

## SUPREME COURT OF WISCONSIN

# In the Matter of Disciplinary Proceedings Against William J. Gilbert

2003 WI 131, 266 Wis. 2d 5, 669 N.W.2d 725 · No. 03-0445-D · Decided October 7, 2003

### SUMMARY

The Supreme Court of Wisconsin suspended William J. Gilbert's law license for an additional six months based on professional misconduct involving two client matters. The misconduct included lack of diligence, failure to communicate, mishandling client funds and property, failure to surrender a client file, inadequate trust-account records, and failure to cooperate with the Office of Lawyer Regulation. The court also imposed costs and conditions on any future reinstatement.

### CASE DETAILS

|                       |                                                                                                                                                                                 |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Wisconsin                                                                                                                                                      |
| WRITING FOR THE COURT | Per Curiam                                                                                                                                                                      |
| JURISDICTION          | Wisconsin                                                                                                                                                                       |
| DECIDED               | October 7, 2003                                                                                                                                                                 |
| DOCKET                | 03-0445-D                                                                                                                                                                       |
| DISPOSITION           | other                                                                                                                                                                           |
| PROCEDURAL POSTURE    | The Wisconsin Supreme Court reviewed a referee's recommendation in a lawyer-discipline proceeding after the respondent failed to answer the complaint and was found in default. |
| STANDARD OF REVIEW    | A referee's findings of fact are not set aside unless clearly erroneous; conclusions of law are reviewed de novo.                                                               |
| PRECEDENTIAL VALUE    | Published Wisconsin Supreme Court opinion; precedential.                                                                                                                        |
| PARTIES               | Office of Lawyer Regulation v. William J. Gilbert                                                                                                                               |

### TOPICS

[appellate procedure](#) [remedies](#) [family law procedure](#) [divorce](#) [dissolution of marriage](#)

### PRACTICE AREAS

[legal ethics and professional responsibility](#) [lawyer discipline](#) [family law](#) [trust-account regulation](#)

### QUESTIONS PRESENTED

1. Whether the referee's factual findings should be adopted under the clearly erroneous standard.
2. Whether Gilbert's conduct violated the cited Wisconsin Supreme Court Rules of Professional Conduct and lawyer-discipline rules.
3. Whether the seriousness of Gilbert's misconduct warranted an additional six-month suspension of his Wisconsin law license.
4. Whether Gilbert should be required to pay proceeding costs and satisfy specified conditions for any future reinstatement.

## HOLDINGS

1. The court adopted the referee's factual findings because they had not been shown to be clearly erroneous.
2. The court reviewed the referee's conclusions of law de novo and agreed that Gilbert violated the cited professional-conduct and lawyer-discipline rules.
3. The seriousness of Gilbert's professional misconduct warranted an additional six-month suspension of his license to practice law in Wisconsin.
4. Gilbert was ordered to pay the costs of the proceeding, and any reinstatement after suspension was conditioned on accountings, an office-management plan, periodic mentoring, and restitution when required.

## KEY QUOTATIONS

*"A referee's findings of fact on a disciplinary matter will not be set aside unless clearly erroneous. Conclusions of law are reviewed de novo."* (266 Wis. 2d at 16)

*"We also conclude, as did the referee, that the seriousness of Attorney Gilbert's misconduct warrants the suspension of his license to practice law in Wisconsin for six months."* (266 Wis. 2d at 16)

## FACTUAL BACKGROUND

Gilbert represented one client in a divorce matter and two clients in a condemnation review. In the divorce matter, he stopped working, failed to communicate, failed to account for or return unearned retainer funds, and failed to transfer the file to successor counsel. In the condemnation matter, he failed to account for an advance, lost a settlement check, failed to communicate or appear at a status hearing, and failed to cooperate with OLR investigations in both matters.

## PROCEDURAL HISTORY

The Office of Lawyer Regulation filed its complaint on February 18, 2003. Janet Jenkins was appointed referee; Gilbert was personally served but did not answer, and the referee found him in default. The referee recommended a six-month suspension, payment of costs, and conditions on any future reinstatement. The Wisconsin Supreme Court adopted the referee's findings and recommendations, with the license suspension ordered as an additional six-month suspension.

## 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 248, 248 Wis. 2d 662, 675, 636 N.W.2d 718

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