

DISTRICT OF COLUMBIA COURT OF APPEALS

In re McGann

863 A.2d 864 (D.C. 2004) · Decided December 30, 2004

SUMMARY

The District of Columbia Court of Appeals imposed a 30-day suspension on John L. McGann as reciprocal discipline for representing multiple criminal defendants whose interests conflicted and failing to communicate with them. The suspension was ordered to run consecutively to an earlier suspension because McGann had not filed the required affidavit.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	Per Curiam; Belson; Farrell; Reid
JURISDICTION	District of Columbia
DECIDED	December 30, 2004
DISPOSITION	other
PROCEDURAL POSTURE	Reciprocal attorney-discipline proceeding referred to the Board on Professional Responsibility after the Virginia State Bar Disciplinary Board imposed a public reprimand and continuing-education condition on respondent.
STANDARD OF REVIEW	In an uncontested reciprocal-discipline proceeding, review is limited, the presumption favors identical reciprocal discipline, and the court gives heightened deference to the Board's recommendation when no exception is filed, accepting findings supported by substantial evidence.
PRECEDENTIAL VALUE	Published, precedential opinion

TOPICS

- appellate procedure
- standard of review
- administrative law

PRACTICE AREAS

- legal ethics
- attorney discipline
- professional responsibility

QUESTIONS PRESENTED

1. What reciprocal discipline should be imposed in the District of Columbia after Virginia disciplined McGann for representing criminal defendants with conflicting interests and failing to communicate adequately?
2. Whether the Board on Professional Responsibility's recommended 30-day suspension should be adopted where no party filed an exception and the record substantially supported the Board's findings.
3. Whether the new suspension should run consecutively to McGann's earlier suspension because he failed to file the required affidavit.

HOLDINGS

1. In an uncontested reciprocal-discipline case, the court's review is limited and the presumption favors imposing identical reciprocal discipline.
2. A 30-day suspension was the appropriate reciprocal discipline for McGann's conflict-of-interest and communication violations in light of his prior discipline and the obviousness of the conflict.
3. The 30-day suspension must run consecutively to McGann's suspension in No. 94-BG-1221 (BDN 390-94).

KEY QUOTATIONS

"Our review in uncontested disciplinary cases is limited and the presumption is in favor of identical reciprocal discipline." (865)

"Moreover, as there is substantial support in the record for the Board's findings, we accept them and adopt the recommended sanction because it is not inconsistent with discipline imposed in similar cases." (865)

"Accordingly, it is ORDERED that John L. McGann is hereby suspended for 30 days to run consecutively to his earlier suspension in No. 94-BG-1221 (BDN 390-94)." (866)

FACTUAL BACKGROUND

McGann represented multiple criminal defendants facing prosecution arising from the same matter despite conflicts among the clients' interests. The Virginia disciplinary authorities found that he violated conflict-of-interest and communication obligations, publicly reprimanded him, and required continuing legal education. McGann had prior discipline for commingling personal and client funds and had not filed a required affidavit in the earlier disciplinary matter.

PROCEDURAL HISTORY

The Virginia State Bar Disciplinary Board publicly reprimanded John L. McGann and required continuing legal education after finding that he represented multiple criminal defendants whose interests conflicted. After Virginia temporarily suspended him for noncompliance and later reinstated him, Bar Counsel notified the District of Columbia Court of Appeals. The matter was referred to the Board on Professional Responsibility, which recommended a 30-day suspension as reciprocal discipline. The Court adopted the recommendation and ordered the suspension to run consecutively to an earlier suspension.

DISPOSITION

other

CASES CITED

- In re Goldsborough, 654 A.2d 1285 (D.C. 1995)
- In re Zilberberg, 612 A.2d 832, 834 (D.C. 1992)
- In re Delaney, 697 A.2d 1212, 1214 (D.C. 1997)
- In re McGann, 666 A.2d 489 (D.C. 1995) (per curiam)
- In re Butterfield, 851 A.2d 513 (D.C. 2004)
- In re Steely, 806 A.2d 1236 (D.C. 2002)
- In re Hughes, Bar Docket No. 455-78, at 4 (BPR Apr. 30, 1981), aff'd, No. M-80-81 (D.C. Nov. 2, 1981)
- In re McGarvey, Bar Docket No. 299-80, at 5-6 (BPR Aug. 11, 1982), aff'd, No. M-129-82 (D.C. Dec. 9, 1982)