

Supreme Court of Kentucky

2020-SC-0566-KB

LINDSEY SCOTT

MOVANT

V.

IN SUPREME COURT

KENTUCKY BAR ASSOCIATION

RESPONDENT

OPINION AND ORDER

Based on a negotiated sanction agreement with the Kentucky Bar Association (KBA), on November 29, 2020, Lindsey Scott moved for consensual discipline under Supreme Court Rule (SCR) 3.480(2). Scott, with agreement of the KBA, requests an order imposing a 180-day suspension, probated for two years on condition he commit no new crimes—neither misdemeanors nor felonies; receive no new disciplinary charges; file quarterly proof with the Office of Bar Counsel showing his continued participation in counseling and/or mental health treatment; timely pay KBA membership dues; timely satisfy all continuing legal education requirements; and, pay all costs associated with the investigation and prosecution of this proceeding pursuant to SCR 3.450. Because Scott and the KBA have agreed on the sanction, and caselaw supports the proposed resolution in this matter, we hold this sanction to be the appropriate discipline for Scott’s conduct and grant his motion.

Scott's KBA member number is 89417 and his bar roster address is 600 Riverwood Place, Louisville, Kentucky 40207. He was admitted to practice law in the Commonwealth of Kentucky on October 11, 2002.

Just after 8:00 a.m. on July 17, 2019, a deputy heard a voice call for help from the second floor of the Jefferson County Hall of Justice. The deputy responded and found the victim restraining Scott with both men covered in blood. The victim, also an attorney, said Scott had attacked him with an aerosol can for no reason. The victim suffered multiple head and facial lacerations for which he was transported to the hospital and received stitches.

On July 22, 2019, Scott was arraigned on a charge of second-degree assault, a Class C felony. On August 30, 2019, he pled guilty to an amended charge of fourth-degree assault, a Class A misdemeanor, for which he agreed to serve 180 days, conditionally discharged for two years, provided he commit no new offenses, have no contact with the victim, and participate in mental health/anger management treatment. *Commonwealth v. Scott*, Jefferson District Court 19-F-007691.

Scott acknowledges he suffered from Major Depressive Disorder and Chronic Post Traumatic Stress Disorder at the time of the incident. He currently participates in mental health treatment through the VA Medical Center in Louisville, Kentucky.

In 1983, Scott was convicted of raping and attempting to kill the wife of a fellow Marine but was ultimately exonerated. Scott maintains eight years of incarceration before being freed "had a profound and lasting effect on him."

As a result of the unprovoked attack, and resulting misdemeanor conviction, the Inquiry Commission opened KBA File No. 19-DIS-0175, and on October 15, 2019, issued a single charge alleging Scott violated SCR 3.130(8.4)(b) which provides, “[i]t is professional misconduct for a lawyer to: . . . (b) commit a criminal act that reflects adversely on the lawyer’s honesty, trustworthiness or fitness as a lawyer in other respects[.]” The Commission maintains Scott “violated this Rule by committing a criminal act which led to his conviction of Assault 4th Degree, an A misdemeanor.”

Scott admits he violated the cited rule. He and the KBA have agreed to a negotiated sanction to resolve this matter. Under SCR 3.480(2), “[t]he Court may consider negotiated sanctions of disciplinary investigations, complaints or charges[.]” Scott now moves this Court to accept this consensual discipline for his violation of SCR 3.130(8.4)(b). He urges us to impose a 180-day suspension probated for two years on the condition he commit no further crimes; receive no new disciplinary charges; file quarterly proof with the Office of Bar Counsel showing he continues participating in counseling and/or mental health treatment; timely pay his KBA membership dues; timely satisfy all continuing legal education requirements; and, pursuant to SCR 3.450, pay all costs associated with the investigation and prosecution of this proceeding. The KBA, noting this is Scott’s first disciplinary charge, and having acknowledged its review of Scott’s motion and analogous case law, does not object to the proposed discipline and requests it be ordered.

In support of the negotiated sanction, the KBA cites this Court to *Kentucky Bar Association v. Colston*, 54 S.W.3d 158 (Ky. 2001), *Bunton v. Kentucky Bar Association*, 473 S.W.3d 77 (Ky. 2015), and *Rampulla v. Kentucky Bar Association*, 345 S.W.3d 849 (Ky. 2011). While the facts of each case vary, all three involve attorneys entering pleas to criminal charges.

