

SUPREME COURT OF INDIANA

In the Matter of Frederick H. Shull

741 N.E.2d 723 (Ind. 2001) · No. No. 21S00-9906-DI-358 · Decided February 5, 2001

SUMMARY

The Supreme Court of Indiana disciplined Frederick H. Shull for intentionally failing to attend seven scheduled criminal proceedings, failing to inform his client about the proceedings, and failing to respond to disciplinary inquiries. The court found violations of Indiana Professional Conduct Rules 1.4, 3.2, 8.1(b), and 8.4(d). It suspended Shull from practicing law for at least six months without automatic reinstatement, effective March 5, 2001.

CASE DETAILS

COURT	Supreme Court of Indiana
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Indiana
DECIDED	February 5, 2001
DOCKET	No. 21S00-9906-DI-358
DISPOSITION	other
PROCEDURAL POSTURE	Attorney disciplinary proceeding initiated by the Indiana Supreme Court Disciplinary Commission. After a hearing officer found professional misconduct, the unchallenged report was submitted to the Indiana Supreme Court for final determination of violations and sanction.
STANDARD OF REVIEW	When an attorney disciplinary hearing officer's report is unchallenged, the court accepts and adopts the report's findings, while retaining final authority to determine whether disciplinary violations occurred and what sanction is appropriate.
PRECEDENTIAL VALUE	Published Indiana Supreme Court disciplinary opinion

TOPICS

criminal procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Shull violated the Indiana Rules of Professional Conduct by failing to inform his client about scheduled proceedings and the consequences of nonappearance.
2. Whether Shull violated the professional obligations to expedite litigation and obey tribunal obligations by intentionally and repeatedly failing to appear at scheduled proceedings.
3. Whether Shull violated the duty to respond to a lawful demand for information from the Disciplinary Commission.
4. Whether Shull's conduct was prejudicial to the administration of justice.
5. What disciplinary sanction was appropriate in light of the misconduct and aggravating circumstances.

HOLDINGS

1. Shull violated Professional Conduct Rule 1.4 by failing to keep his client reasonably informed about the status of the case, failing to disclose the scheduled court appearances, and failing to explain the proceedings and consequences of nonappearance sufficiently to permit informed decisions.
2. Shull violated Professional Conduct Rule 3.2 by intentionally and repeatedly failing, without excuse, to appear for scheduled court proceedings.
3. Shull violated Professional Conduct Rule 8.1(b) by refusing to respond to the Disciplinary Commission's lawful demands for information.
4. Shull violated Professional Conduct Rule 8.4(d) through a pattern of obstreperous conduct prejudicial to the administration of justice.
5. A suspension of at least six months without automatic reinstatement was appropriate for Shull's misconduct and aggravating circumstances.

KEY QUOTATIONS

“Regardless of the underlying action or reason for hearing, counsel has a professional obligation to appear as directed.” (727)

“Intentional absence from a court hearing is open defiance of a court order.” (727)

“Given our finding of aggravating circumstances, we conclude that a suspension of six (6) months without automatic reinstatement is appropriate under the circumstances.” (727)

FACTUAL BACKGROUND

Shull represented a client charged with domestic battery and intentionally failed to appear at seven scheduled court proceedings, including a scheduled trial. He did not inform the client of the hearing dates or the consequences of failing to appear, and the trial court proceeded in the absence of Shull and his client before the charges were later dismissed. Shull also ignored three requests from the Disciplinary Commission for information about the matter.

PROCEDURAL HISTORY

The Disciplinary Commission charged Shull with multiple violations of the Indiana Rules of Professional Conduct arising from his repeated failure to attend his client's criminal proceedings, failure to inform the client of those proceedings, and failure to respond to the Commission's investigation. A hearing officer conducted a hearing and found professional misconduct. Because the hearing officer's report was unchallenged, the Supreme Court accepted and adopted its findings, independently determined the violations and sanction, and ordered a six-month suspension without automatic reinstatement.

DISPOSITION

other

CASES CITED

- Matter of Campbell, 702 N.E.2d 692 (Ind. 1998)
- Matter of Mears, 723 N.E.2d 873 (Ind. 2000)
- Matter of McCord, 722 N.E.2d 820 (Ind. 2000)