court issued a show-cause order. Phillips appeared with counsel, acknowledged the relapses and cocaine addiction, and failed to show cause why probation should not be revoked. The court revoked probation and indefinitely suspended him from practicing law.

DISPOSITION

other

CASES CITED

- In re Phillips, 260 Kan. 909, 925 P.2d 435 (1996)
- In re Lockett, 270 Kan. 640, 645, 17 P.3d 917 (2001)
- In re Jones, 252 Kan. 236, 239, 843 P.2d 709 (1992)