

SUPREME COURT OF UTAH

Utah State Bar v. Brian W. Steffensen

2016 UT 18 · No. 20140890 · Decided April 19, 2016

SUMMARY

The Utah Supreme Court affirmed the use of a preponderance-of-the-evidence standard in an attorney discipline proceeding alleging violation of Utah Rule of Professional Conduct 8.4(b). The court held that Utah Rule of Judicial Administration 14-517 expressly requires formal misconduct complaints to be established by a preponderance of the evidence and rejected the argument that the phrase “criminal act” implicitly required proof beyond a reasonable doubt.

CASE DETAILS

COURT	Supreme Court of Utah
WRITING FOR THE COURT	Associate Chief Justice Lee; Chief Justice Durrant; Justice Durham; Justice Himonas; Justice Pearce
JURISDICTION	Utah
DECIDED	April 19, 2016
DOCKET	20140890
DISPOSITION	affirmed
PROCEDURAL POSTURE	Interlocutory appeal in an attorney-discipline proceeding challenging the district court's use of the preponderance-of-the-evidence standard to determine whether the attorney committed criminal acts in violation of Utah Rule of Professional Conduct 8.4(b).
STANDARD OF REVIEW	The court reviewed the legal question concerning the applicable standard of proof and the interpretation of the governing disciplinary rules.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of Utah; precedential.
PARTIES	Brian W. Steffensen v. Utah State Bar

TOPICS

[appellate procedure](#)[interlocutory appeal](#)[burden of proof](#)[due process](#)[constitutional law](#)

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether a formal attorney-discipline complaint alleging that a lawyer committed a criminal act under Utah Rule of Professional Conduct 8.4(b) must be proved beyond a reasonable doubt or under a higher standard than preponderance of the evidence.
2. Whether due process or Rule 8.4(b)'s reference to a criminal act overrides Utah Rule of Judicial Administration 14-517(b)'s express requirement that formal complaints of misconduct be established by a preponderance of the evidence.

HOLDINGS

1. A formal complaint of attorney misconduct, including a charge that the lawyer committed a criminal act in violation of Rule 8.4(b), must be established by a preponderance of the evidence under Utah Rule of Judicial Administration 14-517(b).
2. Due process does not require the court to override the clear preponderance standard established by Rule 14-517(b) in an attorney-discipline proceeding alleging a criminal act.

KEY QUOTATIONS

“Rule 14-517 speaks with straightforward clarity. It prescribes a preponderance standard for all “[f]ormal complaints of misconduct.”” (¶ 10)

“We accordingly reject Steffensen’s challenge to the preponderance standard in rule 14-517. And we affirm the district court’s determination that OPC carried its burden of proving that Steffensen violated rule 8.4(b) by establishing that he committed criminal acts by a preponderance of the evidence.” (¶ 17)

FACTUAL BACKGROUND

Steffensen faced felony tax-related charges for failure to file a proper tax return, intent to evade, and unlawful dealing with property by a fiduciary, and entered into a diversion agreement concerning those charges on March 1, 2010. The Office of Professional Conduct later charged him with violating Utah Rule of Professional Conduct 8.4(b) by committing criminal acts reflecting adversely on his honesty, truthfulness, and fitness to practice law.

PROCEDURAL HISTORY

The Office of Professional Conduct charged Steffensen with violating Rule 8.4(b) based on tax-related criminal acts. The Third District Court found by a preponderance of the evidence that Steffensen violated the rule, and Steffensen brought an interlocutory appeal challenging the applicable burden of proof.

DISPOSITION

affirmed

CASES CITED

- Long v. Ethics & Discipline Comm., 2011 UT 32, ¶ 29, 256 P.3d 206
- In re Ruffalo, 390 U.S. 544, 550 (1968)
- In re Egbune, 971 P.2d 1065, 1072 (Colo. 1999)
- In re Summer, 105 P.3d 848, 852 (Or. 2005)
- In re Discipline of Sonnenreich, 2004 UT 3, ¶ 37, 86 P.3d 712
- Clearone v. Revolabs, 2016 UT 16, ¶ 8
- International Shoe Co. v. State of Washington, International Shoe Co. v. Washington, 326 U.S. 310, 316 (1945)
- Ownbey v. Morgan, 256 U.S. 94, 110-11 (1921)
- Hurtado v. California, 110 U.S. 516, 528 (1884)
- Mathews v. Eldridge, 424 U.S. 319, 347 (1976)
- In re Discipline of Babilis, 951 P.2d 207, 214 (Utah 1997)
- Traynor v. Turnage, 485 U.S. 535, 547-48 (1988)
- Radzanower v. Touche Ross & Co., 426 U.S. 148, 159 (1976) (Stevens, J., dissenting)

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