

SUPREME COURT OF WISCONSIN

Office of Lawyer Regulation v. David W. Schiltz

2018 WI 116 (Wis. 2018) · No. 2018AP497-D · Decided December 28, 2018

SUMMARY

The Wisconsin Supreme Court reviewed disciplinary proceedings against attorney David W. Schiltz after he failed to answer the Office of Lawyer Regulation's amended complaint. The court found default established and concluded that Schiltz committed 25 counts of professional misconduct, including practicing law while suspended, failing to notify clients and courts of his suspension, mishandling client matters and funds, and failing to cooperate with the investigation. The court imposed a nine-month license suspension, restitution, continuing legal education requirements, and the full costs of the proceeding.

CASE DETAILS

COURT	Supreme Court of Wisconsin
WRITING FOR THE COURT	Per curiam
JURISDICTION	Wisconsin
DECIDED	December 28, 2018
DOCKET	2018AP497-D
DISPOSITION	other
PROCEDURAL POSTURE	Attorney disciplinary proceeding reviewed by the Wisconsin Supreme Court under SCR 22.17(2) after no appeal was filed from the referee's report and recommendation.
STANDARD OF REVIEW	The court reviews the referee's findings of fact under the clearly erroneous standard, reviews conclusions of law de novo, and independently determines the appropriate level of discipline without deference to the referee's recommendation.
PRECEDENTIAL VALUE	precedential
PARTIES	Office of Lawyer Regulation v. David W. Schiltz

TOPICS

[appellate procedure](#)[standard of review](#)[probate procedure](#)[estate administration](#)[municipal law](#)

PRACTICE AREAS

legal ethics

attorney discipline

professional responsibility

probate

municipal law

QUESTIONS PRESENTED

1. Whether Schiltz should be declared in default based on his failure to answer the disciplinary complaint and amended complaint.
2. Whether the allegations deemed admitted adequately establish all 25 counts of professional misconduct.
3. What discipline is appropriate for Schiltz's misconduct.
4. Whether restitution, continuing legal education, costs, and other reinstatement conditions should be imposed.

HOLDINGS

1. Schiltz should be declared in default because he failed to answer the complaint and amended complaint or otherwise appear and present a defense after proper service and notice.
2. The admitted allegations adequately established all 25 counts of professional misconduct alleged by the OLR.
3. A nine-month suspension of Schiltz's Wisconsin law license was appropriate, rather than the referee's recommended 18-month suspension or the OLR's requested six-month suspension.
4. Schiltz was required to pay \$3,305 in restitution, pay the proceeding's full costs, complete 25 hours of CLE courses including ethics and trust-account matters as a condition of reinstatement, and comply with SCR 22.26.

KEY QUOTATIONS

"We review a referee's findings of fact subject to the clearly erroneous standard. We review the referee's conclusions of law de novo. We determine the appropriate level of discipline independent of the referee's recommendation." (¶62)

"In considering the appropriate sanction, this court seeks to impress upon the attorney the seriousness of the misconduct, to deter other attorneys from engaging in similar misconduct, and to protect the public, the courts, and the legal system from a repetition of the misconduct." (¶64)

"We hold that the same length of suspension is appropriate here, for the same core reasons." (¶66)

FACTUAL BACKGROUND

Schiltz's Wisconsin law license was administratively suspended beginning May 31, 2016, for failure to comply with continuing legal education reporting requirements, yet he continued representing clients in estate, municipal, civil, and real-estate matters. His misconduct included failing to notify clients, courts, and opposing counsel of the suspension; neglecting client matters; failing to return trust funds; making a false statement in a reinstatement petition; and failing to cooperate with Office of Lawyer Regulation investigations. He did not answer the disciplinary complaint or amended complaint and did not participate in the referee proceedings.

PROCEDURAL HISTORY

The Office of Lawyer Regulation filed a complaint and amended complaint alleging 25 counts of professional misconduct. Schiltz failed to answer, appear, or present a defense, and the referee recommended a default judgment, an 18-month suspension, restitution, continuing legal education, and costs. The Wisconsin Supreme Court independently reviewed the referee's findings, conclusions, and recommended discipline, declared Schiltz in default, sustained all misconduct findings, and modified the sanction to a nine-month suspension with additional conditions.

DISPOSITION

other

CASES CITED

- In re Disciplinary Proceedings Against Scanlan, 2006 WI 38, 290 Wis. 2d 30, 712 N.W.2d 877
- In re Disciplinary Proceedings Against Baratki, 2017 WI 89, 378 Wis. 2d 1, 902 N.W.2d 250
- In re Disciplinary Proceedings Against Eisenberg, 2004 WI 14, 269 Wis. 2d 43, 675 N.W.2d 747
- In re Disciplinary Proceedings Against Widule, 2003 WI 34, 261 Wis. 2d 45, 660 N.W.2d 686
- In re Disciplinary Proceedings Against Coplien, 2010 WI 109, 329 Wis. 2d 311, 788 N.W.2d 376
- In re Disciplinary Proceedings Against Reitz, 2005 WI 39, 279 Wis. 2d 550, 694 N.W.2d 894
- In re Disciplinary Proceedings Against Carroll, 2001 WI 130, 248 Wis. 2d 662, 636 N.W.2d 718
- In re Disciplinary Proceedings Against Grogan, 2011 WI 7, 331 Wis. 2d 341, 795 N.W.2d 745
- In re Disciplinary Proceedings Against Vance, 2016 WI 89, 372 Wis. 2d 39, 886 N.W.2d 583
- In re Disciplinary Proceedings Against Marx, 2016 WI 75, 371 Wis. 2d 591, 882 N.W.2d 863