

SUPREME COURT OF WASHINGTON

In re the Disability Proceeding against Keefe

159 Wash. 2d 822 (2007) · Decided March 22, 2007

SUMMARY

The Washington Supreme Court affirmed the Washington State Bar Association Disciplinary Board's transfer of attorney John M. Keefe to disability inactive status. The court held that substantial evidence supported findings that Keefe's delusional beliefs and impaired reasoning prevented him from competently practicing law and defending himself in the disciplinary proceeding. The court also upheld the admission of expert testimony based on documentary evidence because Keefe had refused to submit to an independent mental examination.

CASE DETAILS

COURT	Supreme Court of Washington
WRITING FOR THE COURT	Owens, J.; Alexander, C.J.; C. Johnson, J.; Madsen, J.; Bridge, J.; Chambers, J.; Fairhurst, J.; J.M. Johnson, J.; Appelwick, J. Pro Tem.
JURISDICTION	Washington
DECIDED	March 22, 2007
DISPOSITION	affirmed
PROCEDURAL POSTURE	Attorney Keefe appealed the Washington State Bar Association Disciplinary Board's order transferring him to disability inactive status.
STANDARD OF REVIEW	The court gives considerable weight to the hearing officer's factual findings, particularly credibility determinations, and upholds them if supported by substantial evidence. Conclusions of law concerning incapacity are upheld when supported by the findings of fact.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	John M. Keefe v. Washington State Bar Association

TOPICS

[ada / disability](#)[administrative law](#)[appellate procedure](#)[expert testimony](#)[evidence](#)

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether substantial evidence supported the finding that Keefe lacked the mental capacity to practice law.
2. Whether substantial evidence supported the finding that Keefe lacked the capacity to defend himself against the disciplinary proceeding, with or without counsel.
3. Whether an expert psychiatric opinion based solely on documentary evidence was sufficiently supported to be admitted and relied upon.

HOLDINGS

1. An expert may base an opinion regarding an attorney's mental capacity on documentary evidence and need not conduct an in-person examination when the information is of a type reasonably relied upon by experts in the field.
2. Substantial evidence supported the determination that Keefe's mental disability and delusional beliefs rendered him incapable of competently practicing law.
3. Substantial evidence supported the finding that Keefe was incapable of defending himself or rationally assisting counsel in the disciplinary proceeding.

KEY QUOTATIONS

"We give considerable weight to the hearing officer's findings of fact, especially with regard to the credibility of witnesses, and we will uphold those findings so long as they are supported by 'substantial evidence.'" (830)

"But a finding that the attorney is competent to appear is not equivalent to a finding that the attorney is competent to appear pro se." (835)

"The fact that Keefe may have raised some legitimate arguments and defenses does not necessarily render him capable of defending himself." (836)

FACTUAL BACKGROUND

Keefe, a Washington attorney, made repeated allegations that his disciplinary proceeding had been fixed by conspiratorial groups, that attorneys and officials were imposters, and that listening devices and other schemes were being used against him. He refused to undergo an ordered independent mental examination and did not attend the disability hearing, although appointed counsel appeared. Lay witnesses and psychiatrist Dr. Brian Grant testified that Keefe's writings and litigation conduct reflected delusional and paranoid thinking, impaired reasoning, and an inability to distinguish fantasy from reality.

PROCEDURAL HISTORY

The Washington State Bar Association initiated disciplinary proceedings against Keefe and then sought a supplemental disability proceeding after his statements and conduct suggested delusional thinking. The hearing

officer found by a clear preponderance of the evidence that Keefe lacked the mental capacity to practice law and to defend against the disciplinary proceeding. The Disciplinary Board affirmed by a nine-to-three vote, and Keefe appealed to the Washington Supreme Court, which affirmed.

DISPOSITION

affirmed

CASES CITED

- In re Disability Proceeding Against Diamondstone, 153 Wn.2d 430, 438, 105 P.3d 1 (2005), cert. denied, 546 U.S. 845 (2005)
- In re Disciplinary Proceeding Against Poole, 156 Wn.2d 196, 208-09, 125 P.3d 954 (2006)
- In re Disciplinary Proceeding Against Bonet, 144 Wn.2d 502, 511, 29 P.3d 1242 (2001)
- State v. Roberts, 142 Wn.2d 471, 522, 14 P.3d 713 (2000)
- Sunbreaker Condo. Ass'n v. Travelers Ins. Co., 79 Wn. App. 368, 374, 901 P.2d 1079 (1995)
- In re Disciplinary Proceeding Against Meade, 103 Wn.2d 374, 379-81, 693 P.2d 713 (1985)
- In re Disciplinary Proceeding Against Ryan, 97 Wn.2d 284, 287, 644 P.2d 675 (1982)
- In re Campbell, 74 Wn.2d 276, 279-81, 444 P.2d 784 (1968)
- State v. Gwaltney, 77 Wn.2d 906, 907, 468 P.2d 433 (1970)
- In re Disciplinary Proceeding Against Brown, 94 Wn. App. 7, 13-14, 972 P.2d 101 (1998)