

Summary of SC92923, *In re Lawrence Joseph Hess*

Original attorney disciplinary proceeding

Argued and submitted May 22, 2013; opinion issued August 27, 2013

Attorneys: The chief disciplinary counsel was represented by Alan D. Pratzel and Sharon K. Weedin of the chief disciplinary counsel's office in Jefferson City, (573) 635-7400. Hess represented himself, *pro se*.

This summary is not part of the opinion of the Court. It has been prepared by the communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.

Overview: The chief disciplinary counsel seeks reciprocal discipline on the Missouri law license of an attorney after his Illinois license was disciplined. The Supreme Court of Missouri suspends the attorney's Missouri license for violations of Missouri's analogous (similar) rules of professional conduct. Judge Zel M. Fischer authors the opinion, in which Judges Russell and Wilson join; Judge Breckenridge concurs in a separate opinion; and Judge Teitelman dissents in a separate opinion, in which Judges Stith and Draper join.

Facts: Lawrence Hess was terminated from the law firm where he worked, and he claimed the firm owed him compensation. He filed lawsuits and attorney's liens against former clients claiming they owed him money for legal services. The circuit court found Hess's claims were meritless, dismissed them with prejudice and sanctioned Hess. The Illinois disciplinary hearing board determined Hess knowingly and deliberately filed frivolous claims and liens for the purpose of pressuring his former employer during his employment dispute, and the Illinois Supreme Court suspended his Illinois law license for violating two Illinois rules of professional conduct.

SUSPENDED WITH NO LEAVE TO APPLY FOR REINSTATEMENT FOR SIX MONTHS.

Court en banc holds: Hess is suspended indefinitely from the practice of law in Missouri without leave to apply for reinstatement for six months. Hess violated Missouri Supreme Court Rule 4-3.1, Meritorious Claims and Contentions, by expressly authorizing the filing of attorney's liens and lawsuits alleging breach of contract, breach of promise, interference with attorney's liens, and unjust enrichment, when those liens and claims were frivolous and meritless. Hess also violated Rule 4-8.4(d)'s admonition not to "engage in conduct prejudicial to the administration of justice" because those frivolous liens and claims wasted the time and resources of the courts, delayed the former clients' receipt of their settlement money, required the hiring of additional legal counsel, and harmed the integrity of the profession. The fact that Hess hired another attorney to file the

frivolous claims on his behalf does not relieve him of his duties as an attorney to abide by the rules of professional conduct.

Concurring opinion by Judge Breckenridge: The author agrees that Hess violated Rule 4-8.4(d), but believes Rule 4-3.1 applies to an attorney acting as an advocate and not as a client.

Dissenting opinion by Judge Teitelman: The author dissents believing Rule 4-3.1 applies to a lawyer who is acting as an advocate and not as a client, and because the alleged violation of Rule 4-8.4(d) was based on the alleged violation of Rule 4-3.1 neither Missouri rule was violated.