In the first case, Colston acted erratically due to improperly prescribed medication for depression. He pled guilty to multiple counts of both sending harassing communications and violating a protective order. He received a public reprimand and a six-month suspension from the practice of law, probated for two years, conditioned on continued receipt of monthly mental health treatment; Colston's mental health provider sending quarterly reports to the KBA confirming his continuing mental health treatment; Colston practicing law while being supervised by an attorney approved by the KBA; and, payment to the KBA of all costs related to the investigation and proceedings. Any violation within the two years would authorize the KBA to seek a show cause order explaining why the six-month suspension should not be imposed; and, upon Colston's full compliance with all requirements, at the expiration of the two-year probation period, the order of suspension would terminate and all responsibilities of the designated mental health professional and supervising attorney would cease.

In the second case, Bunton received a one-year suspension, probated for two years, and conditioned on receipt of no new criminal or disciplinary charges, and full compliance with the terms of her conditional discharge in *Commonwealth v. Bunton*, Jefferson Circuit Court No. 10-CR-02767. In her

role as Director of the Metro Louisville Department of Housing and Family Services, Bunton had entered an *Alford*¹ plea to two counts of first-degree official misconduct, a Class A misdemeanor, for knowingly allowing her mother to receive public benefits. The KBA charged Bunton with violating SCR 3.130(8.4)(c) due to “professional misconduct in ‘engaging in conduct involving dishonesty, fraud, deceit or misrepresentation.’” *Bunton*, 473 S.W.3d at 78. Upon review of the record, ethical standards and authorities, this Court determined the proposed discipline—to which the KBA did not object—was appropriate.

In the third case, in 2005, Rampulla² pled guilty to possessing drug paraphernalia—a misdemeanor—for which he served seven days in jail. Two years later he was stopped for a traffic violation and following a vehicle search was also charged with first-degree possession of cocaine and possession of drug paraphernalia, second offense. Rampulla began drug treatment at the VA Hospital in Lexington which included counseling and random drug testing. He also began a three-year participation agreement with KYLAP³ which he successfully completed.

Rampulla admitted his conduct violated SCR 3.130(8.4)(b). He and the KBA agreed to a negotiated sanction and asked this Court to impose a 181-day suspension from the practice of law, with 91 days being probated for three

¹ *North Carolina v. Alford*, 400 U.S. 25 (1970).

² Unlike Scott, Rampulla had two prior disciplinary actions.

³ Kentucky Lawyer Assistance Program.

years so long as he successfully completed the KYLAP agreement, committed no new misdemeanors or felonies, and incurred no new disciplinary charges.

Based on the foregoing authorities, Scott's lack of prior disciplinary record, and his cooperative nature throughout the proceedings, the KBA concluded a 180-day suspension, probated for two years with conditions, was the appropriate sanction in this matter. After reviewing the allegations, Scott's lack of prior disciplinary record, and the cases cited by the KBA, this Court concludes the discipline proposed by Scott, and agreed to by the KBA, is appropriate.

It is therefore ORDERED:

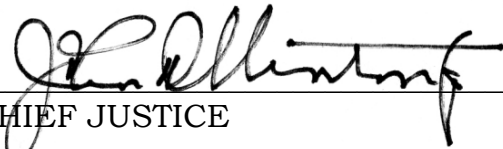
1. Lindsey Scott's Motion for Consensual Discipline is granted pursuant to SCR 3.480(2).

2. Scott is adjudged guilty of the above-described and admitted violation of SCR 3.130(8.4)(b) and is suspended from the practice of law for 180 days for said violation, with such suspension being probated for a period of two years on the condition he commit no new crimes—neither misdemeanors nor felonies; receive no new disciplinary charges; file proof quarterly with the Office of Bar Counsel showing his continued participation in counseling and/or mental health treatment; timely pay his KBA membership dues; and, satisfy all continuing legal education requirements.

3. Pursuant to SCR 3.450, Scott is directed to pay all costs associated with this disciplinary proceeding against him amounting to \$85.01.

All sitting. All concur.

ENTERED: January 21, 2021.



CHIEF JUSTICE