

SUPREME COURT OF GEORGIA

In re Jenkins, 278 Ga. 529

603 S.E.2d 218 (2004) · No. S04Z1637 · Decided September 13, 2004

SUMMARY

The Supreme Court of Georgia affirmed the Board to Determine Fitness of Bar Applicants' denial of Michael Grady Jenkins's certification to sit for the bar examination. The court held that the applicant bears the burden of proving the requisite character and moral fitness, and that the Board's decision must be upheld if supported by any evidence. The court concluded that the evidence regarding Jenkins's absences from judicial duties, lack of candor, and unauthorized practice of law supported the denial.

CASE DETAILS

|                       |                                                                                                                                                                     |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Georgia                                                                                                                                            |
| WRITING FOR THE COURT | Per Curiam                                                                                                                                                          |
| JURISDICTION          | Georgia                                                                                                                                                             |
| DECIDED               | September 13, 2004                                                                                                                                                  |
| DOCKET                | S04Z1637                                                                                                                                                            |
| DISPOSITION           | affirmed                                                                                                                                                            |
| PROCEDURAL POSTURE    | Jenkins appealed the Board to Determine Fitness of Bar Applicants' final decision denying his certification of fitness to practice law.                             |
| STANDARD OF REVIEW    | The Court will uphold the Board's decision if there is any evidence to support it. The hearing officer's findings and recommendations are not binding on the Board. |
| PRECEDENTIAL VALUE    | Published opinion                                                                                                                                                   |
| PARTIES               | Michael Grady Jenkins v. Board to Determine Fitness of Bar Applicants                                                                                               |

TOPICS

- appellate procedure
- administrative law
- judicial review of agency action
- standard of review

PRACTICE AREAS

- bar admission
- professional responsibility
- administrative law
- appellate procedure

## QUESTIONS PRESENTED

1. Whether the Board to Determine Fitness of Bar Applicants could deny Jenkins certification despite the hearing officer's recommendation that he be certified.
2. Whether the Board was bound by the Judicial Qualifications Commission's findings and recommendation concerning Jenkins's conduct.
3. Whether the Board's denial of certification was supported by any evidence.

## HOLDINGS

1. The hearing officer's findings of fact and recommendations are not binding on the Board, which may independently determine whether an applicant possesses the requisite character and moral fitness to practice law.
2. The Judicial Qualifications Commission's findings and conclusions, while relevant to an applicant's fitness, are not determinative of the Board's ultimate fitness decision and are not binding on the Supreme Court.
3. The Board's denial of Jenkins's certification was supported by the evidence and therefore had to be upheld.

## KEY QUOTATIONS

*"This Court will uphold the Board's decision if there is any evidence to support it." (\*220)*

*"Because the Board's and this Court's primary concern in admitting persons to the practice of law is the protection of the public, any doubts must be resolved against the applicant and in favor of protecting the public." (\*220)*

## FACTUAL BACKGROUND

Jenkins served as the full-time chief magistrate of Screven County while attending law school in Atlanta, and he was absent from his office up to two days a week for approximately two and one-half years while continuing to receive his full salary. The Board found that this conduct, Jenkins's subsequent denial of neglecting his court duties, and his preparation of legal documents for two individuals constituted evidence bearing on his integrity, candor, ethical cognizance, and moral fitness. Although a hearing officer recommended certification and the Judicial Qualifications Commission had recommended that its public reprimand not impede Jenkins's admission, the Board independently denied certification.

## PROCEDURAL HISTORY

Jenkins applied for certification of fitness to practice law after serving as a full-time chief magistrate while attending law school. Following an investigation and formal evidentiary hearing, a hearing officer recommended certification, but the Board rejected that recommendation and denied Jenkins's application. The Supreme Court of Georgia reviewed the timely appeal and affirmed the Board's decision.

## DISPOSITION

affirmed

#### **CASES CITED**

- In re Lee, 275 Ga. 763, 764, 571 S.E.2d 720 (2002)
- In re Adams, 277 Ga. 34, 35, 585 S.E.2d 879 (2003)
- In re Inquiry Concerning a Judge, 275 Ga. 404, 566 S.E.2d 310 (2002)
- In re C.R.W., 267 Ga. 534, 535(3), 481 S.E.2d 511 (1997)

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