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2002 SC 14

IN THE SUPREME COURT OF THE STATE OF KANSAS

ORDER

RULES RELATING TO DISCIPLINE OF ATTORNEYS

RULE 203

TYPES OF DISCIPLINE

Supreme Court Rule 203(d)(1)(iv) and Supreme Court Rule 203(d)(2)(i) are hereby amended, effective February 27, 2002, as follows:

(d)(1) DOCKETED COMPLAINTS

- (iv) Consideration by the Review Committee. Review Committee members shall review all materials forwarded by the Disciplinary Administrator and the Respondent when considering the suitability of the complaint and the Respondent for eligibility under the Attorney Diversion Program. The Review Committee shall also consider the likely effectiveness of the proposed plan in resolving the situation to the Complainant's satisfaction and in preventing similar misconduct by the Respondent in the future. The Review Committee may make a referral to the Attorney Diversion Program or take any action permitted under Supreme Court Rule 210(c).

A Review Committee referral to the diversion program is equivalent to a finding under Supreme Court Rule 210(c) that there is probable cause to believe that the Respondent has violated the Kansas Rules of Professional Conduct, Rule 226. That finding will remain confidential despite Rule 222(d) if the diversion is completed successfully. ~~When the Review Committee orders formal charges, the Hearing Panel designated under Supreme Court Rule 211 or the Supreme Court may later refer the complaint to the Attorney Diversion Program.~~

(d)(2) REFERRAL TO THE ATTORNEY DIVERSION PROGRAM

- (i) ~~Effect of Requesting or Agreeing to a Diversion Program. A diversion request or agreement by a Respondent is equivalent to a stipulation to the factual allegations identified as attorney misconduct in the Disciplinary Administrator's report to the Review Committee or to a mutually agreed upon modification to those allegations.~~ *Effect of Entering into Diversion Agreement. By entering into a diversion agreement, the Respondent stipulates to the factual allegations and rule violations contained in the Rule 204 report or to the factual allegations and rule violations that can be mutually agreed upon by the Disciplinary Administrator and the Respondent.*

RULE 210

INVESTIGATIONS

Supreme Court Rule 210(c) is hereby amended, effective February 27, 2002, as follows:

(c) Upon the conclusion of an initial investigation, the Disciplinary Administrator shall recommend to the review committee dismissal of the complaint, *referral to the Attorney Diversion Program*, informal admonition of the attorney concerned, or prosecution of formal charges before a hearing panel. Disposition shall thereupon be made by a majority vote of the review committee, unless it directs further investigation. A complaint shall not be referred for panel hearing, *referred to the Attorney Diversion Program*, or the discipline of informal admonition imposed unless the review committee finds by a majority vote that there is probable cause to believe there has been a violation of the Attorney's Oath or the disciplinary rules of the Supreme Court.

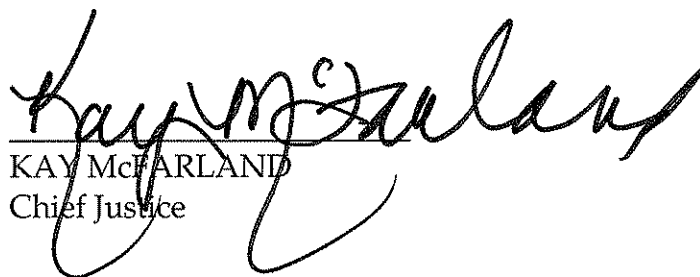
RULE 211

FORMAL HEARINGS

Supreme Court Rule 211(c) is hereby amended, effective February 27, 2002, as follows:

(c) ~~Following the service of the answer, or upon respondent's failure to answer, and upon completion of any additional investigation deemed necessary or advisable by the Disciplinary Administrator, the matter shall be set for hearing by the presiding officer of the panel.~~ *At any time after the Review Committee has ordered prosecution of formal charges before a hearing panel, pursuant to Supreme Court Rule 210(c), the Disciplinary Administrator shall schedule the matter for hearing.*

BY ORDER OF THE COURT this 8th day of March, 2002.

  
KAY McFARLAND  
Chief Justice