

SUPREME COURT OF KENTUCKY

James Gregory Troutman v. Kentucky Bar Association

2008-SC-00083-KB · No. 2008-SC-00083-KB · Decided December 18, 2008

SUMMARY

The Kentucky Supreme Court granted James Gregory Troutman's motion for a two-year suspension from the practice of law, retroactive to January 25, 2007. The suspension followed Troutman's Alford plea to criminal charges and the subsequent dismissal of those charges pursuant to pretrial diversion. The Court also required compliance with notice obligations and payment of \$110 in disciplinary proceeding costs.

CASE DETAILS

COURT	Supreme Court of Kentucky
JURISDICTION	Kentucky
DECIDED	December 18, 2008
DOCKET	2008-SC-00083-KB
DISPOSITION	other
PROCEDURAL POSTURE	Troutman moved the Supreme Court of Kentucky to impose a two-year suspension from the practice of law, retroactive to the date of his temporary suspension. The Kentucky Bar Association did not object.
PRECEDENTIAL VALUE	published
PARTIES	James Gregory Troutman v. Kentucky Bar Association

TOPICS

remedies probation criminal procedure

PRACTICE AREAS

legal ethics and attorney discipline professional misconduct criminal procedure

QUESTIONS PRESENTED

- Whether a two-year suspension from the practice of law, corresponding to the original length of Troutman's probationary period, was appropriate after his Alford plea and subsequent dismissal of the criminal charges.

HOLDINGS

1. A suspension from the practice of law for a period commensurate with the original two-year probationary period was appropriate, even though the criminal charges were later dismissed.

KEY QUOTATIONS

“This Court agrees with both parties that suspension for a period commensurate with the length of the original probationary period is appropriate.”

FACTUAL BACKGROUND

Troutman, a Kentucky-licensed attorney, entered an Alford plea to two counts of first-degree wanton endangerment, one count of first-degree criminal mischief, and one count of criminal littering. The charges arose from property damage and related conduct in his neighborhood, which Troutman attributed to an antihistamine overdose. The circuit court later shortened his two-year probationary period and dismissed the charges with prejudice, but Troutman conceded that his Alford plea established conduct violating SCR 3.130-8.3(b).

PROCEDURAL HISTORY

Troutman entered an Alford plea in Jefferson Circuit Court to felony and misdemeanor charges as part of a pretrial diversion agreement requiring two years of supervised probation. The Supreme Court temporarily suspended Troutman under SCR 3.166. After the circuit court shortened the probationary period and dismissed the charges with prejudice, Troutman sought a corresponding two-year disciplinary suspension, which the KBA supported. The Supreme Court granted the motion and ordered the suspension retroactive to January 25, 2007.

DISPOSITION

other

CASES CITED

- Kentucky Bar Ass'n v. Troutman, 216 S.W.3d 652 (Ky. 2007)
- Bertram v. Kentucky Bar Ass'n, 126 S.W.3d 358 (Ky. 2005)
- Kentucky Bar Ass'n v. Dunn, 90 S.W.3d 461 (Ky. 2002)
- Richendollar v. Kentucky Bar Ass'n, 60 S.W.3d 551 (Ky. 2001)

OPINION

PER CURIAM.

TO BE PUBLISHED,C~Vurf of ~6 I sUFrrxrtr ic 2008-SC-00083 -KB JAMES GREGORY TROUTMAN MOVANT V. IN SUPREME COURT KENTUCKY BAR ASSOCIATION RESPONDENT OPINION.A,NU ORDER Movant James Gregory Troutman over this Court to enter an order suspending his license to practice law in Kentucky for a period of two years, effective January 25, 2007.

The Kentucky Bar Association (KBA) states that it has no objection to Troutman's motion. This Court therefore grants the motion for a two-year suspension. Troutman was admitted to the practice of law in Kentucky on October 16, 1992. His bar roster address is 4000 Abbeywood Village Drive, Louisville, KY 40241. His KBA number is 84473.

On January 25, 2007, Troutman entered an Alford plea in the Jefferson Circuit Court to two counts of wanton endangerment in the first degree (a Class D felony), one count of criminal mischief in the first degree (a Class D felony), and one count of criminal littering (a Class A misdemeanor). Upon entry of Troutman's Alford plea, pursuant to SCR. 3.166, this Court entered a order temporarily suspending him from the practice of law.'

Troutman entered the Alford plea as part of a pretrial diversion agreement with the Commonwealth. Pursuant to that agreement, the Circuit Court ordered that Troutman undergo a two-year supervised probationary period, at the conclusion of which the indictment would be dismissed.

The charges against Troutman arose from damage to property and other conduct in and around Troutman's neighborhood late at night. Troutman asserts that his conduct was the result of taking a large amount of over-the counter allergy medication to control his severe allergies. Following his Alford plea, Troutman moved the Circuit Court to shorten the term of his probation and pretrial diversion.

He presented the Circuit Court with medical evaluations explaining that his behavior was the result of an antihistamine overdose. The physicians who evaluated Troutman were of the opinion that he was no longer impaired.

On June 10, 2008, the Circuit Court entered an order shortening the term of Troutman's probation and pretrial diversion. The court ordered that the charges against Troutman be dismissed-diverted, pursuant to KRS 533.258, with prejudice.

Although all criminal charges have been dismissed, Troutman concedes that his entry of an Alford plea is proof that he engaged in conduct that violated SCR 3.130-8.3(b) ("It is professional misconduct for a lawyer to... See Kentucky Bar Assn v. Troutman, 216 S.W.3d 652 (Ky. 2007). [c]ommit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects. ").

Troutman believes that two years, the original length of his probationary period, is an appropriate length of time for suspension of license to practice law. The KBA agrees that a suspension commensurate with the length of the probationary period is appropriate.² This Court agrees with both parties that suspension for a period commensurate with the length of the original probationary period is appropriate.

Therefore, it is hereby ORDERED that: 1. James Gregory Troutman is suspended from the practice of law in the Commonwealth of Kentucky for a period of two (2) years, retroactive to January 25, 2007. 2. Troutman shall, in accordance with SCR 3.390, notify all Courts in which he has matters pending and all clients for whom he is actively involved in litigation and similar matters of his inability to continue representation.

He shall provide copies of all letters to the Director of the Kentucky Bar Association. 3. Troutman shall, to the extent possible, immediately cancel and cease any advertising activities in which he is engaged in accordance with SCR 3.390. 2 See *Bertram v. Kentucky Bar Assn*, 126 S.W.3d 358 (Ky. 2005); *Kentucky Bar Assn v. Dunn*, 90 S.W.3d 461 (Ky. 2002); *Richendollar v. Kentucky Bar Assn*, 60 S.W.3d 551 (Ky.

2001) (suspending attorneys from the practice of law until expiration of their probationary periods). 4. Pursuant to CR 3.45 Troutman ordered to pay all costs associated with these disciplinary proceedings, certified in the amount of \$ 110. 00, for which execution may issue from this Court upon finality of this order. All sitting. All concur. ENTERED: December 18, 2008.