

SUPREME COURT OF CALIFORNIA

In re Lesansky

25 Cal. 4th 11 (Cal. 2001) · Decided March 1, 2001

SUMMARY

The California Supreme Court held that an attorney may be summarily disbarred under Business and Professions Code section 6102, subdivision (c), for a felony conviction involving moral turpitude even when the offense was private, unrelated to the practice of law, and did not involve a client. The court concluded that attempting to commit a lewd act on a child necessarily involves moral turpitude and demonstrates unfitness to practice law. The court ordered Stuart K. Lesansky disbarred and his name stricken from the roll of attorneys.

CASE DETAILS

COURT	Supreme Court of California
WRITING FOR THE COURT	Kennard, J.; George, C. J.; Mosk, J.; Baxter, J.; Werdegarr, J.; Chin, J.; Brown, J.
JURISDICTION	California
DECIDED	March 1, 2001
DISPOSITION	other
PROCEDURAL POSTURE	Petition for review of the State Bar Court Review Department's recommendation that petitioner be summarily disbarred following his felony conviction.
STANDARD OF REVIEW	Whether an offense necessarily involves moral turpitude is a question of law determined by the Supreme Court of California.
PRECEDENTIAL VALUE	published and precedential
PARTIES	Stuart K. Lesansky v. State Bar of California

TOPICS

- administrative law
- agency adjudication
- statutory interpretation
- plain meaning rule
- separation of powers

PRACTICE AREAS

- attorney discipline
- professional responsibility
- administrative law
- statutory interpretation

QUESTIONS PRESENTED

1. Whether Business and Professions Code section 6102, subdivision (c), authorizes summary disbarment for a felony involving moral turpitude when the criminal conduct was private, unrelated to the practice of law, and did not involve a client.
2. Whether an attempted lewd act on a child under Penal Code section 288, subdivision (c)(1), necessarily involves moral turpitude for purposes of attorney discipline.
3. Whether the attempt nature of the offense and the absence of proof that a child was actually harmed preclude summary disbarment.

HOLDINGS

1. A felony committed outside the practice of law and not against a client may support summary disbarment when it involves moral turpitude that demonstrates the attorney's unfitness to practice law.
2. Criminal conduct outside the practice of law or unrelated to a client demonstrates moral turpitude when it reveals a deficiency in a character trait necessary for law practice, constitutes a serious breach of a duty to another or society, or shows flagrant disrespect for law or societal norms likely to undermine public confidence in the legal profession.
3. An attempted lewd or lascivious act on a child who is 14 or 15 years old and at least 10 years younger than the perpetrator necessarily involves moral turpitude for purposes of attorney discipline and supports summary disbarment.

KEY QUOTATIONS

“Criminal conduct not committed in the practice of law or against a client reveals moral turpitude if it shows a deficiency in any character trait necessary for the practice of law (such as trustworthiness, honesty, fairness, candor, and fidelity to fiduciary duties) or if it involves such a serious breach of a duty owed to another or to society, or such a flagrant disrespect for the law or for societal norms, that knowledge of the attorney’s conduct would be likely to undermine public confidence in and respect for the legal profession.” (16)

“An attempt to commit a crime consists of two elements: a specific intent to commit the crime, and a direct but ineffectual act done toward its commission.” (17)

FACTUAL BACKGROUND

Stuart K. Lesansky, a California attorney admitted in 1985, pleaded nolo contendere to attempting to commit a lewd act on a child who was 14 or 15 years old and at least 10 years younger than he was. The conduct was private, did not involve a client, and did not occur in the practice of law. The State Bar Court determined that the felony necessarily involved moral turpitude and recommended summary disbarment.

PROCEDURAL HISTORY

Lesansky pleaded nolo contendere in Los Angeles Superior Court to attempting to commit a lewd act on a child under Penal Code sections 664 and 288, subdivision (c)(1). The State Bar Court placed him on interim

suspension and, without an evidentiary hearing, recommended summary disbarment. The California Supreme Court granted review and rejected his arguments that the offense lacked the required connection to fitness to practice law and did not necessarily involve moral turpitude.

DISPOSITION

other

CASES CITED

- Baker v. State Bar, 49 Cal. 3d 804, 815 n.3 (1989)
- Morrison v. State Board of Education, 1 Cal. 3d 214, 227 (1969)
- In re Johnson, 1 Cal. 4th 689, 698-699 (1992)
- In re Gossage, 23 Cal. 4th 1080, 1095, 1098 (2000)
- Stratmore v. State Bar, 14 Cal. 3d 887, 890 (1975)
- In re Rohan, 21 Cal. 3d 195, 198, 201, 205-206 (1978)
- In re Brown, 12 Cal. 4th 205, 217 (1995)
- In re Fahey, 8 Cal. 3d 842, 849 (1973)
- In re Hallinan, 43 Cal. 2d 243, 249 (1954)
- In re Calaway, 20 Cal. 3d 165, 169-170 (1977)
- In re Higbie, 6 Cal. 3d 562, 569-570, 573 (1972)
- In re Boyd, 48 Cal. 2d 69 (1957)
- J. C. Penney Casualty Insurance Co. v. M. K., 52 Cal. 3d 1009, 1025 (1991)
- People v. Kipp, 18 Cal. 4th 349, 376 (1998)
- In re Safran, 18 Cal. 3d 134, 135 (1976)
- In re Conflenti, 29 Cal. 3d 120, 124 (1981)
- In re Paguirigan, 25 Cal. 4th 1 (2001)