

SUPREME COURT OF INDIANA

In the Matter of Barbara A. Transki

948 N.E.2d 1181 (Ind. 2011) · No. No. 46S00-0806-DI-346 · Decided June 23, 2011

SUMMARY

The Indiana Supreme Court found Barbara A. Transki responsible for professional misconduct, including failure to diligently handle client matters, failure to communicate, false statements, untimely responses to the Disciplinary Commission, and fabrication of a document. The Court suspended her from practicing law for at least six months without automatic reinstatement, requiring her to petition for reinstatement. Justice Rucker dissented, favoring the hearing officer's recommendation of a partially stayed suspension with probation.

CASE DETAILS

COURT	Supreme Court of Indiana
WRITING FOR THE COURT	Chief Justice Shepard; Justice Rucker; Justice Sullivan; Justice Boehm; Justice David
JURISDICTION	Indiana
DECIDED	June 23, 2011
DOCKET	No. 46S00-0806-DI-346
DISPOSITION	other
PROCEDURAL POSTURE	Attorney-discipline proceeding based on the Indiana Supreme Court Disciplinary Commission's verified complaint. The respondent admitted the factual allegations and rule violations, and neither party petitioned for review of the hearing officer's report.
STANDARD OF REVIEW	The court independently determined misconduct and the appropriate sanction after accepting and adopting the hearing officer's findings; it was not bound by the hearing officer's recommended discipline.
PRECEDENTIAL VALUE	Published disciplinary order; precedential Indiana Supreme Court decision on the adjudicated misconduct and sanction.

TOPICS

appellate procedure

civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether respondent committed the professional-conduct and admission-and-discipline-rule violations charged by the Disciplinary Commission.
2. What discipline was appropriate for respondent's admitted misconduct, including whether mental or emotional disability and rehabilitation justified the hearing officer's recommended stayed suspension.
3. Whether respondent should be required to undergo the reinstatement process before resuming the practice of law.

HOLDINGS

1. Respondent violated Indiana Professional Conduct Rules 1.3, 1.4(a), 1.4(b), 3.3(a)(1), 8.1(a), 8.1(b), and 8.4(c), and Indiana Admission and Discipline Rule 23(26)(b).
2. A suspension of not less than six months without automatic reinstatement was warranted rather than a six-month suspension with all but 30 days stayed subject to probation.
3. Respondent was not entitled to automatic reinstatement and could resume practice only if the court granted a reinstatement petition supported by clear and convincing evidence of remorse, rehabilitation, and fitness to practice.

KEY QUOTATIONS

“Mental or emotional disability cannot excuse deliberate, deceitful behavior that compromises the integrity of the legal system, including the Commission's investigation of attorney misconduct.” (1182)

“Reinstatement is discretionary and requires clear and convincing evidence of the attorney's remorse, rehabilitation, and fitness to practice law.” (1183)

FACTUAL BACKGROUND

Respondent failed to file an appellate brief for Client A, allowed the appeal to be dismissed, misrepresented the status of the appeal, and fabricated a letter to mislead the Disciplinary Commission. She also failed to file a name-change petition for Client B and repeatedly failed to respond to Client B's requests for information and to the Commission's grievance inquiries. Respondent had untreated major depression and anxiety disorder, later entered a JLAP monitoring agreement, and had a prior disciplinary history.

PROCEDURAL HISTORY

The Indiana Supreme Court appointed William E. Davis as hearing officer to hear evidence on the Disciplinary Commission's verified complaint. The hearing officer recommended a six-month suspension, with 30 days served and the balance stayed subject to two years of probation. Because neither party sought review, the court accepted and adopted the hearing officer's findings while reserving final judgment on misconduct and sanction, then imposed a different sanction.

DISPOSITION

other

CASES CITED

- Matter of Levy, 726 N.E.2d 1257 (Ind. 2000)
- Matter of Barratt, 663 N.E.2d 536 (Ind. 1996)

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