

SUPREME COURT OF NORTH DAKOTA

Disciplinary Board v. Pilch

2023 ND 162 (2023) · No. 20230152 · Decided August 17, 2023

SUMMARY

The Supreme Court of North Dakota adopted a hearing panel’s findings that Mark J. Pilch violated multiple professional conduct rules through inadequate preparation, lack of diligence and communication, and failure to properly terminate representation. The court suspended Pilch from practicing law for one year, ordered him to pay \$250 in disciplinary costs, required restitution for amounts paid by the Client Protection Fund, and directed compliance with notice requirements.

CASE DETAILS

COURT	Supreme Court of North Dakota
WRITING FOR THE COURT	Per Curiam; Jon J. Jensen, C.J.; Daniel J. Crothers; Lisa Fair McEvers; Jerod E. Tufte; Douglas A. Bahr
JURISDICTION	North Dakota
DECIDED	August 17, 2023
DOCKET	20230152
DISPOSITION	other
PROCEDURAL POSTURE	The North Dakota Supreme Court reviewed a hearing panel's default findings, conclusions, and recommendation for discipline after Pilch failed to answer the petition for discipline. No objections to the panel's report were received.
PRECEDENTIAL VALUE	Published North Dakota Supreme Court opinion
PARTIES	Disciplinary Board of the Supreme Court of the State of North Dakota v. Mark J. Pilch

TOPICS

- appellate procedure
- remedies

PRACTICE AREAS

- legal ethics and professional responsibility
- attorney discipline

QUESTIONS PRESENTED

1. Whether the hearing panel's default findings and conclusions that Pilch violated the North Dakota Rules of Professional Conduct should be accepted.
2. Whether suspension was the appropriate sanction for Pilch's admitted professional misconduct.
3. What costs, restitution, and notice-related obligations should accompany the suspension.

HOLDINGS

1. The Supreme Court accepted the hearing panel's findings of fact and conclusions of law, which established that Pilch violated N.D.R. Prof. Conduct 1.1, 1.2(a), 1.3, 1.4, and 1.16.
2. A one-year suspension from the practice of law was an appropriate sanction for Pilch's pattern of neglect, lack of preparation and competence, inadequate communication, and failure to properly terminate the representation and return client property.
3. Pilch was required to pay \$250 in disciplinary costs, make specified restitution to the North Dakota Client Protection Fund, and comply with N.D.R. Lawyer Discipl. 6.3 regarding notice.

KEY QUOTATIONS

“We adopt the hearing panel’s findings and recommended sanctions, and order suspension.” (§1)

“Mark J. Pilch is SUSPENDED from the practice of law for one year, effective immediately.” (§9)

FACTUAL BACKGROUND

Mark J. Pilch represented a client in a small claims court matter but was unprepared, arrived late for trial, failed to prepare exhibits, and failed to understand relevant legal doctrines and procedures. He did not adequately communicate with the client, including failing to convey a settlement offer and decisions requiring the client's input. He also failed to properly terminate the representation and return the client's property and papers.

PROCEDURAL HISTORY

Pilch was served with a summons and petition for discipline on November 4, 2022, but failed to answer. Disciplinary Counsel moved for default, and the charges in the amended petition were deemed admitted under N.D.R. Lawyer Discipl. 3.1(E)(2). A hearing panel filed default findings, conclusions, and recommendations on May 25, 2023, recommending suspension and payment of costs. The matter was referred to the Supreme Court, which accepted the panel's findings and recommendations and ordered a one-year suspension, costs, restitution obligations, and compliance with notice requirements.

DISPOSITION

other

OPINION

PER CURIAM.

FILED IN THE OFFICE OF THE CLERK OF SUPREME COURT AUGUST 17, 2023 STATE OF NORTH DAKOTA IN THE SUPREME COURT STATE OF NORTH DAKOTA 2023 ND 162
In the Matter of the Application for Disciplinary Action Against Mark J. Pilch, a member of the the Bar of the State of North Dakota Disciplinary Board of the Supreme Court of the State of North Dakota, Petitioner v. Mark J. Pilch, Respondent No. 20230152 Application for disciplinary action.

