

SUPREME COURT OF WISCONSIN

In the Matter of Disciplinary Proceedings Against Thomas O. Mulligan

759 N.W.2d 766 (2009) · No. 2008AP971-D · Decided January 29, 2009

SUMMARY

The Wisconsin Supreme Court publicly reprimanded attorney Thomas O. Mulligan for failing to consult with his client about proceeding with an appeal without obtaining trial transcripts and about the scope of appellate review. The court also required Mulligan to complete specified continuing legal education and pay the costs of the disciplinary proceeding.

CASE DETAILS

COURT	Supreme Court of Wisconsin
WRITING FOR THE COURT	Per curiam
JURISDICTION	Wisconsin
DECIDED	January 29, 2009
DOCKET	2008AP971-D
DISPOSITION	other
PROCEDURAL POSTURE	The Wisconsin Supreme Court reviewed a referee's report and recommendation approving the parties' stipulation in an attorney disciplinary proceeding. No appeal was filed.
STANDARD OF REVIEW	The court reviewed the referee's report and recommendation and independently adopted the referee's findings of fact and conclusion of law.
PRECEDENTIAL VALUE	Published Wisconsin Supreme Court opinion; precedential attorney-discipline decision.
PARTIES	Office of Lawyer Regulation v. Thomas O. Mulligan

TOPICS

appellate procedure

contracts

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Mulligan violated former SCR 20:1.2(a) and 20:1.4(b) by failing to consult with and explain to D.C. his decision to proceed with the appeal without obtaining the trial transcripts and his decision to seek only de novo review of the Timber Sale Contract.
2. What discipline should be imposed for the professional misconduct.

HOLDINGS

1. Mulligan violated former SCR 20:1.2(a) and 20:1.4(b) by failing to consult with D.C. regarding his intent to proceed with the appeal without obtaining the trial transcripts and regarding his decision to seek only de novo review of the Timber Sale Contract.
2. A public reprimand, completion of specified continuing legal education, and payment of the proceeding's costs were appropriate sanctions for Mulligan's misconduct.

KEY QUOTATIONS

“In determining the appropriate discipline for professional misconduct, we consider the seriousness of the misconduct, the need to protect the public, the courts, and the legal system from repetition of misconduct, the need to impress upon the attorney the seriousness of the misconduct, and the need to deter other attorneys from engaging in similar misconduct.” (at 769)

“Here, we are satisfied that a public reprimand, together with requiring Attorney Mulligan to complete six hours of CLE on legal research/writing and six hours of CLE on appellate practice will achieve lawyer discipline objectives.” (at 769)

FACTUAL BACKGROUND

Mulligan represented D.C. and a logging company in litigation involving a Timber Sale Agency Agreement and later represented them on appeal. He filed a cross-appeal challenging the sufficiency of the evidence but never obtained or filed the trial transcripts, and he did not advise D.C. that he was proceeding without them. Mulligan also failed to communicate with D.C. from January 17, 2004, until June 3, 2005, when he notified D.C. of the adverse appellate decision.

PROCEDURAL HISTORY

The Office of Lawyer Regulation filed a complaint alleging two counts of professional misconduct arising from Mulligan's handling of a client's appeal. One count was dismissed, and the second was modified to allege violations of former SCR 20:1.2(a) and 20:1.4(b). The parties stipulated to the facts and recommended discipline, and Reserve Judge James R. Erickson recommended adoption of the stipulation, a public reprimand, continuing legal education, and assessment of costs. The Supreme Court adopted the referee's findings and conclusions and imposed the recommended discipline.

DISPOSITION

other

CASES CITED

- In re Disciplinary Proceedings Against Arthur, 2005 WI 40, 279 Wis. 2d 583, 694 N.W.2d 910
- Private Reprimand of Thomas O. Mulligan, 1997-25
- Private Reprimand of Thomas O. Mulligan, 2005-10

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