

SUPREME COURT OF CONNECTICUT

Shelton v. Statewide Grievance Committee, 277 Conn. 99

890 A.2d 104 (2006) · No. No. 17337 · Decided February 7, 2006

SUMMARY

The Connecticut Supreme Court affirmed the Appellate Court's determination that a reprimand issued by the Statewide Grievance Committee was not supported by substantial evidence meeting the clear and convincing evidence standard. The court held that the reprimand had to be rescinded rather than remanded for a new hearing, and therefore did not reach the plaintiff's due process claims.

CASE DETAILS

COURT	Supreme Court of Connecticut
WRITING FOR THE COURT	Norcott, J.; Borden, J.; Palmer, J.; Vertefeuille, J.; Zarella, J.
JURISDICTION	Connecticut
DECIDED	February 7, 2006
DOCKET	No. 17337
DISPOSITION	affirmed
PROCEDURAL POSTURE	Certified appeal by the Statewide Grievance Committee from the judgment of the Connecticut Appellate Court, which reversed in part the trial court's judgment sustaining Shelton's appeal from a disciplinary reprimand and directed the trial court to rescind the reprimand.
STANDARD OF REVIEW	Whether the grievance committee's findings and decision were supported by substantial evidence was reviewed de novo as a question of law. The court otherwise applied the substantial-evidence framework, under which it does not substitute its judgment for the committee's factual determinations and asks whether the record affords a substantial factual basis for the findings. An attorney disciplinary violation must be established by clear and convincing evidence.
PRECEDENTIAL VALUE	Published Connecticut Supreme Court opinion; precedential
PARTIES	Statewide Grievance Committee v. Adam J. Shelton

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the Appellate Court properly reviewed the sufficiency of the evidence supporting the grievance committee's reprimand even though the trial court's ruling was unclear and did not expressly decide the substantial-evidence issue.
2. Whether substantial evidence, together with the clear-and-convincing standard applicable to attorney discipline, supported the committee's finding that Shelton violated Rule 8.4(3) of the Rules of Professional Conduct.
3. Whether, after determining that the reprimand was unsupported by sufficient evidence, the Appellate Court properly directed the trial court to rescind the reprimand rather than remand for a new disciplinary hearing.

HOLDINGS

1. The Appellate Court properly reviewed whether substantial evidence supported the grievance committee's reprimand because that issue was a legal question based on an identical administrative record and the trial court necessarily had to resolve it in the committee's favor before reaching Shelton's due process claim.
2. The committee's finding that Shelton violated Rule 8.4(3) was not supported by substantial evidence and did not satisfy the requirement of clear and convincing proof.
3. When the party bearing the burden of proof fails to establish the charged violation, the reviewing court may not give that party a second opportunity to prove the case on remand; the reprimand must be rescinded rather than remanded for a new hearing.

KEY QUOTATIONS

"Nevertheless, naked allegations, unequivocally denied by the accused, are not sufficient to satisfy the committee's burden of proving a violation of the rules by clear and convincing evidence." (112)

"It is well established that in administrative, civil and criminal cases, when the party charged with the burden of proof fails to satisfy that burden, it is not entitled to a second "bite at the apple" on remand." (113)

FACTUAL BACKGROUND

Shelton represented a creditor seeking collection of a \$5,465.11 judgment against Barbara Dougherty-Shore, her former husband, and another person. Dougherty-Shore alleged that Shelton agreed to accept \$2,000 in installments as a settlement of her obligation and provide a release, but she claimed that after receiving her final payment he did not provide one. At the grievance hearing, the committee relied on Dougherty-Shore's unsworn complaint and two unsworn letters; Shelton was the only witness and denied promising to release the debt.

PROCEDURAL HISTORY

A grievance panel found probable cause to believe Shelton violated Rules of Professional Conduct 8.4(3) and 3.4. A reviewing committee reprimanded him for violating Rule 8.4(3), and the full Statewide Grievance Committee affirmed. The trial court sustained Shelton's appeal and remanded for a new hearing. The Appellate Court concluded that the reprimand was unsupported by substantial evidence and directed the trial court to render judgment rescinding it. The Supreme Court granted certification and affirmed the Appellate Court.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The judgment of the Appellate Court was affirmed, including its direction that the trial court render judgment rescinding Shelton's reprimand; no new grievance hearing was authorized.

CASES CITED

- Shelton v. Statewide Grievance Committee, 85 Conn. App. 440, 857 A.2d 432 (2004)
- Willow Springs Condominium Assn., Inc. v. Seventh BRT Development Corp., 245 Conn. 1, 717 A.2d 77 (1998)
- Connecticut Light & Power Co. v. Dept. of Public Utility Control, 216 Conn. 627, 583 A.2d 906 (1990)
- River Bend Associates, Inc. v. Conservation & Inland Wetlands Commission, 269 Conn. 57, 848 A.2d 395 (2004)
- Capozzi v. Liberty Mutual Fire Ins. Co., 229 Conn. 448, 642 A.2d 1 (1994)
- Chmielewski v. Aetna Casualty & Surety Co., 218 Conn. 646, 591 A.2d 101 (1991)
- Zahringer v. Zahringer, 262 Conn. 360, 815 A.2d 75 (2003)
- State v. McCahill, 261 Conn. 492, 811 A.2d 667 (2002)
- State v. Padua, 273 Conn. 138, 869 A.2d 192 (2005)
- State v. Theriault, 38 Conn. App. 815, 663 A.2d 423 (1995)
- Weiss v. Statewide Grievance Committee, 227 Conn. 802, 633 A.2d 282 (1993)
- Lewis v. Statewide Grievance Committee, 235 Conn. 693, 669 A.2d 1202 (1996)
- Somers v. Statewide Grievance Committee, 245 Conn. 277, 715 A.2d 712 (1998)
- Burton v. Mottolese, 267 Conn. 1, 835 A.2d 998 (2003)
- Glazer v. Dress Barn, Inc., 274 Conn. 33, 873 A.2d 929 (2005)
- State v. Meehan, 260 Conn. 372, 796 A.2d 1191 (2002)
- Suffield Development Associates Ltd. Partnership v. Society for Savings, 243 Conn. 832, 708 A.2d 1361 (1998)
- Dolgner v. Alander, 237 Conn. 272, 676 A.2d 865 (1996)
- Marbury v. Madison, 5 U.S. (1 Cranch) 137, 2 L. Ed. 60 (1803)

- Moore v. McNamara, 201 Conn. 16, 513 A.2d 660 (1986)
- State v. Cofield, 220 Conn. 38, 595 A.2d 1349 (1991)
- Burton v. United States, 196 U.S. 283, 25 S. Ct. 243, 49 L. Ed. 482 (1905)
- Shelton v. Statewide Grievance Committee, 272 Conn. 914, 866 A.2d 1285 (2005)

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