

SUPREME COURT OF KENTUCKY

Kentucky Bar Association v. Byron Kemp Howard

493 S.W.3d 832 (Ky. 2016) · No. 2016-SC-000215-KB · Decided August 25, 2016

SUMMARY

The Kentucky Supreme Court adopted the Kentucky Bar Association Board of Governors' recommendation to permanently disbar Byron Kemp Howard. The court found violations arising from Howard's Alford plea to manufacturing methamphetamine and his failure to respond to disciplinary inquiries and charges. The order also imposed notification obligations and assessed \$201.98 in disciplinary costs.

CASE DETAILS

COURT	Supreme Court of Kentucky
WRITING FOR THE COURT	Minton Jr.
JURISDICTION	Kentucky
DECIDED	August 25, 2016
DOCKET	2016-SC-000215-KB
DISPOSITION	other
PROCEDURAL POSTURE	Attorney-discipline proceeding reaching the Supreme Court of Kentucky as a default case after the Kentucky Bar Association Board of Governors found Respondent guilty of two violations and recommended permanent disbarment. Neither party filed a notice of review, and the court elected to adopt the Board's decision under SCR 3.370(9).
PRECEDENTIAL VALUE	Published opinion
PARTIES	Kentucky Bar Association v. Byron Kemp Howard

TOPICS

[agency adjudication](#) [appellate procedure](#) [criminal procedure](#)

PRACTICE AREAS

[legal ethics and professional responsibility](#) [attorney discipline](#) [criminal law](#)

QUESTIONS PRESENTED

1. Whether the Supreme Court of Kentucky should adopt the Kentucky Bar Association Board of Governors' recommendation of permanent disbarment in a default disciplinary proceeding.
2. Whether Howard's felony conviction for manufacturing methamphetamine violated SCR 3.130-8.4(b).
3. Whether Howard's failure to respond to the Inquiry Commission's investigative inquiries violated SCR 3.130-8.1(b).

HOLDINGS

1. When neither Bar Counsel nor the respondent files a notice of review, the Supreme Court of Kentucky may adopt the Board of Governors' decision under SCR 3.370(9), and the court elected to do so in this case.
2. Howard violated SCR 3.130-8.4(b) by committing the criminal act reflected in his conviction for manufacturing methamphetamine.
3. Howard violated SCR 3.130-8.1(b) by knowingly failing to respond to lawful demands for information from the KBA's disciplinary authority.
4. Permanent disbarment was the appropriate sanction for Howard's violations.

KEY QUOTATIONS

“Based upon our review of the record, the severity of the conduct engaged in, and our disciplinary precedent for charges of a similar nature, we agree with the sanction suggested by the Board and accordingly adopt its recommendation to permanently disbar Byron Kemp Howard from the practice of law in this Commonwealth.”

“Respondent, Byron Kemp Howard, KBA Number 33590, 219 West Chester Avenue, Middlesboro, Kentucky 40965, is permanently disbarred from the practice of law in the Commonwealth of Kentucky.”

FACTUAL BACKGROUND

Howard, a Kentucky lawyer admitted in 1979, entered an Alford plea in Knox Circuit Court to manufacturing methamphetamine, a Class B felony, and received a ten-year sentence probated for three years. His felony plea resulted in an automatic suspension from the practice of law under SCR 3.166. Howard also failed to respond to the KBA's investigative inquiries and disciplinary complaint despite repeated service efforts, causing the disciplinary matter to proceed by default.

PROCEDURAL HISTORY

Howard failed to respond to the Inquiry Commission's investigative inquiries and to the disciplinary complaint, requiring constructive service on the KBA Executive Director. The Board of Governors proceeded by default, unanimously found Howard guilty of violating SCR 3.130-8.4(b) and SCR 3.130-8.1(b), and voted 17-1 to recommend permanent disbarment. The Supreme Court of Kentucky adopted the Board's recommendation and ordered permanent disbarment, notification to courts and clients, and payment of costs.

DISPOSITION

other

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