

SUPREME COURT OF INDIANA

In the Matter of Daniel S. Kelly

917 N.E.2d 658 (Ind. 2009) · No. 49S00-0906-DI-263 · Decided December 3, 2009

SUMMARY

The Indiana Supreme Court found that Daniel S. Kelly committed professional misconduct in two criminal representations, including failures to communicate, appear, act diligently, and protect client information. The Court attributed some misconduct to depression and substance abuse but suspended Kelly from practice for at least six months without automatic reinstatement, effective January 15, 2010.

CASE DETAILS

COURT	Supreme Court of Indiana
JURISDICTION	Indiana
DECIDED	December 3, 2009
DOCKET	49S00-0906-DI-263
DISPOSITION	other
PROCEDURAL POSTURE	Original attorney-discipline proceeding in which the Indiana Supreme Court reviewed a hearing officer's report after the respondent failed to appear or respond to the disciplinary complaint.
STANDARD OF REVIEW	The Court reviewed the report of the appointed hearing officer; the opinion does not state a more specific standard of review.
PRECEDENTIAL VALUE	Published disciplinary order

TOPICS

remedies sanctions costs civil procedure

PRACTICE AREAS

legal ethics attorney discipline professional responsibility criminal defense

QUESTIONS PRESENTED

- Whether Respondent committed the professional-conduct violations alleged in the disciplinary complaint.

2. What discipline was appropriate for Respondent's misconduct, considering his failure to cooperate, lack of restitution, depression, and substance abuse.

HOLDINGS

1. Respondent violated Indiana Professional Conduct Rules 1.3, 1.4(a)(1), 1.4(a)(3), 1.4(a)(4), 1.4(b), 1.6(a), 1.16(a)(2), 3.2, and 8.4(d) through neglect of client matters, inadequate communication, unauthorized disclosure, representation while materially impaired, failure to expedite litigation, and conduct prejudicial to the administration of justice.
2. Respondent was suspended from the practice of law in Indiana for a minimum of six months without automatic reinstatement, effective January 15, 2010, subject to petitioning for reinstatement and satisfying specified conditions.

KEY QUOTATIONS

"Clients are entitled to protection regardless of a lawyer's personal condition." (659)

"For Respondent's professional misconduct, the Court suspends Respondent from the practice of law in this state for a period of not less than six months, without automatic reinstatement, beginning January 15, 2010." (659)

FACTUAL BACKGROUND

Respondent accepted fees to represent two criminal-defense clients but failed to communicate adequately, failed to appear for a bench trial, missed numerous status conferences, and arranged substitute appearances without one client's consent. He also failed to comply with orders to appear and show cause and could not be located for service. During the representations, Respondent was suffering from depression and substance abuse and knew that his professional abilities were impaired.

PROCEDURAL HISTORY

The Indiana Supreme Court Disciplinary Commission filed a verified complaint. After constructive service under Indiana Admission and Discipline Rule 23(12)(h), Respondent failed to appear or respond, and the hearing officer treated the complaint's allegations as true under Rule 23(14)(c). The Supreme Court reviewed the hearing officer's report, found professional misconduct, and imposed a suspension.

DISPOSITION

other

CASES CITED

- Matter of Stanko, 849 N.E.2d 1143, 1144 (Ind. 2006)