

SUPREME COURT OF WISCONSIN

Office of Lawyer Regulation v. William J. Gilbert

276 Wis. 2d 395 (2004) · No. No. 04-1285-D · Decided November 24, 2004

SUMMARY

The Supreme Court of Wisconsin reviews stipulated professional-misconduct findings against attorney William J. Gilbert. The court suspends Gilbert's Wisconsin law license for six months, retroactive to April 7, 2004, based on an unfair client loan transaction, dishonest conduct, failure to promptly surrender client files, and failure to cooperate with the Office of Lawyer Regulation. The court also orders restitution of \$15,797.37 plus post-judgment interest and payment of proceeding costs.

CASE DETAILS

COURT	Supreme Court of Wisconsin
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Wisconsin
DECIDED	November 24, 2004
DOCKET	No. 04-1285-D
DISPOSITION	other
PROCEDURAL POSTURE	The Wisconsin Supreme Court reviewed a referee's recommendation following a stipulation between the Office of Lawyer Regulation and Attorney William J. Gilbert concerning professional misconduct.
STANDARD OF REVIEW	A referee's findings of fact in a disciplinary matter are not set aside unless clearly erroneous; conclusions of law are reviewed de novo.
PRECEDENTIAL VALUE	Published Wisconsin Supreme Court disciplinary opinion

TOPICS

appellate procedure standard of review contracts real estate remedies

PRACTICE AREAS

legal ethics lawyer discipline professional responsibility appellate procedure

QUESTIONS PRESENTED

1. Whether the referee's stipulated findings of fact should be adopted.

2. Whether Gilbert's conduct violated SCR 20:1.8(a), SCR 20:8.4(c), SCR 20:1.16(d), SCR 20:8.4(f), and SCR 22.03(2).
3. What discipline and related financial obligations were warranted for Gilbert's misconduct.

HOLDINGS

1. The court adopted the referee's findings because they had not been shown to be clearly erroneous.
2. Gilbert violated SCR 20:1.8(a), SCR 20:8.4(c), SCR 20:1.16(d), SCR 20:8.4(f), and SCR 22.03(2) through the unfair and inadequately disclosed client loan, dishonest or misleading nondisclosure, delayed delivery of the clients' file, and failure to provide a timely written response to the OLR.
3. The seriousness of Gilbert's professional misconduct warranted a six-month suspension of his Wisconsin law license, retroactive to April 7, 2004, together with restitution of \$15,797.37 plus post-judgment interest and payment of the proceeding's costs.

KEY QUOTATIONS

"A referee's findings of fact on a disciplinary matter will not be set aside unless they are clearly erroneous." (401)

"IT IS ORDERED that the license of Attorney William J. Gilbert to practice law in Wisconsin is suspended for six months, retroactive to April 7, 2004." (402)

FACTUAL BACKGROUND

In 1997, while representing a husband and wife, Gilbert borrowed \$10,500 from the husband under a promissory note. He did not obtain written client consent, offer an opportunity to consult independent counsel, provide collateral, or fully disclose his serious financial difficulties, and he later defaulted after making \$600 in payments. After the representation ended, Gilbert delayed delivering the clients' file to their new counsel and failed to respond fully and timely to the OLR's grievance inquiries; the clients obtained a \$15,797.37 judgment against him and received no payments.

PROCEDURAL HISTORY

The Office of Lawyer Regulation filed a disciplinary complaint alleging violations arising from Gilbert's loan transaction with clients, failure to deliver the clients' file promptly, and failure to cooperate with the OLR investigation. Gilbert and the OLR entered into a stipulation, and the referee adopted the stipulated facts, concluded that Gilbert violated the cited Supreme Court Rules, and recommended a six-month suspension retroactive to April 7, 2004, restitution, and payment of costs. The Wisconsin Supreme Court adopted the referee's findings and recommendations.

DISPOSITION

other

CASES CITED

- In re Disciplinary Proceedings Against Sosnay, 209 Wis. 2d 241, 243, 562 N.W.2d 137 (1997)
- In re Disciplinary Proceedings Against Carroll, 2000 WI 130, ¶ 29, 248 Wis. 2d 662, 636 N.W.2d 718
- Disciplinary Proceedings Against Gilbert, 2003 WI 131, 266 Wis. 2d 5, 669 N.W.2d 725

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/wisconsin-supreme-court-of-wisconsin/2004/office-of-lawyer-regulation-v-william-j-gilbert-oppg65c0>