

SUPREME COURT OF OKLAHOMA

State ex rel. Oklahoma Bar Ass'n v. Sheridan

2004 OK 35 (Okla. 2004) · Decided May 17, 2004

SUMMARY

The Oklahoma Supreme Court approved John H.T. Sheridan’s resignation from the Oklahoma Bar Association while disciplinary proceedings were pending. The court ordered that his name be stricken from the roll of attorneys, barred reinstatement applications for five years, and imposed client-notification and Client Security Fund repayment requirements.

CASE DETAILS

COURT	Supreme Court of Oklahoma
WRITING FOR THE COURT	All Justices
JURISDICTION	Oklahoma
DECIDED	May 17, 2004
DISPOSITION	approved
PROCEDURAL POSTURE	Original attorney-discipline proceeding on the Oklahoma Bar Association's application to approve John H.T. Sheridan's resignation from the Oklahoma bar pending disciplinary proceedings.
PRECEDENTIAL VALUE	Published Oklahoma Supreme Court opinion
PARTIES	State ex rel. Oklahoma Bar Association v. John H.T. Sheridan

TOPICS

appellate procedure

PRACTICE AREAS

legal ethics attorney discipline professional responsibility

QUESTIONS PRESENTED

- Whether Sheridan's resignation pending disciplinary proceedings satisfied the requirements of Rule 8.1 of the Rules Governing Disciplinary Proceedings.
- Whether the resignation should be approved and made effective as of the date the application was filed.
- What consequences follow from approval of a resignation pending disciplinary proceedings.

HOLDINGS

1. Sheridan's resignation complied with all requirements of Rule 8.1 of the Rules Governing Disciplinary Proceedings and should be approved.
2. The approved resignation was effective March 24, 2004, the date the application was filed.
3. Because resignation pending disciplinary proceedings is tantamount to disbarment, Sheridan's name was stricken from the roll of attorneys, he could not seek reinstatement for five years, and he was required to notify clients and repay any Client Security Fund amounts as a condition of reinstatement.

KEY QUOTATIONS

“Because resignation pending disciplinary proceedings is tantamount to disbarment, the Respondent may not make application for reinstatement prior to the expiration of five years from the date of this order.” (556; ¶ 2)

FACTUAL BACKGROUND

John H.T. Sheridan submitted a written affidavit of resignation from the Oklahoma Bar Association on March 24, 2004, while five disciplinary matters were pending. The affidavit stated that the resignation was voluntary, free of coercion or duress, and made with full awareness of its consequences. The pending grievances alleged misconduct involving trust-account funds, failure to safeguard or properly use client funds, inadequate communication and accounting, failure to complete legal matters, and failure to withdraw properly from representation.

PROCEDURAL HISTORY

Sheridan submitted a written affidavit resigning from the Oklahoma Bar Association while five disciplinary grievances were pending. The Oklahoma Bar Association applied for approval of the resignation, and the Supreme Court of Oklahoma approved it, ordered Sheridan's name stricken from the roll of attorneys, and imposed the consequences specified in the order.

DISPOSITION

approved

OPINION

PER CURIAM.

ORDER APPROVING RESIGNATION FROM OKLAHOMA BAR ASSOCIATION PENDING DISCIPLINARY PROCEEDINGS ¶ 1 Upon consideration of the Oklahoma Bar Association's application for an order approving the resignation of John H.T. Sheridan pending disciplinary proceedings, this Court finds: 1.

On March 24, 2004, the Respondent submitted his written affidavit of resignation from membership in the Oklahoma Bar Association pending disciplinary proceedings. 2. Respondent's

affidavit of resignation reflects: a) it was freely and voluntarily rendered; b) he was not subject to coercion or duress; and c) he was fully aware of the consequences of submitting his resignation.

3. Respondent states the following in his affidavit of resignation: I am aware the following proceedings are currently pending: (a) DC 03-132, is a grievance filed by the General Counsel's office of the Oklahoma Bar Association.

The grievance alleges the Respondent paid for a Continuing Legal Education Seminar with a check from a trust account. The trust account was closed and there were no funds available in the account to pay the check when it was written. (b) DC 03-252, a grievance filed by Har-lin Lee Sanders, a former client of the Respondent.

The grievance alleges Respondent received a check from the client that was to be specifically used to pay the deposition costs of a medical expert. The medical expert was never paid by Respondent and funds received from the client were not used for their intended purpose. (c) DC 03-330, a grievance filed by Lisa Maul.

The grievance alleges Respondent failed to provide an accounting when requested by the client and failed to properly withdraw from the case upon termination by the client. (d) DC 04-002, a grievance filed by Jeff Nichols, a former client.

The grievance alleges Respondent received eight hundred-forty dollars (\$840) to handle a child support matter for Mr. Nichols. The grievance alleges Respondent failed to complete the matter and failed to complete any substantial work on behalf of the client. (e) DC 04-92, a grievance filed by Richard Ellis, a former client. This grievance alleges Respondent was paid one thousand dollars (\$1,000) in a criminal matter.

The grievance alleges Respondent only appeared at one hearing and failed to complete the matter and failed to return phone calls from the client. 4. Respondent is aware that the allegations set forth herein, if proven, would constitute violations of Rule 1.4, Rules Governing Professional Conduct; and Rules 1.1, 1.3, 1.4, 1.15, 3.2, and 8.4, Oklahoma Rules of Professional Conduct, 5 O.S. ch.1, app.3-A, and his oath as an attorney.

5. Respondent's resignation pending disciplinary proceedings is in compliance with all the requirements set forth in Rule 8.1, Rules Governing Disciplinary Proceedings, 5 O.S., ch.1, app.1-A, and it should be approved and as requested be effective March 24, 2004, the date the application was filed. 6.

The Oklahoma Bar Association has waived any costs incurred in this matter. ¶ 2 IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the name of JOHN H.T. SHERIDAN be stricken from the roll of attorneys. Because resignation pending disciplinary

proceedings is tantamount to disbarment, the Respondent may *556not make application for reinstatement prior to the expiration of five years from the date of this order.

Pursuant to Rule 9.1, Rules Governing Disciplinary Proceedings, 5 O.S., ch.1, app.1-A, Respondent shall notify all of his clients having legal business pending with him within twenty days, by certified mail, of his inability to represent them and of the necessity for promptly retaining new counsel. Repayment to the Client Security Fund for any monies expended because of the malfeasance or nonfeasance of the attorney shall be a condition of reinstatement. ¶ 3 DONE BY ORDER OF THE SUPREME COURT IN CONFERENCE this 17th day of May, 2004.

All Justices Concur.