

COURT OF APPEALS OF THE STATE OF NEW YORK

In the Matter of Reynold N. Mason

100 N.Y.2d 56, 790 N.E.2d 769, 760 N.Y.S.2d 394 (N.Y. 2003) · Decided May 1, 2003

SUMMARY

The New York Court of Appeals accepted a judicial conduct sanction removing Supreme Court Justice Reynold N. Mason from office. The Court sustained findings that Mason commingled rent proceeds with client or escrow funds, used the escrow account for personal expenses, failed to cooperate with the Commission's investigation, and provided inconsistent explanations. The Court conducted its own review and concluded that removal was the appropriate sanction.

CASE DETAILS

COURT	Court of Appeals of the State of New York
WRITING FOR THE COURT	Per Curiam; Chief Judge Kaye; Judge Smith; Judge Ciparick; Judge Wesley; Judge Rosenblatt; Judge Graffeo; Judge Read
JURISDICTION	New York
DECIDED	May 1, 2003
DISPOSITION	approved
PROCEDURAL POSTURE	The State Commission on Judicial Conduct sustained five charges of misconduct against petitioner, a Supreme Court Justice, and determined that he should be removed from office. The Court of Appeals conducted its own plenary review and accepted the determined sanction.
STANDARD OF REVIEW	The Court of Appeals conducts its own plenary review of the facts and law to determine whether misconduct should be sustained and whether the sanction should be upheld, reviewing the record as it existed before the Commission at the time of its original determination.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Reynold N. Mason v. State Commission on Judicial Conduct

TOPICS

- administrative law
- judicial review of agency action
- appellate procedure
- landlord tenant
- real estate

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether a federal district court decision invalidating Rules Governing Judicial Conduct sections 100.1 and 100.2 required dismissal of the disciplinary proceeding and vacatur of the Commission's determination.
2. Whether Mason's commingling and personal use of funds deposited in his attorney escrow account constituted misconduct warranting removal.
3. Whether Mason's failure to cooperate with the Commission's investigation and his inconsistent explanations compounded the misconduct.
4. Whether the Court could review allegations and materials presented only in a postdetermination motion alleging prejudgment by a Commission member.
5. Whether removal was an appropriate sanction based on the record.

HOLDINGS

1. The federal district court's decision invalidating Rules Governing Judicial Conduct sections 100.1 and 100.2 did not require dismissal of the proceeding or vacatur of the Commission's determination, particularly because petitioner did not raise a constitutional challenge before the Commission or in his brief to the Court of Appeals.
2. An attorney may not commingle personal funds with funds held in trust for clients or others or use an attorney escrow account to pay personal expenses; Mason's prolonged commingling and repeated personal disbursements constituted serious misconduct.
3. Persistent failure to cooperate with the Commission's investigation and inconsistent or evasive explanations materially compounded the escrow-account misconduct.
4. A Commission decision denying reconsideration is not reviewable by the Court of Appeals, and the Court may not review materials submitted with a postdetermination motion that were not considered by the Commission; review is limited to the record before the Commission at the time of its original determination.
5. Removal from office was the appropriate sanction for Mason's prolonged and repeated escrow-account misuse, continuation of the conduct after taking the bench, failure to cooperate, and lack of candor.

KEY QUOTATIONS

“Misuse of an attorney escrow account constitutes serious misconduct that may, in some instances, result in disbarment” (60)

“Judges must be held to a higher standard of conduct than the public at large” (60-61)

“this Court does not merely echo the Commission's analysis but conducts its own plenary review of the facts and law to determine whether a finding of misconduct should be sustained and sanction upheld” (61)

FACTUAL BACKGROUND

While practicing law and later while serving as a Civil Court Judge, Mason received rent payments from his brother-in-law, who occupied a rent-stabilized apartment Mason had vacated. Mason deposited at least \$7,000 of those payments into his attorney escrow account and repeatedly used the account to pay personal expenses. During the Commission's investigation, he failed to respond to six written requests for information and later gave explanations that contradicted his earlier statements. The misconduct and lack of candor continued or were compounded after he became a judge.

PROCEDURAL HISTORY

The Commission sustained charges arising from petitioner's misuse of an attorney escrow account, failure to cooperate with the Commission's investigation, and lack of candor. Petitioner challenged the Commission's determination, arguing in part that a federal district court decision invalidating two judicial-conduct rules required dismissal and that alleged prejudgment by a Commission member tainted the proceeding. The Court of Appeals rejected those arguments, limited review of the postdetermination materials, independently reviewed the record, and accepted removal as the appropriate sanction.

DISPOSITION

approved

CASES CITED

- Spargo v New York State Commn. on Jud. Conduct, 244 F Supp 2d 72 (US Dist Ct, ND NY 2003)
- People v Kin Kan, 78 NY2d 54, 59-60 (1991)
- New York R.T. Corp. v City of New York, 275 NY 258, 265 (1937), affd 303 US 573 (1938)
- Matter of Kadish, 299 AD2d 78 (2d Dept 2002)
- Matter of Land, 299 AD2d 83 (1st Dept 2002)
- Matter of Lasher, 296 AD2d 163 (2d Dept 2002)
- Matter of Stevens, 294 AD2d 1 (1st Dept 2002), lv denied 98 NY2d 611 (2002)
- Matter of Croak, 277 AD2d 871 (3d Dept 2000)
- Matter of Summer, 238 AD2d 86 (4th Dept 1997)
- Matter of Fitzgerald, 100 NY2d 52 (2003)
- Matter of Intemann, 73 NY2d 580 (1989)
- Matter of Cooley, 53 NY2d 64 (1981)
- Matter of Shaw, 96 NY2d 7, 12 (2001)
- Matter of Going, 97 NY2d 121, 127 (2001)
- New York Constitution, article VI, § 22