

SUPREME COURT OF OKLAHOMA

State ex rel. Oklahoma Bar Association v. Benefield

125 P.3d 1191 (Okla. 2005) · No. SCBD No. 4835 · Decided October 25, 2005

SUMMARY

The Oklahoma Supreme Court found that Barry W. Benefield violated multiple Oklahoma Rules of Professional Conduct and a rule governing disciplinary proceedings through neglect of two client matters. In light of his prior disciplinary history and pattern of neglect, the Court suspended him from practicing law for one year and ordered him to pay \$594.55 in costs. Separate opinions disagreed with the severity of the sanction and raised concerns about delay in the disciplinary proceedings.

CASE DETAILS

COURT	Supreme Court of Oklahoma
WRITING FOR THE COURT	Taylor, J.; Watt, C.J.; Lavender, J.; Hargrave, J.; Edmondson, J.; Winchester, V.C.J.; Kauger, J.; Colbert, J.; Opala, J. (not participating)
JURISDICTION	Oklahoma
DECIDED	October 25, 2005
DOCKET	SCBD No. 4835
DISPOSITION	other
PROCEDURAL POSTURE	Original attorney-discipline proceeding before the Supreme Court of Oklahoma following a Professional Responsibility Tribunal report and recommendation.
STANDARD OF REVIEW	De novo review. The Supreme Court independently determines whether misconduct occurred and what discipline is appropriate and is not bound by the Tribunal's findings, credibility determinations, or disciplinary recommendation.
PRECEDENTIAL VALUE	Published Oklahoma Supreme Court opinion; precedential authority on attorney discipline and de novo review of Professional Responsibility Tribunal proceedings.
PARTIES	State of Oklahoma ex rel. Oklahoma Bar Association v. Barry W. Benefield

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether Benefield violated the Oklahoma Rules of Professional Conduct and the Rules Governing Disciplinary Proceedings through negligent representation, inadequate communication, unreasonable fees, and conduct prejudicial to the administration of justice.
2. What discipline should be imposed in light of the current misconduct, Benefield's prior disciplinary history, and asserted mitigating factors.
3. Whether the Professional Responsibility Tribunal's recommended six months' probation was an appropriate sanction.

HOLDINGS

1. Benefield violated Rules 1.1, 1.3, 1.4, 1.5(a), and 8.4(a) and (d) of the Oklahoma Rules of Professional Conduct and Rule 1.3 of the Rules Governing Disciplinary Proceedings.
2. A one-year suspension from the practice of law was warranted because Benefield's current misconduct formed a continuing pattern of neglect and the prior sixty-day suspension had not corrected his conduct.
3. Benefield was required to pay \$594.55 in costs because the Bar Association supported the amount and Benefield acknowledged responsibility without contesting it.

KEY QUOTATIONS

“Because Respondent's serial neglect, six counts from 1991 through the present, shows a pattern of misconduct, we determine Respondent should be suspended from the practice of law for one year.” (125 P.3d at 1192)

“In de novo consideration of bar disciplinary proceedings, this Court exercises its constitutional, nondelegable power to regulate the practice of law and legal practitioners.” (125 P.3d at 1195)

“The standard for representation of indigent clients is no lower than for any other client.” (125 P.3d at 1196)

FACTUAL BACKGROUND

Benefield, an Oklahoma attorney admitted in 1967, had previously received a private reprimand and a sixty-day suspension for client neglect. In the present matter, he failed to communicate a plea agreement or appear at hearings for Rowdy Baxter, resulting in appointment of a public defender, and failed to appear at two scheduled proceedings for Jeffrey Hunter, also resulting in appointment of substitute counsel and a negotiated plea. The Court viewed these incidents as part of a continuing pattern of neglect despite the prior suspension.

