

SUPREME COURT OF OKLAHOMA

In the Matter of the Reinstatement of Kerr

2015 OK 9 · No. SCBD-6158 · Decided March 3, 2015

SUMMARY

The Oklahoma Supreme Court grants Robert Samuel Kerr IV's petition for reinstatement to the Oklahoma Bar Association after his suspension for two years and one day. Applying de novo review and the clear-and-convincing-evidence standard, the court finds that Kerr satisfied the requirements for reinstatement and had demonstrated rehabilitation and present moral fitness. The court conditions reinstatement on payment of \$933.52 in costs within 90 days after the opinion becomes final.

CASE DETAILS

COURT	Supreme Court of Oklahoma
WRITING FOR THE COURT	Watt, J.; Reif, C.J.; Combs, V.C.J.; Winchester, J.; Edmondson, J.; Taylor, J.; Colbert, J.
JURISDICTION	Oklahoma
DECIDED	March 3, 2015
DOCKET	SCBD-6158
DISPOSITION	other
PROCEDURAL POSTURE	Petition for reinstatement to membership in the Oklahoma Bar Association after a suspension from the practice of law for two years and one day.
STANDARD OF REVIEW	De novo review. The trial panel's findings and recommendation are advisory and are not binding on the Supreme Court, although they are entitled to great weight.
PRECEDENTIAL VALUE	Published Oklahoma Supreme Court opinion; the opinion header states that it had not yet been released for publication and was subject to revision or withdrawal.
PARTIES	Robert Samuel Kerr, IV v. Oklahoma Bar Association

TOPICS

- appellate procedure
- standard of review

PRACTICE AREAS

legal ethics and professional responsibility

attorney reinstatement

bar discipline

appellate procedure

QUESTIONS PRESENTED

1. Whether Kerr established by clear and convincing evidence that his conduct would conform to the high standards required of an Oklahoma Bar member if reinstated.
2. Whether the Supreme Court should accept the Professional Responsibility Tribunal's unanimous recommendation and reinstate Kerr after independently reviewing the evidence de novo.
3. Whether costs of \$933.52 should be imposed as a condition of reinstatement.

HOLDINGS

1. Kerr established by clear and convincing evidence that, if readmitted, his conduct would conform to the high standards required of a member of the Oklahoma Bar, and the evidence supported his present moral fitness, rehabilitation, competence, and compliance with reinstatement requirements.
2. The trial panel's recommendation was advisory; the Supreme Court retained the nondelegable constitutional responsibility to regulate the practice and ethics of Oklahoma attorneys and was bound to make its own de novo determination.
3. Reinstatement was conditioned on Kerr's payment of \$933.52 in costs within ninety days after the opinion became final.

KEY QUOTATIONS

"It is this Court's nondelegable, constitutional responsibility to regulate both the practice and the ethics, licensure, and discipline of practitioners of the law." (§ 6)

"An applicant seeking reinstatement to the practice of law bears a heavy burden which is the same whether the attorney was disbarred or suspended for two years and one day." (§ 7)

"Upon a de novo review, we grant the attorney's application, supported by clear and convincing evidence." (§ 22)

FACTUAL BACKGROUND

Kerr was admitted to the Oklahoma Bar in 2006 and later participated in a series of steps to offer a bribe to an Edmond police officer in connection with a client's driver's-license revocation hearing. He was charged with offering a bribe, but under a plea agreement the charge was reduced to misdemeanor obstruction of a public officer; he received a deferred sentence and probation, which he completed, and the criminal case was dismissed. During his suspension, Kerr did not practice law, accepted responsibility for his misconduct, expressed remorse, gained business experience, pursued continuing legal education, and presented testimony from employers, colleagues, attorneys, family, and community members supporting his rehabilitation and fitness to practice.

PROCEDURAL HISTORY

Kerr was suspended for two years and one day beginning April 19, 2012, following an Alford plea to misdemeanor obstruction of a public officer. After serving more than two years of the suspension, he filed a petition for reinstatement on August 12, 2014. A Professional Responsibility Tribunal trial panel held a reinstatement hearing, unanimously recommended reinstatement, and the Oklahoma Bar Association supported the petition. The Oklahoma Supreme Court conducted a de novo review and granted reinstatement subject to payment of costs.

DISPOSITION

other

CASES CITED

- In re Reinstatement of Otis, 2007 OK 82, ¶ 7, 175 P.3d 357
- In re Reinstatement of Massey, 2006 OK 21, ¶ 12, 136 P.3d 610
- Matter of Reinstatement of Blevins, 2002 OK 78, ¶ 3, 59 P.3d 510
- State ex rel. Oklahoma Bar Ass'n v. Combs, 2008 OK 96, ¶ 11, 202 P.3d 803
- Tweedy v. Oklahoma Bar Ass'n, 1981 OK 12, ¶ 4, 624 P.2d 1049
- State ex rel. Oklahoma Bar Ass'n v. Hulett, 2008 OK 38, ¶ 4, 183 P.3d 1014
- Matter of Reinstatement of Jones, 2006 OK 33, ¶ 7, 142 P.3d 380
- In re Reinstatement of Holden, 2003 OK 28, ¶ 5, 66 P.3d 416
- Matter of Reinstatement of Kamins, 1988 OK 32, ¶ 18, 752 P.2d 1125
- State ex rel. Oklahoma Bar Ass'n v. Besly, 2006 OK 18, ¶ 2, 136 P.3d 590
- Matter of Reinstatement of Rhoads, 2005 OK 53, ¶ 2, 116 P.3d 187
- State ex rel. Oklahoma Bar Ass'n v. Raskin, 1982 OK 39, ¶ 11, 642 P.2d 262
- Matter of Reinstatement of Pierce, 1996 OK 65, ¶ 19, 919 P.2d 422
- Matter of Reinstatement of Jones, II, 2009 OK 1, ¶ 4, 203 P.3d 909
- In re Reinstatement of Fraley, 2005 OK 39, ¶ 37, 115 P.3d 842
- In re Reinstatement of Page, 2004 OK 49, ¶ 3, 94 P.3d 80
- In re Reinstatement of Anderson, 2002 OK 64, ¶ 4, 51 P.3d 581
- Matter of Reinstatement of Katz, 1995 OK 115, ¶ 20, 907 P.2d 1029
- Matter of Reinstatement of Seelye, 2005 OK 34, ¶ 4, 115 P.3d 836
- Matter of Reinstatement of Johnston, 2007 OK 46, ¶ 13, 162 P.3d 922
- Matter of Reinstatement of Gassaway, 2002 OK 48, ¶ 5, 48 P.3d 805
- Matter of Reinstatement of Wright, 1995 OK 128, ¶ 19, 907 P.2d 1060
- State ex rel. Oklahoma Bar Ass'n v. Samara, 1989 OK 80, ¶ 10, 775 P.2d 806
- In re Reinstatement of Pacenza, 2009 OK 9, fn. 37, 204 P.3d 58
- State ex rel. Oklahoma Bar Ass'n v. Pacenza, 2006 OK 23, 136 P.3d 616

