

SUPREME COURT OF KANSAS

In re Riebschlager

303 Kan. 373 (2015) · No. No. 114,098 · Decided November 20, 2015

SUMMARY

The Kansas Supreme Court considered an attorney discipline proceeding involving Gary Riebschlager, a Texas lawyer who was not licensed in Kansas. The court found that he violated KRPC 8.1(b) by failing to disclose a prior partially probated suspension in an application for admission pro hac vice. The court indefinitely prohibited him from appearing pro hac vice before any Kansas court, administrative tribunal, or agency and assessed proceeding costs against him.

CASE DETAILS

COURT	Supreme Court of Kansas
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Kansas
DECIDED	November 20, 2015
DOCKET	No. 114,098
DISPOSITION	other
PROCEDURAL POSTURE	Original attorney-discipline proceeding brought by the Kansas Disciplinary Administrator against an attorney not licensed in Kansas. The Kansas Board for Discipline of Attorneys hearing panel found a violation of KRPC 8.1(b) and recommended indefinite prohibition from appearing pro hac vice in Kansas.
STANDARD OF REVIEW	The Supreme Court independently considers the evidence, the hearing panel's findings, and the parties' arguments to determine whether misconduct occurred and what discipline is appropriate. Attorney misconduct must be established by clear and convincing evidence. Unchallenged hearing-panel findings are deemed admitted.
PRECEDENTIAL VALUE	Published Kansas Supreme Court opinion; precedential

TOPICS

[administrative law](#) [agency adjudication](#) [civil procedure](#)

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Riebschlager violated KRPC 8.1(b) by failing to disclose his prior partially probated suspension in his verified application for admission pro hac vice.
2. What discipline should be imposed for the violation.

HOLDINGS

1. Riebschlager violated KRPC 8.1(b) by failing to disclose a fact necessary to correct a misapprehension he knew had arisen concerning his prior attorney discipline.
2. The appropriate discipline was an indefinite prohibition against Riebschlager's appearing pro hac vice before any Kansas court, administrative tribunal, or agency.

KEY QUOTATIONS

"The evidence before the hearing panel establishes by clear and convincing evidence the charged misconduct violated KRPC 8.1(b) (2014 Kan. Ct. R. Annot. 670) (failure to disclose a fact necessary to correct a misapprehension known by respondent), and it supports the panel's conclusions of law." (at 10)

"The only remaining issue is determining the appropriate discipline for respondent's violations." (at 10)

"IT IS THEREFORE ORDERED that Gary Riebschlager be and is hereby disciplined by indefinite prohibition from appearing pro hac vice before any Kansas court, administrative tribunal, or agency, in accordance with Supreme Court Rule 203(a)(5) (2014 Kan. Ct. R. Annot. 306)." (at 11)

FACTUAL BACKGROUND

Gary Riebschlager, a Texas attorney, applied for admission pro hac vice in a Kansas case and stated that he had been subject to prior public discipline but not suspension or disbarment. He previously had received a publicly disclosed, partially probated suspension from the State Bar of Texas that included three months of active suspension. After opposing counsel moved to disqualify him, Riebschlager disclosed the suspension at the hearing and explained that he had been advised it did not need to be reported. The Kansas disciplinary authorities found that his omission failed to correct a known misapprehension and delayed the underlying client's trial.

PROCEDURAL HISTORY

The Disciplinary Administrator filed a formal complaint alleging that Gary Riebschlager violated the Kansas Rules of Professional Conduct by failing to disclose a prior partially probated suspension in a verified application for admission pro hac vice. Riebschlager answered, and the parties entered a factual stipulation and agreed to a suggested disposition. After a hearing, the disciplinary panel found a violation of KRPC 8.1(b) and recommended indefinite prohibition from pro hac vice appearances; Riebschlager filed no exceptions. The Kansas Supreme Court adopted the panel's findings and imposed the recommended discipline, assessing costs against him.

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)
- In re Kline, 298 Kan. 96, 212-13, 311 P.3d 321 (2013)
- In re Franco, 275 Kan. 571, 579, 66 P.3d 805 (2003)

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