

SUPREME COURT OF TENNESSEE

Hubert Patty v. Board of Professional Responsibility

Hubert Patty v. Bd. of Pro. Resp., 90 S.W.3d 641 (Tenn. 2002) · Decided November 1, 2002

SUMMARY

The Supreme Court of Tennessee reviewed disciplinary proceedings against attorney Hubert Patty arising from his representation of clients in criminal and civil matters. The court upheld findings that Patty violated several disciplinary rules but modified the sanction, reducing the suspension to four months and replacing law-school course requirements with specified continuing legal education requirements.

CASE DETAILS

COURT	Supreme Court of Tennessee
WRITING FOR THE COURT	E. Riley Anderson, J.; Frank D. Drowota, III, C.J.; Adolpho A. Birch, Jr., J.; Janice M. Holder, J.; William M. Barker, J.
JURISDICTION	Tennessee
DECIDED	November 1, 2002
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from the Chancery Court for Blount County in a lawyer-discipline proceeding originating before a hearing committee of the Tennessee Board of Professional Responsibility.
STANDARD OF REVIEW	The Supreme Court reviews the decision de novo with a presumption of correctness unless the preponderance of the evidence is contrary to the trial court's action.
PRECEDENTIAL VALUE	Published Tennessee Supreme Court opinion; binding precedent in Tennessee unless subsequently limited, overruled, or abrogated.
PARTIES	Hubert Patty v. Board of Professional Responsibility

TOPICS

- administrative law
- appellate procedure
- standard of review
- sanctions
- civil procedure

PRACTICE AREAS

- legal ethics and attorney discipline
- administrative law
- appellate procedure
- civil procedure

QUESTIONS PRESENTED

1. Whether the evidence supported the findings that Patty violated the cited disciplinary rules in the Boruff and Turner matters.
2. Whether the disciplinary sanction imposed below was appropriate in light of Patty's conduct, prior disciplinary history, and sanctions imposed by the courts in which the conduct occurred.
3. Whether the reinstatement requirement should be modified.

HOLDINGS

1. The evidence preponderated in favor of affirming the findings that Patty violated DR 1-102, DR 6-101, DR 7-102, and DR 7-106.
2. A period of suspension was justified because of the nature of Patty's conduct, his unwillingness to acknowledge wrongdoing, and his prior disciplinary history.
3. The one-year suspension was excessive; the proper sanction was a four-month suspension conditioned on completion of six hours of continuing legal education in ethics and twelve hours in civil trial practice or civil litigation, in addition to the annual credit requirements.
4. The Supreme Court reviews the decision de novo with a presumption of correctness unless the preponderance of the evidence is contrary to the trial court's action.

KEY QUOTATIONS

"We modify Patty's suspension from the practice of law to four months." (646)

"The judgment is, therefore, affirmed as modified, and the costs of appeal are assessed equally between the parties." (648)

FACTUAL BACKGROUND

Patty represented Douglas Boruff in a criminal case after agreeing that the case would be tried on a fixed date, despite knowing he would not be prepared, and later sought a continuance that resulted in a contempt finding. In a separate matter, Patty filed and pursued state and federal claims for Carolyn Turner arising from a worthless-check prosecution; both proceedings resulted in dismissal or summary judgment and sanctions, including attorney fees, costs, and a federal suspension. A Board hearing committee found violations involving misconduct, incompetence, representation outside the bounds of law, and improper trial conduct, while also considering Patty's prior disciplinary history as an aggravating factor.

PROCEDURAL HISTORY

A hearing committee found that Patty violated four disciplinary rules based on his conduct in two client matters, imposed a one-year suspension, and required specified law-school courses before reinstatement. The chancery court affirmed the violations but reduced the suspension to sixty days and vacated the educational requirement. Patty appealed directly to the Tennessee Supreme Court, which affirmed the disciplinary findings but modified the suspension and reinstatement conditions.

DISPOSITION

affirmed

CASES CITED

- Murphy v. Board of Professional Responsibility, 924 S.W.2d 643 (Tenn. 1996)

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