

SUPREME COURT OF MISSISSIPPI

Ogletree v. Miss. Bar

269 So. 3d 102 (Miss. 2018) · Decided November 29, 2018

SUMMARY

The Mississippi Supreme Court grants Robert Bryan Ogletree's petition for reinstatement to the practice of law following a six-month suspension for violations involving the handling of client funds. The court concludes that Ogletree satisfied the jurisdictional requirements and proved by clear and convincing evidence that he had rehabilitated his conduct and moral character.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Waller, C.J.; Randolph, P.J.; Kitchens, P.J.; King, J.; Coleman, J.; Maxwell, J.; Beam, J.; Chamberlin, J.; Ishee, J.
JURISDICTION	Mississippi
DECIDED	November 29, 2018
DISPOSITION	other
PROCEDURAL POSTURE	Robert Bryan Ogletree petitioned the Supreme Court of Mississippi for reinstatement to the practice of law after serving a six-month suspension. The Mississippi Bar supported reinstatement.
STANDARD OF REVIEW	The Supreme Court of Mississippi has exclusive jurisdiction over attorney-reinstatement cases and reviews the evidence de novo, acting as the trier of fact. The petitioner must prove rehabilitation and the requisite moral character by clear and convincing evidence.
PRECEDENTIAL VALUE	Published Mississippi Supreme Court opinion; precedential.

TOPICS

- appellate procedure
- standard of review
- civil procedure

PRACTICE AREAS

- attorney discipline
- professional responsibility
- reinstatement to practice law

QUESTIONS PRESENTED

1. Whether Ogletree satisfied the jurisdictional requirements for reinstatement under Rule 12 of the Mississippi Rules of Discipline for the State Bar.
2. Whether Ogletree proved by clear and convincing evidence that he had been rehabilitated in conduct and character and possessed the moral character and legal education required for reinstatement.
3. Whether Ogletree's delayed filing of affidavits concerning notice to clients was fatal to his reinstatement petition.

HOLDINGS

1. Ogletree satisfied the jurisdictional requirements of Rule 12, including explaining the cause of his suspension, addressing potential pecuniary loss, making amends and restitution, demonstrating moral character, and showing requisite legal education.
2. Ogletree proved by clear and convincing evidence that he had rehabilitated his conduct and character and was entitled to reinstatement to the practice of law.
3. Ogletree's failure to timely file affidavits concerning notice to clients was not fatal to reinstatement because he had no clients or Mississippi lawsuits at the time of suspension and the substantive reinstatement requirements otherwise were satisfied.

KEY QUOTATIONS

"This Court conducts a de novo review of the evidence in such cases, acting as the trier of fact on a case-by-case basis." (105)

"The petitioner "carries the burden of proving that he has rehabilitated himself and has established the requisite moral character to entitle him to the privilege of practicing law."" (105)

"The standard of proof in reinstatement cases is clear and convincing evidence." (105)

"Accordingly, this Court grants Ogletree's petition for reinstatement." (109)

FACTUAL BACKGROUND

Ogletree had deposited a client's partial retainer into his operating account rather than a trust account, used trust accounts for personal and business expenses, and allowed the accounts to become overdrawn. He was suspended for six months in 2015 and referred to the Lawyers and Judges Assistance Program. In seeking reinstatement, he presented evidence of treatment and rehabilitation, continuing legal education, employment, restitution, and support from the Mississippi Bar and others.

PROCEDURAL HISTORY

Ogletree was suspended for six months after a Complaint Tribunal found that he violated Mississippi Rules of Professional Conduct 1.15(a) and 8.4(a) and (d) by mishandling and commingling trust-account funds. The Supreme Court of Mississippi affirmed the suspension in *Mississippi Bar v. Ogletree*, 226 So. 3d 79 (Miss. 2015). Ogletree then filed his first petition for reinstatement, and the Supreme Court considered the petition de novo.

DISPOSITION

other

CASES CITED

- Mississippi Bar v. Ogletree, 226 So. 3d 79, 80-89 (Miss. 2015)
- In re Morrison, 819 So. 2d 1181, 1183 (Miss. 2001)
- Stewart v. Miss. Bar, 5 So. 3d 344, 346-47 (Miss. 2008)
- In re Holleman, 826 So. 2d 1243, 1246-48 (Miss. 2002)
- Phillips v. Miss. Bar, 427 So. 2d 1380, 1382 (Miss. 1983)
- Ex parte Marshall, 165 Miss. 523, 556, 147 So. 791, 798 (1933)
- Wong v. Miss. Bar, 5 So. 3d 369, 371 (Miss. 2008)
- In re Benson, 890 So. 2d 888, 890 (Miss. 2004)
- James v. Miss. Bar, 962 So. 2d 528, 532 (Miss. 2007)
- Shah v. Miss. Bar, 962 So. 2d 514, 521 (Miss. 2007)
- In re Steele, 722 So. 2d 662, 664 (Miss. 1998)
- Haimes v. Miss. Bar, 601 So. 2d 851, 855 (Miss. 1992)
- Derivaux v. Miss. Bar, 226 So. 3d 97, 98-101 (Miss. 2016)
- Miss. Bar v. Pels, 708 So. 2d 1372, 1373-76 (Miss. 1998)