

INDIANA SUPREME COURT

In re McConnell

11 N.E.3d 902 (Ind. 2014) · Decided June 26, 2014

SUMMARY

The Indiana Supreme Court approved a conditional agreement disciplining an attorney who had multiple operating-while-intoxicated convictions, failed to report one conviction, and violated criminal probation. The Court imposed a 180-day suspension, stayed subject to at least two years of probation with monitoring by the Indiana Judges and Lawyers Assistance Program.

CASE DETAILS

COURT	Indiana Supreme Court
JURISDICTION	Indiana
DECIDED	June 26, 2014
DISPOSITION	approved
PROCEDURAL POSTURE	The Indiana Supreme Court reviewed and approved a conditional agreement for discipline submitted by the Indiana Supreme Court Disciplinary Commission and the respondent attorney.
PRECEDENTIAL VALUE	Published disciplinary order

TOPICS

- probation
- criminal procedure

PRACTICE AREAS

- legal ethics and professional responsibility
- attorney discipline
- professional misconduct

QUESTIONS PRESENTED

- Whether respondent committed professional misconduct by committing criminal acts reflecting adversely on his trustworthiness or fitness as a lawyer.
- Whether respondent violated the duty to notify the Disciplinary Commission of a guilty finding and to transmit a certified copy of the finding within ten days.
- Whether the stipulated discipline should be approved.

HOLDINGS

1. Respondent violated Indiana Professional Conduct Rule 8.4(b) by committing criminal acts that reflected adversely on his trustworthiness or fitness as a lawyer.
2. Respondent violated Indiana Admission and Discipline Rule 23(11.1)(a)(2) by failing to notify the Commission of a guilty finding and failing to transmit a certified copy of the guilty finding within ten days.
3. The court approved a 180-day suspension from the practice of law, stayed in full subject to at least two years of probation with monitoring by the Indiana Judges and Lawyers Assistance Program.

KEY QUOTATIONS

“For Respondent’s professional misconduct, the Court suspends Respondent from the practice of law for a period of 180 days, beginning on the date of this order, all stayed subject to completion of at least two years of probation with monitoring by the Indiana Judges and Lawyers Assistance Program (“JLAP”).” (902)

“If Respondent violates his probation, the stayed suspension shall be actively served without automatic reinstatement.” (903)

FACTUAL BACKGROUND

Respondent was convicted of operating a motor vehicle while intoxicated in 2007 but did not report the conviction to the Disciplinary Commission. In 2012, he was convicted of operating while intoxicated with an alcohol concentration equivalence of .15 or more and received a sentence that included jail, home monitoring, and probation. He violated probation by consuming alcohol, resulting in a 2014 guilty plea to public intoxication. The parties identified respondent's lack of disciplinary history, cooperation, alcohol treatment, and other consequences as mitigating factors.

PROCEDURAL HISTORY

The Disciplinary Commission and respondent stipulated to facts, rule violations, aggravating and mitigating circumstances, and proposed discipline under Indiana Admission and Discipline Rule 23(11). The court approved the agreement, suspended respondent from practicing law for 180 days, stayed the suspension subject to at least two years of probation with monitoring, and assessed proceeding costs against respondent.

DISPOSITION

approved