

SUPREME COURT OF THE STATE OF KANSAS

In re Lindberg

In re Lindberg · No. No. 123,423 · Decided May 14, 2021

SUMMARY

The Kansas Supreme Court imposed an indefinite suspension on Brent E. Lindberg for felony methamphetamine possession, possession of drug paraphernalia, and failure to answer a disciplinary complaint. The court considered the respondent's criminal conduct, violations of diversion and probation conditions, inconsistent testimony, substance-abuse treatment, and other aggravating and mitigating circumstances.

CASE DETAILS

COURT	Supreme Court of the State of Kansas
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Kansas
DECIDED	May 14, 2021
DOCKET	No. 123,423
DISPOSITION	other
PROCEDURAL POSTURE	Original proceeding in attorney discipline brought by the Kansas Disciplinary Administrator against Brent E. Lindberg.
STANDARD OF REVIEW	The Supreme Court independently considers the evidence, the hearing panel's fact-findings and recommendations, and the parties' arguments; attorney misconduct must be established by clear and convincing evidence.
PRECEDENTIAL VALUE	Published Kansas Supreme Court disciplinary opinion; precedential as to the court's stated disciplinary rules and disposition.
PARTIES	Stanton A. Hazlett, Disciplinary Administrator v. Brent E. Lindberg, Respondent

TOPICS

- criminal procedure
- probation
- sentencing

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the evidence established that Lindberg violated KRPC 8.4(b) by committing criminal acts that adversely reflected on his honesty, trustworthiness, or fitness as a lawyer.
2. Whether Lindberg violated Supreme Court Rule 211(b) by failing to answer the formal disciplinary complaint.
3. Whether the hearing panel's report was deemed admitted because Lindberg failed to file exceptions.
4. Whether Lindberg's failure to appear before the Supreme Court constituted an additional disciplinary violation under Supreme Court Rule 212(e)(5).
5. What discipline should be imposed for the violations.

HOLDINGS

1. Attorney misconduct must be established by clear and convincing evidence, and the evidence in this case supported the hearing panel's conclusions of law.
2. Lindberg violated KRPC 8.4(b) by committing felony methamphetamine possession and misdemeanor drug-paraphernalia offenses that adversely reflected on his fitness as a lawyer.
3. Lindberg violated Supreme Court Rule 211(b) by failing to file an answer to the formal complaint within the required period.
4. Because Lindberg did not file exceptions after receiving the hearing panel's final report, the report was deemed admitted in its entirety.
5. Lindberg's failure to appear for his Supreme Court disciplinary hearing constituted an additional violation under Supreme Court Rule 212(e)(5).
6. Indefinite suspension from the practice of law was the appropriate discipline, effective upon filing of the opinion, with compliance with Supreme Court Rule 218 and a Rule 219 reinstatement hearing required before reinstatement.

KEY QUOTATIONS

"We conclude an appropriate discipline is indefinite suspension of respondent's license to practice law." (19)

"IT IS THEREFORE ORDERED that Brent E. Lindberg be and he is hereby disciplined by indefinite suspension in accordance with Supreme Court Rule 203(a)(2) (2020 Kan. S. Ct. R. 234) effective on the filing of this opinion." (20)

FACTUAL BACKGROUND

Lindberg, a Kansas-licensed attorney, was charged with possessing methamphetamine and drug paraphernalia after police discovered methamphetamine and related items in a bag he voluntarily permitted an officer to search. He entered diversion, violated its terms, and was subsequently convicted and placed on probation. In the disciplinary proceeding, he failed to answer the formal complaint, gave inconsistent testimony concerning

alcohol use, drug testing, prescriptions, and treatment, and failed to appear for his Supreme Court disciplinary hearing.

PROCEDURAL HISTORY

The Disciplinary Administrator filed a formal complaint alleging violations of KRPC 8.4(b) and Supreme Court Rule 211(b). A panel of the Kansas Board for Discipline of Attorneys found violations and recommended a two-year suspension, a reinstatement hearing, and prospective effectiveness. The respondent did not answer the complaint, did not file exceptions to the panel report, and did not appear before the Supreme Court. The Supreme Court adopted the panel's findings and conclusions, found an additional violation based on the respondent's failure to appear, and imposed indefinite suspension.

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)