

SUPREME COURT OF SOUTH CAROLINA

In re Westmoreland

353 S.C. 44 (2003) · Decided February 3, 2003

SUMMARY

The Supreme Court of South Carolina publicly reprimanded an attorney who represented multiple Bright Acres Associates partners and later represented the estate of one partner in litigation adverse to other former clients. The court found violations involving competence, conflicts of interest, use of former-client information, acting as an advocate-witness, and conduct prejudicial to the administration of justice. The reprimand was imposed pursuant to an Agreement for Discipline by Consent.

CASE DETAILS

COURT	Supreme Court of South Carolina
WRITING FOR THE COURT	Per Curiam; Chief Justice Toal; Justice Moore; Justice Waller; Justice Burnett; Justice Pleicones
JURISDICTION	South Carolina
DECIDED	February 3, 2003
DISPOSITION	other
PROCEDURAL POSTURE	Attorney disciplinary proceeding submitted to the Supreme Court of South Carolina under an Agreement for Discipline by Consent pursuant to Rule 21, RLDE, Rule 413, SCACR.
PRECEDENTIAL VALUE	Published South Carolina Supreme Court disciplinary opinion

TOPICS

- commercial litigation
- real estate
- contracts

PRACTICE AREAS

- legal ethics
- attorney discipline
- conflicts of interest
- arbitration
- partnership and real estate transactions

QUESTIONS PRESENTED

- Whether respondent's admitted conduct violated the specified South Carolina Rules of Professional Conduct and Rules for Lawyer Disciplinary Enforcement.
- Whether a public reprimand was the appropriate sanction under the Agreement for Discipline by Consent.

HOLDINGS

1. Respondent violated Rules 1.1, 1.2(c), 1.2(e), 1.7, 1.8(b), 1.9(a), 1.9(c), 3.7, 8.4(a), and 8.4(e), Rule 407, SCACR, through incompetent representation, undisclosed and conflicting representations, misuse of client information, and failure to withdraw when he was likely to be a necessary witness.
2. Respondent violated Rules 7(a)(1) and 7(a)(5), Rule 413, SCACR, by violating the Rules of Professional Conduct and engaging in conduct tending to pollute the administration of justice or bring the courts or legal profession into disrepute.
3. A public reprimand was the appropriate sanction, and the court accepted the Agreement for Discipline by Consent.

KEY QUOTATIONS

“Accordingly, we accept the Agreement for Discipline by Consent and publicly reprimand respondent for his actions.” (47)

“PUBLIC REPRIMAND.” (47)

FACTUAL BACKGROUND

Respondent represented Bright Acres Associates and its partners in transactions involving the acquisition and sale of partnership interests and prepared the partnership agreement and a sale agreement. After representing the partnership and partners, he represented Leutwiler and later Leutwiler's Estate in litigation against Massey concerning the agreement he had drafted, without disclosing the conflict or obtaining Massey's consent. He later represented the Leutwiler Estate in an arbitration-related action against other former clients, failed to address conflicts and his likely role as a witness, and was ultimately disqualified from representing the estate.

PROCEDURAL HISTORY

The respondent and the Office of Disciplinary Counsel entered into an Agreement for Discipline by Consent in which respondent admitted misconduct and consented to an admonition or public reprimand. The court accepted the agreement, found that a public reprimand was appropriate, and publicly reprimanded respondent.

DISPOSITION

other

CASES CITED

- Zabinski v. Bright Acres Associates, 346 S.C. 580, 553 S.E.2d 110 (2001)
- Zabinski v. Bright Acres Associates, Op. No. 2001-MO-050 (S.C. filed September 4, 2001)