

DISTRICT OF COLUMBIA COURT OF APPEALS

In re Chester W. Nosal

112 A.3d 919 (D.C. 2015) · No. 14-BG-455 · Decided April 2, 2015

SUMMARY

The District of Columbia Court of Appeals imposed reciprocal discipline on Chester W. Nosal after the Illinois Supreme Court suspended him for professional misconduct. The court rejected his request for a de novo evidentiary hearing, finding that he had received notice and an opportunity to participate in the Illinois proceedings and had not established any exception to the presumption favoring identical reciprocal discipline.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	Per Curiam; Fisher; Blackburne-Rigsby; Ferren
JURISDICTION	District of Columbia
DECIDED	April 2, 2015
DOCKET	14-BG-455
DISPOSITION	other
PROCEDURAL POSTURE	Reciprocal attorney-discipline proceeding following the Supreme Court of Illinois's suspension of respondent. Respondent sought a de novo evidentiary hearing in the District of Columbia; the Office of Bar Counsel recommended identical reciprocal discipline.
STANDARD OF REVIEW	Reciprocal discipline is governed by a rigid standard under which identical discipline is presumptively imposed unless the attorney proves by clear and convincing evidence one of the specified exceptions in D.C. Bar Rule XI, § 11(c).
PRECEDENTIAL VALUE	Published precedential opinion of the District of Columbia Court of Appeals

TOPICS

- appellate procedure
- standard of review
- administrative law

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Nosal was entitled to a de novo evidentiary hearing in the District of Columbia to challenge the evidentiary basis and jurisdiction of the Illinois disciplinary proceedings.
2. Whether Nosal established by clear and convincing evidence an exception to the presumption favoring identical reciprocal discipline.
3. Whether the Illinois discipline corresponded to misconduct warranting substantially different discipline under District of Columbia rules.
4. Whether the District of Columbia should impose a two-year suspension with reinstatement conditioned on proof of fitness.

HOLDINGS

1. A reciprocal discipline proceeding is not a forum for rearguing the foreign discipline, and the court would not conduct a de novo evidentiary hearing after respondent knowingly declined to participate in the foreign disciplinary hearing.
2. Identical reciprocal discipline is presumptively required unless the attorney proves by clear and convincing evidence one of the exceptions specified in D.C. Bar Rule XI, § 11(c); Nosal failed to establish any exception.
3. The court accepted the Illinois findings under principles of collateral estoppel and concluded that Nosal's Illinois violations corresponded to violations of District of Columbia disciplinary rules.

KEY QUOTATIONS

“We have adopted a “rigid standard” in reciprocal discipline cases, “presumptively impos[ing] identical reciprocal discipline, unless the attorney demonstrates by clear and convincing evidence that the case falls within one of five specified exceptions articulated in [D.C. Bar Rule XI, § 11 (c)].” (at 5)

“Accordingly, it is ORDERED that Chester Nosal is suspended from the practice of law in the District of Columbia for two years, with reinstatement conditioned upon proof of fitness, pursuant to D.C. Bar R. XI, §§ 16 and 3 (a)(2).” (at 10)

FACTUAL BACKGROUND

The Illinois disciplinary authorities found that Nosal represented Capacitive Deionization Technology Systems, Inc. from 1999 through 2007 and engaged in undisclosed self-dealing, including high-interest loans and conversion of attorney-fee notes into company stock. The transactions gave Nosal an ownership interest of approximately eleven to fifteen percent, and he made false statements concerning his representation of the company. He also failed to cooperate with the Illinois investigation and declined to participate in the Illinois disciplinary proceedings despite notice and an opportunity for a hearing.

PROCEDURAL HISTORY

The Supreme Court of Illinois suspended Chester Nosal from practicing law for two years and until further order based on professional misconduct involving self-dealing, conflicts of interest, false statements, and failure to cooperate with disciplinary proceedings. The District of Columbia Court of Appeals temporarily suspended Nosal and ordered him to show cause why reciprocal discipline should not be imposed. After reviewing the record, the court rejected Nosal's request for a de novo hearing and imposed identical reciprocal discipline with a fitness requirement.

DISPOSITION

other

CASES CITED

- In re Zdravkovich, 831 A.2d 964, 968-69 (D.C. 2003)
- In re Steele, 914 A.2d 679, 681 (D.C. 2006)
- In re McLain, 671 A.2d 951 (D.C. 1996)
- In re Shearin, 764 A.2d 774, 777 (D.C. 2000)
- In re Ras, 884 A.2d 44, 46 (D.C. 2005)
- In re Lea, 969 A.2d 881, 891 (D.C. 2009)