

NEBRASKA SUPREME COURT

State of Nebraska ex rel. Counsel for Discipline of the Nebraska Supreme Court v. Evangelos A. Argyrakis

305 Neb. 396 (2020) · No. S-19-059 · Decided March 27, 2020

SUMMARY

The Nebraska Supreme Court considered the appropriate discipline for Evangelos A. Argyrakis after he pleaded no contest to a Class IIIA felony involving abuse of his elderly father. The court held that the conviction constituted a crime of violence, found no sufficient mitigation beyond his lack of prior disciplinary history, and concluded that disbarment was warranted. Argyrakis was disbarred effective immediately.

CASE DETAILS

COURT	Nebraska Supreme Court
WRITING FOR THE COURT	Per Curiam; Heavican, C.J.; Miller-Lerman, J.; Cassel, J.; Stacy, J.; Funke, J.; Papik, J.; Freudenberg, J.
JURISDICTION	Nebraska
DECIDED	March 27, 2020
DOCKET	S-19-059
DISPOSITION	other
PROCEDURAL POSTURE	Original attorney-discipline proceeding before the Nebraska Supreme Court. The referee recommended disbarment, neither party filed exceptions, and the court independently reviewed the record and imposed disbarment.
STANDARD OF REVIEW	Because attorney-discipline cases are original proceedings before the Nebraska Supreme Court, the court reviews the referee's recommendations de novo on the record and reaches an independent conclusion. When neither party takes exception to the referee's report, the court may, in its discretion, adopt the referee's findings as final and conclusive.
PRECEDENTIAL VALUE	Published Nebraska Supreme Court opinion; precedential.

TOPICS

PRACTICE AREAS**QUESTIONS PRESENTED**

1. What standard of review applies to the referee's recommendations in an original attorney-discipline proceeding?
2. What disciplinary sanction is appropriate for an attorney's felony conviction involving actual physical violence, considering the traditional sanction factors and aggravating and mitigating circumstances?
3. Whether Argyrakis's mental-health evidence and lack of prior discipline warranted mitigation of the sanction.

HOLDINGS

1. Because attorney-discipline cases are original proceedings before the Nebraska Supreme Court, the court reviews the referee's recommendations de novo on the record and reaches an independent conclusion.
2. In determining the appropriate discipline, the court considers the nature of the offense, deterrence, the reputation of the bar, protection of the public, the respondent's attitude, and the respondent's present or future fitness to practice law; it also considers the attorney's conduct throughout the proceeding, aggravating and mitigating factors, and sanctions imposed in prior similar cases.
3. Disbarment is the appropriate sanction for Argyrakis's felony conviction involving actual physical violence against an elderly person, given the nature of the offense, his failure to accept responsibility, failure to report the conviction and sentence, and the need to protect the reputation of the bar and public confidence in the profession.

KEY QUOTATIONS

"Because attorney discipline cases are original proceedings before this court, we review a referee's recommendations de novo on the record, reaching a conclusion independent of the referee's findings." (at 402)

"For these reasons, we conclude, after considering the appropriate factors, that disbarment is the appropriate sanction in this case." (at 408)

FACTUAL BACKGROUND

Argyrakis, a Nebraska attorney, pleaded no contest to a Class IIIA felony involving knowing and intentional abuse of his 83-year-old father. The factual basis for the plea stated that Argyrakis repeatedly punched his father in the face during an argument, causing observable injuries. Argyrakis failed to report his plea and sentencing to disciplinary counsel, and during the disciplinary proceeding he did not fully accept responsibility for the conduct. The referee found violations of Nebraska's professional-conduct rules and the attorney oath, while recognizing Argyrakis's lack of prior disciplinary history as a mitigating factor.

PROCEDURAL HISTORY

Argyrakis was charged in Douglas County District Court and pleaded no contest to knowing and intentional abuse, neglect, or exploitation of a vulnerable adult or senior adult, a Class IIIA felony. After he failed to report the plea and sentence to disciplinary counsel, formal disciplinary charges were filed. Following a hearing, the referee found violations of Nebraska professional-conduct rules and Argyrakis's attorney oath and recommended disbarment. The Nebraska Supreme Court adopted the referee's factual findings and independently determined that disbarment was appropriate.

DISPOSITION

other

REMAND INSTRUCTIONS

None. Argyrakis was disbarred effective immediately and directed to comply with Neb. Ct. R. § 3-316 (rev. 2014); failure to comply subjects him to punishment for contempt.

CASES CITED

- State ex rel. Counsel for Dis. v. Walz, 291 Neb. 566, 869 N.W.2d 71 (2015)
- State ex rel. Counsel for Dis. v. Thompson, 264 Neb. 831, 652 N.W.2d 593 (2002)
- State ex rel. Counsel for Dis. v. Gast, 296 Neb. 687, 896 N.W.2d 583 (2017)
- State ex rel. Counsel for Dis. v. Nimmer, 300 Neb. 906, 916 N.W.2d 732 (2018)
- State ex rel. Counsel for Dis. v. Jorgenson, 302 Neb. 188, 922 N.W.2d 753 (2019)
- State ex rel. Counsel for Dis. v. Riskowski, 272 Neb. 781, 724 N.W.2d 813 (2006)
- State ex rel. NSBA v. McArthur, 257 Neb. 618, 599 N.W.2d 592 (1999)