SUSPENSION ORDERED. Per Curiam. Disciplinary Board v. Pilch No. 20230152 Per Curiam [¶1] The Supreme Court has before it a report from a hearing panel of the disciplinary board recommending Mark J. Pilch be suspended from the practice of law in North Dakota and pay \$250 in costs and expenses of the disciplinary proceeding.

We adopt the hearing panel's findings and recommended sanctions, and order suspension. [¶2] Pilch was admitted to practice law in North Dakota on April 29, 2019. Pilch's license was suspended October 31, 2022, for failing to comply with continuing education reporting requirements. He did not pay a license fee for 2023, and is not licensed at this time. Pilch practiced law at Pilch Law Firm in Fargo, North Dakota. [¶3] On November 4, 2022, Pilch was served with a summons and petition for discipline.

Pilch failed to answer the petition and Disciplinary Counsel moved for default. Pilch is in default and the charges in the amended petition for discipline are deemed admitted under N.D.R. Lawyer Discipl. 3.1(E)(2). [¶4] On May 25, 2023, the hearing panel filed default findings of fact, conclusions of law, and recommendations for discipline.

The hearing panel found Pilch was contacted to represent a client in a small claims court case. Pilch was unprepared for the representation, failed to be prompt in his representation, failed to inform the client of decisions to be made, failed to notify the client of the termination of his services, and failed to return the client's property and papers. [¶5] The hearing panel concluded Pilch's conduct violated N.D.R.Prof.

Conduct 1.1, Competence, by being unprepared for the representation, specifically unprepared to conduct trial on July 21, 2021, and failed to understand the legal doctrines and procedures underlying small claims court actions; 1.2(a), Scope of Representation and Allocation of Authority Between Client and Lawyer, by failing to inform the client of the settlement offer; 1.3, Diligence, by failing to be prompt in his general representation and failing to 1 appear for trial on time; 1.4, Communication, by failing to inform the client of the decisions that needed to be made within the matter, failing to comply with reasonable requests for information, failing to consult with his client regarding means of representation, and generally failing to keep the client informed; and 1.16, Declining or Terminating Representation, by failing to notify the client of the termination of services and failing to return the client's property and papers. [¶6] The hearing panel considered

the appropriate sanction under the North Dakota Standards for Imposing Lawyer Sanctions, and concluded suspension was the appropriate sanction.

Pilch engaged in a pattern of neglect with regard to his time management and filing the case, arrived late to trial, failed to prepare exhibits, and failed to properly terminate the representation and return client property. Pilch was generally unprepared to conduct representation and failed to understand relevant doctrine, generally communicated poorly with the client throughout representation, failed to explain pertinent financial information regarding his services, and failed to explain elements of the judgment in the case. [¶7] On May 25, 2023, this matter was referred to this Court under N.D.R.

Lawyer Discipl. 3.1(F)(2). The hearing panel's report was served on Pilch and disciplinary counsel on May 25, 2023, and forwarded to the Supreme Court. Objections were due within 20 days of service of the report. No objections were received, and the matter was submitted to the Court for consideration. [¶8] IT IS ORDERED that the findings of fact, conclusions of law, and recommendations by the hearing panel are accepted. [¶9] IT IS FURTHER ORDERED that Mark J. Pilch is SUSPENDED from the practice of law for one year, effective immediately. [¶10] IT IS FURTHER ORDERED that Pilch pay the costs and expenses of these disciplinary proceedings in the amount of \$250, payable to the Secretary of the Disciplinary Board, 600 East Boulevard Avenue, Dept. 180, Bismarck, North Dakota 58505-0530, within 30 days of entry of judgment.

2 [¶11] IT IS FURTHER ORDERED that for any amounts already paid by the North Dakota Client Protection Fund on Pilch's behalf, he make restitution within 90 days of entry of the judgment in this matter. For any amounts relating to this matter paid in the future by the North Dakota Client Protection Fund, Pilch make restitution to the Fund within 90 days of receiving notice payment was made. [¶12] IT IS FURTHER ORDERED that Pilch comply with N.D.R.

Lawyer Discipl. 6.3 regarding notice. [¶13] Jon J. Jensen, C.J. Daniel J. Crothers Lisa Fair McEvers Jerod E. Tufte Douglas A. Bahr 3