

SUPREME COURT OF GEORGIA

In re Woodham

296 Ga. 618 (Ga. 2015) · Decided February 16, 2015

SUMMARY

The Georgia Supreme Court reviewed disciplinary proceedings against attorney John Floyd Woodham arising from his intervention in bond validation proceedings and his offer to withdraw objections in exchange for payment. The Court held that the evidence did not clearly and convincingly establish violations of Georgia Rules of Professional Conduct 4.2(a) or 8.4(a)(4), and it dismissed the proceedings.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Per curiam; All the Justices
JURISDICTION	Georgia
DECIDED	February 16, 2015
DISPOSITION	dismissed
PROCEDURAL POSTURE	Attorney-disciplinary proceeding before the Supreme Court of Georgia on the Review Panel's report and recommendation. The Review Panel found a violation of Georgia Rule of Professional Conduct 8.4 (a) (4) and recommended a six-month suspension and Review Panel reprimand.
STANDARD OF REVIEW	The alleged disciplinary violations had to be proved by clear and convincing evidence.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Georgia
PARTIES	State Bar of Georgia v. John Floyd Woodham

TOPICS

municipal law

commercial litigation

sanctions

civil procedure

PRACTICE AREAS

legal ethics and attorney discipline

bond validation

municipal law

professional responsibility

QUESTIONS PRESENTED

1. Whether Woodham violated Georgia Rule of Professional Conduct 4.2 (a) by communicating about the bond-validation litigation with a corporate representative when the developers were represented by outside litigation counsel who participated in the communication.
2. Whether Woodham's offer to dismiss his intervention complaints in exchange for payment constituted professional conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 8.4 (a) (4).

HOLDINGS

1. Woodham did not violate Rule 4.2 (a) because his substantive communication occurred with, and in the presence of, an attorney representing the developers in the bond-validation matters, even though that attorney was not counsel of record.
2. The State Bar failed to prove clearly and convincingly that Woodham's conduct, as charged, involved dishonesty, fraud, deceit, or misrepresentation; therefore, no Rule 8.4 (a) (4) violation was established.

KEY QUOTATIONS

“On the facts of this case, we find no violation of Rule 4.2 (a).” (623)

“We conclude only that the State Bar failed by clear and convincing evidence to prove the alleged violations of Rules 4.2 (a) and 8.4 (a) (4) as charged by the State Bar.” (625-626)

“The State Bar having failed to prove the alleged violations on which it elected to proceed to hearing, these disciplinary proceedings are dismissed.” (626)

FACTUAL BACKGROUND

Woodham intervened in Fulton County bond-validation proceedings involving proposed bonds of up to \$70 million and \$60 million, asserting that the transactions were illegal and unconstitutional tax abatements. After initially attempting to contact the developers' in-house counsel, Woodham participated in a conference call with the developers' litigation counsel and a corporate representative. During the call, he offered to dismiss his intervention complaints if the developers paid him and Citizens for Ethics in Government, LLC, one percent of the bond issuance.

PROCEDURAL HISTORY

Woodham filed a petition for voluntary discipline after the State Bar's Investigative Panel found probable cause to charge violations of Rules 3.1, 3.5 (c), 4.2 (a), and 8.4 (a) (4); the Supreme Court rejected the petition because it did not address Rules 3.1 and 8.4 (a) (4). The State Bar then filed a formal complaint, later abandoned the Rule 3.1 and 3.5 (c) charges, and proceeded before a special master on Rules 4.2 (a) and 8.4 (a) (4). The special master found both violations, while the Review Panel found only a Rule 8.4 (a) (4) violation. The Supreme Court rejected both findings and dismissed the disciplinary proceedings.

DISPOSITION

dismissed

CASES CITED

- In the Matter of Woodham, 291 Ga. 255, 728 SE2d 659 (2012)
- FDIC v. Loudermilk, 295 Ga. 579, 594 (3), 761 SE2d 332 (2014)
- Woodham v. Atlanta Development Auth., 318 Ga. App. XXIV, Case No. A12A2334 (Nov. 29, 2012)

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