

SUPREME COURT OF INDIANA

In the Matter of Scott I. Richardson

792 N.E.2d 871 (Ind. 2003) · No. 49S00-0203-DI-174 · Decided August 8, 2003

SUMMARY

The Indiana Supreme Court disciplined Scott I. Richardson for pursuing a lawsuit primarily to burden a former girlfriend and for knowingly providing false answers to post-judgment interrogatories concerning his assets. The Court found violations of Indiana Professional Conduct Rules 4.4, 8.4(c), and 8.4(d), and imposed a 90-day suspension from the practice of law.

CASE DETAILS

COURT	Supreme Court of Indiana
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Indiana
DECIDED	August 8, 2003
DOCKET	49S00-0203-DI-174
DISPOSITION	other
PROCEDURAL POSTURE	Attorney disciplinary proceeding initiated by the Indiana Supreme Court Disciplinary Commission and submitted to the Indiana Supreme Court after an evidentiary hearing before a court-appointed hearing officer.
STANDARD OF REVIEW	When neither party petitions for review, the Indiana Supreme Court accepts and adopts the hearing officer's findings but reserves final judgment concerning misconduct and sanction.
PRECEDENTIAL VALUE	Published Indiana Supreme Court disciplinary opinion with precedential authority concerning attorney misconduct and sanctions.

TOPICS

- sanctions
- civil procedure
- asset protection
- default judgment

PRACTICE AREAS

- legal ethics
- attorney discipline
- civil procedure
- judgment enforcement

QUESTIONS PRESENTED

1. Whether Richardson violated Indiana Professional Conduct Rule 4.4 by continuing to prosecute the conversion lawsuit primarily to burden his former girlfriend.
2. Whether Richardson violated Indiana Professional Conduct Rule 8.4(d) by pursuing litigation that served no legitimate purpose and was prejudicial to the administration of justice.
3. Whether Richardson violated Indiana Professional Conduct Rule 8.4(c) by knowingly providing false answers to asset-discovery interrogatories.
4. What disciplinary sanction was appropriate for the violations.

HOLDINGS

1. An attorney violates Professional Conduct Rule 4.4 by continuing to prosecute a lawsuit after its legitimate justification and utility have evaporated, when the continued litigation serves no substantial purpose other than burdening a third party.
2. An attorney's deliberate continuation of litigation that serves no legitimate purpose and burdens an opposing party constitutes conduct prejudicial to the administration of justice under Professional Conduct Rule 8.4(d).
3. Knowingly answering "none" to interrogatories asking whether an attorney owns investments or corporate interests violates Professional Conduct Rule 8.4(c) when the attorney in fact owns such assets, regardless of the assets' asserted value.
4. A ninety-day suspension from the practice of law, followed by automatic reinstatement, was warranted for an attorney who abused the legal process and then deceived an adverse party to shield assets from collection of resulting attorney fees.

KEY QUOTATIONS

"The justification and utility of the respondent's claim evaporated once the former girlfriend, after significant effort on her part, returned his property." (at 873)

"The respondent chose to abuse the legal process, which ultimately led to the imposition of attorney fees against him. He then deceived the adverse party in order to shield his own assets from judgment collection after imposition of attorney fees." (at 874)

FACTUAL BACKGROUND

Richardson filed a conversion action against a former girlfriend concerning personal property he had left at her home, despite her efforts to return the property and his later receipt of nearly all of it. He continued litigating the action after its justification and utility had evaporated, ultimately losing at trial and incurring an abuse-of-process judgment that included attorney fees. During proceedings to execute that judgment, Richardson knowingly answered "none" to interrogatories asking whether he owned investments or corporate interests, although he owned investments and was the president and sole shareholder of Indiana Real Estate, Inc.

PROCEDURAL HISTORY

The Disciplinary Commission filed a verified complaint against Scott I. Richardson. After a full evidentiary hearing, the hearing officer found a violation of Indiana Professional Conduct Rule 8.4(c) but found insufficient proof of violations of Rules 4.4 and 8.4(d), recommending a thirty-day suspension. Neither party petitioned for review. The Indiana Supreme Court adopted the factual findings, independently determined that all three rules were violated, and imposed a ninety-day suspension.

DISPOSITION

other

CASES CITED

- Matter of Davidson, 761 N.E.2d 854 (Ind. 2002)
- Matter of Relphorde, 644 N.E.2d 874 (Ind. 1994)
- Matter of Bridenhager, 735 N.E.2d 1177 (Ind. 2000)
- Matter of Giannetto, 781 N.E.2d 1138 (Ind. 2003)
- Matter of Mellinger, 768 N.E.2d 431 (Ind. 2002)