Summary of SC99818, *In re: Dan K. Purdy*
Original disciplinary proceeding
Argued and submitted January 25, 2023; opinion issued March 21, 2023

Attorneys: The chief disciplinary counsel was represented by Laura E. Elsbury and Carolyn Gail Vasterling of the chief disciplinary counsel's office in Jefferson City, (573) 635-7400; Purdy was represented by Daniel F. Church of Morrow Willnauer Church LLC in Kansas City, (816) 382-1382.

This summary is not part of the opinion of the Court. It is provided by 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: An attorney, Dan Purdy, challenges a disciplinary hearing panel's decision recommending he be disbarred as a result of inappropriate sexual advances toward and touching of six female clients. In a 4-3 decision written by Judge George W. Draper III, the Supreme Court of Missouri suspends the attorney indefinitely without leave to apply for reinstatement for one year. The attorney violated several rules of professional conduct when he engaged in unwanted, improper sexual advances and touching of six vulnerable clients. Suspension is the appropriate discipline.

Judge Zel M. Fischer dissents. He would find disbarment is the only appropriate discipline because Purdy sexually assaulted six of his clients and continued to sexually assault his clients after this case was filed against Purdy. Judge Fischer writes to explain there may have been a time when a temporary suspension was appropriate for cases of attorneys sexually assaulting their clients, but that time is long gone. Such conduct is unbecoming of a lawyer and the legal profession, and will not protect the public or preserve the legal profession.

Facts: Dan Purdy was admitted to practice law in 1966. In December 2021, this Court issued an interim suspension of Purdy's license after reports of Purdy's conduct with six female clients. In September 2020, video footage showed Purdy acting inappropriately with four female clients in the Vernon County jail. His behavior included pulling the women into his body, reaching underneath their jumpsuits and kissing them on the mouth. Each woman confirmed Purdy's sexual advances were unwanted. In March 2021, video footage from the St. Clair County court showed Purdy touched his female client's buttocks. In September 2021, another client video recorded Purdy while she rode in his vehicle. The video shows Purdy reach across the seat, place his hand inside the client's blouse and rub her breast. The chief disciplinary counsel charged Purdy with multiple counts of professional misconduct. Purdy and the chief disciplinary counsel filed with the disciplinary hearing panel a joint stipulation of facts, law and recommended discipline. Following an evidentiary hearing, the panel recommended Purdy be disbarred. Purdy rejected the panel's recommendation, arguing he should be suspended only for six months.

SUSPENDED.

Court en banc holds: (1) Purdy violated Rule 4-1.7(a)(2). He represented clients when there was a concurrent conflict of interest causing a significant risk that the representation of one or

more clients will be materially limited by a lawyer's personal interests. Purdy's personal and sexual interests interfered with his clients' legal needs.

(2) Purdy violated Rule 4-8.4(d). He engaged in conduct prejudicial to the administration of justice when he placed his own interests above his client's legal needs by making sexual advances and engaging in unwanted and improper touching.

(3) Purdy violated Rule 4-8.4(g). His sexual advances and unwanted touching of his female clients constituted harassment, bias, and prejudice.

(4) An indefinite suspension without leave to apply for reinstatement for one year is the appropriate discipline. Purdy's most egregious act of misconduct was his failure to avoid conflicts of interest in violation of Rule 4-1.7(a)(2). Suspension is generally appropriate when a lawyer knows of a conflict of interest and does not fully disclose to a client the possible effect of that conflict, and causes injury or potential injury to a client. This Court finds insufficient mitigating factors to lessen the discipline imposed.

Dissenting opinion by Judge Fischer: The author would disbar Purdy. He emphasizes the egregious and outrageous nature of Purdy's conduct and would find a temporary suspension is no longer an adequate punishment for sexually assaulting or harassing a client. He would hold Purdy's conduct is unbecoming of a lawyer and of the legal profession, and anything less than disbarment will not protect the public or preserve the legal profession.