

SUPREME COURT OF IOWA

Iowa Supreme Court Board of Professional Ethics and Conduct v. Bernard

653 N.W.2d 373 (Iowa 2002) · No. No. 02-0731 · Decided November 14, 2002

SUMMARY

The Iowa Supreme Court held that Alan L. Bernard violated Iowa's professional responsibility rules through methamphetamine-related criminal conduct, neglect of client matters, and a false statement to the disciplinary board. The court suspended his law license indefinitely, with no possibility of reinstatement for one year, and taxed the costs to him.

CASE DETAILS

COURT	Supreme Court of Iowa
WRITING FOR THE COURT	Cady, Justice
JURISDICTION	Iowa
DECIDED	November 14, 2002
DOCKET	No. 02-0731
DISPOSITION	other
PROCEDURAL POSTURE	Attorney disciplinary proceeding before the Supreme Court of Iowa based on a report of the division of the Grievance Commission of the Supreme Court of Iowa.
STANDARD OF REVIEW	De novo review. The court is not bound by the Commission's findings but gives them weight and considers, without being bound by, the Commission's recommended discipline. The Board bears the burden of proving disciplinary violations by a convincing preponderance of the evidence.
PRECEDENTIAL VALUE	Published opinion; precedential Iowa Supreme Court decision
PARTIES	Iowa Supreme Court Board of Professional Ethics and Conduct v. Alan L. Bernard

TOPICS

- administrative law
- agency adjudication
- judicial review of agency action

PRACTICE AREAS

legal ethics

attorney discipline

professional responsibility

QUESTIONS PRESENTED

1. Whether Bernard violated the Iowa Code of Professional Responsibility by possessing methamphetamine, neglecting client matters, and making a false statement to the Board.
2. Whether Bernard's drug and alcohol addiction or state of denial excused his false statement and other professional misconduct.
3. What discipline was appropriate in light of the nature of the violations and the aggravating and mitigating circumstances.

HOLDINGS

1. Bernard violated the Code of Professional Responsibility by committing criminal acts involving methamphetamine, neglecting client matters through late and missed court appearances, and making a false statement to the Board.
2. Bernard's drug and alcohol addiction and his claimed state of denial did not excuse his false statement to the Board.
3. An indefinite suspension of Bernard's license to practice law, with no possibility of reinstatement for one year, was appropriate.

KEY QUOTATIONS

“We review attorney disciplinary proceedings *de novo*.” (at 375)

“Notwithstanding, “there is no standard discipline for a particular type of attorney misconduct.”” (at 376)

“We suspend Bernard's license to practice law indefinitely with no possibility of reinstatement for one year.” (at 376)

FACTUAL BACKGROUND

Bernard, an Iowa lawyer primarily practicing criminal defense, developed addictions to alcohol and methamphetamine and became tardy for or failed to appear at court proceedings. After the Board notified him of a neglect complaint, he falsely denied having a current or past methamphetamine-abuse problem; he later pleaded guilty to two counts of possession of methamphetamine. Bernard admitted the misconduct, completed drug and alcohol treatment, attended Alcoholics Anonymous, and maintained sobriety.

PROCEDURAL HISTORY

The Grievance Commission found that Bernard violated the Iowa Code of Professional Responsibility by committing a criminal act involving methamphetamine, making a false statement to the Board, and neglecting client matters. The Commission recommended a one-year suspension. The Supreme Court of Iowa reviewed the proceeding *de novo*, agreed that the violations occurred, and imposed an indefinite suspension with no possibility of reinstatement for one year.

DISPOSITION

other

CASES CITED

- Iowa Supreme Ct. Bd. of Prof'l Ethics & Conduct v. Mulford, 625 N.W.2d 672, 679 (Iowa 2001)
- Iowa Supreme Ct. Bd. of Prof'l Ethics & Conduct v. Stefani, 616 N.W.2d 550, 552-53 (Iowa 2000)
- In re Edwards, 694 N.E.2d 701, 713 (Ind. 1998)
- Comm. on Prof'l Ethics & Conduct v. Hall, 463 N.W.2d 30, 33 (Iowa 1990)
- Iowa Supreme Ct. Bd. of Prof'l Ethics & Conduct v. Grotewold, 642 N.W.2d 288, 293, 296 (Iowa 2002)
- Iowa Supreme Ct. Bd. of Prof'l Ethics & Conduct v. Hohenadel, 634 N.W.2d 652, 655, 657 (Iowa 2001)
- Iowa Supreme Ct. Bd. of Prof'l Ethics & Conduct v. Mears, 569 N.W.2d 132, 134 (Iowa 1997)
- Iowa Supreme Ct. Bd. of Prof'l Ethics & Conduct v. Stein, 603 N.W.2d 574, 576 (Iowa 1999)
- Iowa Supreme Ct. Bd. of Prof'l Ethics & Conduct v. Ruth, 636 N.W.2d 86, 89 (Iowa 2001)
- State ex rel. Oklahoma Bar Ass'n v. Giger, 37 P.3d 856, 864 (Okla. 2001)