

MASSACHUSETTS SUPREME JUDICIAL COURT

Gorbatova v. Semuels

462 Mass. 1012 (2012) · Decided May 23, 2012

SUMMARY

The Massachusetts Supreme Judicial Court affirmed dismissal of a petition seeking disciplinary action against an attorney who had acted as an administrative hearing officer. The court held that private individuals do not have a private right of action to commence a court proceeding seeking attorney discipline; such complaints are ordinarily prosecuted by the Board of Bar Overseers. The petitioner’s recourse was to file a complaint with the Board of Bar Overseers.

CASE DETAILS

COURT	Massachusetts Supreme Judicial Court
JURISDICTION	Massachusetts
DECIDED	May 23, 2012
DISPOSITION	affirmed
PROCEDURAL POSTURE	The petitioner appealed from a single justice's dismissal of her petition seeking disciplinary action against an attorney who had acted as a hearing officer in an administrative proceeding.
STANDARD OF REVIEW	The court reviewed the legal correctness of the dismissal.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Valentina P. Gorbatova, as guardian for Gennadiy Gorbatov v. Joel M. Semuels

TOPICS

- administrative law
- agency adjudication
- civil procedure
- appellate procedure

PRACTICE AREAS

- administrative law
- civil procedure
- appellate procedure
- legal ethics

QUESTIONS PRESENTED

- Whether a private individual has a private right of action to commence a court proceeding seeking disciplinary action against an attorney.

2. Whether dismissal was proper regardless of whether the petition was treated as one under G. L. c. 211, § 3.

HOLDINGS

1. A private individual has no private right of action to commence a court proceeding seeking disciplinary action against an attorney; disciplinary complaints are ordinarily prosecuted by the Board of Bar Overseers.
2. It was irrelevant whether the single justice treated the petition as one under G. L. c. 211, § 3 or otherwise, because the petition failed for lack of a private right of action.

KEY QUOTATIONS

“There simply is no such private right of action.” (1013)

“In seeking disciplinary action against the defendant, the plaintiff is not properly before the court.” (1012)

“A citizen filing a complaint ... is not a party to any action taken against the attorney, nor are the citizen’s rights jeopardized. As in the case of a criminal prosecution, the complainant may be a witness, but he may not appeal or participate as a party to the litigation.” (1012)

FACTUAL BACKGROUND

Samuels served as a hearing officer for the Executive Office of Elder Affairs and issued a final decision reducing home care services for Gorbatova's husband. Gorbatova, acting as her husband's guardian, sought disciplinary action against Samuels based on alleged professional-conduct violations during the hearing. She attempted to pursue the disciplinary matter directly in court rather than through the Board of Bar Overseers.

PROCEDURAL HISTORY

Gorbatova filed a county court petition seeking disciplinary action against Joel M. Samuels for alleged violations of the Massachusetts Rules of Professional Conduct during an administrative hearing. The single justice treated the petition as one under G. L. c. 211, § 3, determined that Gorbatova lacked a private right of action, and dismissed it. The Supreme Judicial Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Slotnick v. Pike, 374 Mass. 822, 822 (1977)
- Binns v. Board of Bar Overseers, 369 Mass. 975 (1976)
- Matter of Keenan, 313 Mass. 186, 204 (1943)
- Boston Bar Ass’n v. Casey, 211 Mass. 187, 191-192 (1912)
- Matter of a Request for an Investigation of an Attorney, 449 Mass. 1013, 1014 (2007)

