

SUPREME COURT OF THE STATE OF KANSAS

In the Matter of Daniel Hart Phillips

In re Phillips · No. No. 118,210 · Decided January 12, 2018

SUMMARY

The Kansas Supreme Court considered an uncontested attorney-discipline proceeding involving Daniel Hart Phillips. The court found that Phillips violated Kansas Rule of Professional Conduct 8.4(g) by making an inappropriate sexual remark to a prospective client and imposed a one-year suspension from the practice of law.

CASE DETAILS

COURT	Supreme Court of the State of Kansas
JURISDICTION	Kansas
DECIDED	January 12, 2018
DOCKET	No. 118,210
DISPOSITION	other
PROCEDURAL POSTURE	Uncontested original proceeding in attorney discipline before the Kansas Supreme Court.
STANDARD OF REVIEW	The court independently considers the evidence, the disciplinary panel's findings, and the parties' arguments to determine whether a violation exists and what discipline should be imposed. Attorney misconduct must be established by clear and convincing evidence.
PRECEDENTIAL VALUE	Published Kansas Supreme Court disciplinary opinion
PARTIES	Office of the Disciplinary Administrator v. Daniel Hart Phillips

TOPICS

administrative law

agency adjudication

PRACTICE AREAS

legal ethics

attorney discipline

professional responsibility

QUESTIONS PRESENTED

1. Whether the evidence established that Phillips violated KRPC 8.4(g) by engaging in conduct adversely reflecting on his fitness to practice law.
2. What discipline should be imposed for the violation.
3. Whether Phillips should receive probation rather than serve the recommended suspension.

HOLDINGS

1. Phillips violated KRPC 8.4(g) by asking a prospective client to attend an office appointment without wearing underwear, conduct that adversely reflected on his fitness to practice law.
2. Phillips's license to practice law should be suspended for one year, without probation, and he must undergo a reinstatement hearing.

KEY QUOTATIONS

“With no exceptions before us, the panel's findings of fact are deemed admitted.” (23)

“In short, respondent's post-hearing conduct has not shown this court he will fulfill the conditions of any probation plan in the future.” (25)

“IT IS THEREFORE ORDERED that Daniel Hart Phillips be and is hereby disciplined by suspension for a period of one year in accordance with Supreme Court Rule 203(a)(2) (2017 Kan. S. Ct. R. 234), that he not be granted probation, and that he undergo a reinstatement hearing pursuant to Rule 219(d), effective upon the date of the filing of this decision.” (26)

FACTUAL BACKGROUND

Phillips, a Kansas attorney, told a prospective client during a telephone call to attend an office appointment without wearing underwear. The prospective client did not attend, reported the conduct, and experienced anxiety, depression, and loss of faith in the legal system; her nine-year-old daughter overheard the statement. Phillips admitted the conduct and sought counseling, but the disciplinary panel found that portions of his explanation and testimony were not credible. After the panel recommended probation, Phillips failed to comply with several proposed conditions, including regular office meetings with his practice supervisor, attendance at Lawyers' Group meetings, and timely execution of treatment-information releases.

PROCEDURAL HISTORY

The Office of the Disciplinary Administrator filed a formal complaint alleging violations of the Kansas Rules of Professional Conduct. After a hearing, a panel of the Kansas Board for Discipline of Attorneys found that Phillips violated KRPC 8.4(g), dismissed the alleged KRPC 8.4(d) violation, and recommended a one-year suspension with probation after 30 days. Phillips filed no exceptions, so the panel's factual findings were deemed admitted. The Kansas Supreme Court adopted the violation finding but rejected probation because Phillips failed to comply with the proposed probation conditions.

DISPOSITION

other

CASES CITED

- In re Foster, 292 Kan. 940, 945, 258 P.3d 375 (2011)
- In re Lober, 288 Kan. 498, 505, 204 P.3d 610 (2009)
- In re Dennis, 286 Kan. 708, 725, 188 P.3d 1 (2008)
- In re Stockwell, 296 Kan. 860, 868, 295 P.3d 572 (2013)

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