

SUPREME COURT OF KANSAS

In re Chavez, 292 Kan. 45

251 P.3d 628 (Kan. 2011) · No. No. 105,258 · Decided April 8, 2011

SUMMARY

The Kansas Supreme Court reviewed disciplinary violations arising from Bart A. Chavez's disrespectful communications with an immigration court administrator and his failure to appear at a scheduled hearing. The court upheld the findings that Chavez violated KRPC 3.5(d) and 8.4(d) and imposed published censure, with costs assessed against him.

CASE DETAILS

COURT	Supreme Court of Kansas
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Kansas
DECIDED	April 8, 2011
DOCKET	No. 105,258
DISPOSITION	other
PROCEDURAL POSTURE	Original attorney-discipline proceeding brought by the Office of the Disciplinary Administrator against an attorney admitted to practice in Kansas.
STANDARD OF REVIEW	The court considers the evidence, disciplinary-panel findings, and party arguments to determine whether KRPC violations exist and what discipline should be imposed. Attorney misconduct must be established by clear and convincing evidence; the panel's recommended discipline is advisory and does not limit the court's discretion.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Office of the Disciplinary Administrator v. Bart A. Chavez

TOPICS

immigration

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Chavez violated KRPC 3.5(d) by engaging in undignified or discourteous conduct degrading to a tribunal.
2. Whether Chavez violated KRPC 8.4(d) by engaging in conduct prejudicial to the administration of justice.
3. What discipline should be imposed for the established violations.

HOLDINGS

1. The charged misconduct was established by clear and convincing evidence.
2. Chavez violated KRPC 3.5(d) by engaging in undignified or discourteous conduct degrading to a tribunal.
3. Chavez violated KRPC 8.4(d) by engaging in conduct prejudicial to the administration of justice.
4. Published censure was appropriate discipline for Chavez's misconduct, and costs were assessed against him.

KEY QUOTATIONS

“The evidence before the hearing panel establishes the charged misconduct of the respondent by clear and convincing evidence and supports the panel's conclusions of law.” (at 632)

“Notwithstanding that discretion, we find the hearing panel's recommendations to be appropriate here.” (at 632)

“IT IS THEREFORE ORDERED that Bart A. Chavez, be and is hereby disciplined by published censure in accordance with Supreme Court Rule 203(a)(3) (2010 Kan. Ct. R. Annot. 276).” (at 632)

FACTUAL BACKGROUND

Bart A. Chavez represented an immigration client in proceedings before the Executive Office for Immigration Review and failed to appear at a scheduled merits hearing after the immigration court denied his repeated motions to withdraw. In several telephone conversations with a Dallas Immigration Court administrator, Chavez used offensive, disrespectful, and profane language directed at the administrator and the court. The conduct resulted in public censure by EOIR and public reprimand by the Nebraska Supreme Court, and Chavez was diagnosed with bipolar disorder and obtained treatment.

PROCEDURAL HISTORY

The Kansas Disciplinary Administrator filed a formal complaint alleging violations of the Kansas Rules of Professional Conduct. After a hearing, a panel of the Kansas Board for Discipline of Attorneys found violations of KRPC 3.5(d) and 8.4(d) and recommended published censure. The Kansas Supreme Court independently reviewed the evidence, panel findings, and arguments, found the misconduct established by clear and convincing evidence, and imposed published censure and costs.

DISPOSITION

other

CASES CITED

- In re Lober, 288 Kan. 498, 505, 204 P.3d 610 (2009)
- In re Dennis, 286 Kan. 708, 725, 188 P.3d 1 (2008)

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