

SUPREME COURT OF KANSAS

In re Hasenbank, 283 Kan. 155

151 P.3d 1 (2007) · No. No. 97,218 · Decided February 2, 2007

SUMMARY

The Kansas Supreme Court considered an uncontested attorney-discipline proceeding involving five client complaints against Russell W. Hasenbank. The court found violations involving lack of diligence, inadequate client communication, and failure to expedite litigation, and ordered a one-year suspension stayed in favor of four years of supervised probation, subject to specified conditions.

CASE DETAILS

COURT	Supreme Court of Kansas
WRITING FOR THE COURT	Justice Lockett, Retired, assigned
JURISDICTION	Kansas
DECIDED	February 2, 2007
DOCKET	No. 97,218
DISPOSITION	other
PROCEDURAL POSTURE	Original uncontested attorney-discipline proceeding brought by the Office of the Disciplinary Administrator before the Supreme Court of Kansas.
STANDARD OF REVIEW	When a respondent files no exceptions, the hearing panel's report is deemed admitted. The Supreme Court determines whether the established facts are supported by clear and convincing evidence and whether they support the panel's conclusions of law.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Office of the Disciplinary Administrator v. Russell W. Hasenbank

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the hearing panel's factual findings were supported by clear and convincing evidence when the respondent filed no exceptions.
2. Whether the established facts supported the panel's conclusions that Hasenbank violated KRPC 1.3, KRPC 1.4(a), and KRPC 3.2.
3. Whether the respondent's failure to comply with the Attorney Diversion Program constituted separate violations of KRPC 8.1 and Supreme Court Rule 207.
4. What discipline was appropriate for the established misconduct, including whether suspension should be stayed and replaced with supervised probation.

HOLDINGS

1. Because Hasenbank filed no exceptions, the hearing panel's report was deemed admitted, and the Supreme Court concluded that the panel's factual findings were supported by clear and convincing evidence.
2. The established facts supported the conclusions that Hasenbank violated KRPC 1.3 by failing to act with reasonable diligence and promptness, KRPC 1.4(a) by failing to keep clients reasonably informed and respond to reasonable requests for information, and KRPC 3.2 by failing to make reasonable efforts to expedite litigation.
3. Failure to comply with the original diversion agreement, respond to diversion-related letters, or execute a new diversion agreement did not, individually or collectively, constitute separate violations of KRPC 8.1 or Supreme Court Rule 207.
4. A one-year suspension was warranted but was stayed, and Hasenbank was placed on four years of supervised probation subject to specified conditions.

KEY QUOTATIONS

"We therefore adopt the panel's findings, conclusions, and modify their recommended discipline." (151 P.3d 1, 8)

"IT IS THEREFORE ORDERED that the respondent be suspended for a period of 1 year effective June 1, 2006, in accordance with Supreme Court Rule 203(a)(2) (2006 Kan. Ct. R. Annot. 243). His suspension is stayed and he is placed on 4-year supervised probation effective June 1, 2006." (151 P.3d 1, 8-9)

FACTUAL BACKGROUND

Hasenbank represented clients in several matters but failed to act diligently, communicate adequately, or prosecute proceedings. His misconduct included failing to settle a lien and distribute settlement proceeds, failing to pursue a personal-injury claim, failing to communicate with clients, and failing to comply with appellate-court orders in two criminal appeals, resulting in his removal as counsel. The disciplinary proceeding was uncontested, and the hearing panel found violations of Kansas Rules of Professional Conduct 1.3, 1.4(a), and 3.2, while finding no separate violations of KRPC 8.1 or Supreme Court Rule 207 based solely on his failure to complete or cooperate with diversion.

PROCEDURAL HISTORY

The Disciplinary Administrator filed a formal complaint concerning five client matters. Hasenbank admitted most factual allegations and proposed a four-year supervised probation plan. A hearing panel of the Kansas Board for Discipline of Attorneys held a formal hearing and recommended a stayed one-year suspension with four years of probation; Hasenbank filed no exceptions. The Supreme Court adopted the panel's factual findings and legal conclusions but modified the recommended discipline by ordering a one-year suspension, stayed, followed by four years of supervised probation.

DISPOSITION

other

CASES CITED

- State v. Van Cleave, 239 Kan. 117, 716 P.2d 580 (1986)
- In re Rathbun, 275 Kan. 920, 929, 69 P.3d 537 (2003)
- In re Boaten, 276 Kan. 656, 663, 78 P.3d 458 (2003)

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