PROCEDURAL HISTORY

The Oklahoma Bar Association filed a disciplinary complaint alleging two counts of misconduct arising from Respondent's neglectful representation of two criminal clients. After a hearing, the Professional Responsibility Tribunal found violations and recommended six months' probation with law-office-management assistance and payment of costs. The Supreme Court conducted a de novo review, rejected the Tribunal's recommendation as insufficient, imposed a one-year suspension, and assessed \$594.55 in costs.

DISPOSITION

other

CASES CITED

- State ex rel. Oklahoma Bar Ass'n v. Chapman, 2005 OK 16, 114 P.3d 414
- State ex rel. Okla. Bar Ass'n v. Benefield, 2002 OK 37, 51 P.3d 1198
- State ex rel. Okla. Bar Ass'n v. Bolton, 1994 OK 53, 880 P.2d 339
- State ex rel. Oklahoma Bar Ass'n v. Todd, 1992 OK 81, 833 P.2d 260
- State ex rel. Oklahoma Bar Ass'n v. Sheridan, 2003 OK 80, 84 P.3d 710
- State ex rel. Oklahoma Bar Ass'n v. Busch, 1993 OK 72, 853 P.2d 194
- State ex rel. Okla. Bar Ass'n v. Raskin, 1982 OK 39, 642 P.2d 262
- State ex rel. Okla. Bar Ass'n v. Spadafora, 1998 OK 28, 957 P.2d 114
- State ex rel. Okla. Bar Ass'n v. Downing, 1990 OK 102, 804 P.2d 1120
- State ex rel. Okla. Bar Ass'n v. Rennie, 1997 OK 108, 945 P.2d 494
- State ex rel. Oklahoma Bar Ass'n v. Phillips, 2002 OK 86, 60 P.3d 1030
- State ex rel. Oklahoma Bar Ass'n v. Erickson, 2001 OK 66, 29 P.3d 550
- State ex rel. Oklahoma Bar Ass'n v. Israel, 2001 OK 42, 25 P.3d 909
- State ex rel. Oklahoma Bar Ass'n v. Smolen, 2000 OK 95, 17 P.3d 456
- State ex rel. Oklahoma Bar Ass'n v. Wolfe, 1997 OK 47, 937 P.2d 988
- State ex rel. Oklahoma Bar Ass'n v. Eakin, 1995 OK 106, 914 P.2d 644
- State ex rel. Oklahoma Bar Ass'n v. Holden, 1995 OK 25, 895 P.2d 707
- State ex rel. Oklahoma Bar Ass'n v. McMillian, 1989 OK 16, 770 P.2d 892
- State ex rel. Oklahoma Bar Ass'n v. Smith, 1980 OK 126, 615 P.2d 1014
- State ex rel. Oklahoma Bar Ass'n v. Lowe, 1982 OK 20, 640 P.2d 1361
- State ex rel. Oklahoma Bar Ass'n v. Cummings, 1993 OK 127, 863 P.2d 1164
- State ex rel. Oklahoma Bar Ass'n v. Hall, 1977 OK 117, 567 P.2d 975
- State ex rel. Oklahoma Bar Ass'n v. Patterson, 2001 OK 51, 28 P.3d 551
- State ex rel. Oklahoma Bar Ass'n v. Doris, 1999 OK 94, 991 P.2d 1015
- State ex rel. Oklahoma Bar Ass'n v. Rozin, 1991 OK 132, 824 P.2d 1127
- State ex rel. Oklahoma Bar Ass'n v. Miskovsky, 1997 OK 55, 938 P.2d 744
- State ex rel. Oklahoma Bar Ass'n v. Southern, 2000 OK 88, 15 P.3d 1

- State ex rel. Oklahoma Bar Ass'n v. Taylor, 2000 OK 35, 4 P.3d 1242
- State ex rel. Oklahoma Bar Ass'n v. Butler, 1992 OK 150, 848 P.2d 540
- State ex rel. Oklahoma Bar Ass'n v. Wilkins, 1995 OK 59, 898 P.2d 147
- Tweedy v. Oklahoma Bar Ass'n, 1981 OK 12, 624 P.2d 1049

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