

SUPREME COURT OF OKLAHOMA

State ex rel. Oklahoma Bar Association v. Howard

2021 OK 44 (Okla. 2021) · No. SCBD-7084 · Decided September 14, 2021

SUMMARY

The Supreme Court of Oklahoma approved Joseph T. Howard's voluntary resignation from the Oklahoma Bar Association while disciplinary proceedings and investigations were pending. The order struck his name from the roll of attorneys, barred reinstatement applications for five years, imposed Rule 9.1 compliance and Client Security Fund repayment conditions, and assessed \$21 in costs.

CASE DETAILS

COURT	Supreme Court of Oklahoma
JURISDICTION	Oklahoma
DECIDED	September 14, 2021
DOCKET	SCBD-7084
DISPOSITION	approved
PROCEDURAL POSTURE	The Oklahoma Bar Association applied for approval of Joseph T. Howard's voluntary resignation from membership in the Bar while disciplinary proceedings and grievance investigations were pending.
PRECEDENTIAL VALUE	Published Oklahoma Supreme Court opinion; precedential disciplinary order
PARTIES	State of Oklahoma ex rel. Oklahoma Bar Association v. Joseph T. Howard

TOPICS

gambling

mineral rights

PRACTICE AREAS

legal ethics

attorney discipline

professional responsibility

gambling

mineral rights

QUESTIONS PRESENTED

- Whether the Oklahoma Supreme Court should approve Howard's voluntary resignation from the Oklahoma Bar Association while disciplinary proceedings were pending.

2. What consequences and conditions attach to an approved resignation pending disciplinary proceedings.

HOLDINGS

1. The Oklahoma Supreme Court approved Joseph T. Howard's voluntary resignation from the Oklahoma Bar Association because the application and affidavit established that the resignation was freely and voluntarily made, was not the product of coercion or duress, and was submitted with knowledge of its consequences.
2. An approved resignation pending disciplinary proceedings is tantamount to disbarment; the attorney's name must be stricken from the roll, and the attorney may not seek reinstatement for five years from the effective date of the order.
3. Howard was required to comply with Rule 9.1 by notifying clients, withdrawing from pending matters, filing compliance affidavits and client lists, and identifying other tribunals where he was admitted; repayment of Client Security Fund expenditures was required before any future 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.” (§13)

“IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the voluntary resignation of Joseph T. Howard, pending disciplinary proceedings, should be approved and shall be effective upon the filing of this order in the Office of the Clerk of the Oklahoma Supreme Court.” (§12)

FACTUAL BACKGROUND

Joseph T. Howard sought to resign from the Oklahoma Bar Association while investigations into multiple grievances were pending. The allegations included harm and misappropriation involving the sale of mineral rights, insufficient-funds transactions from his IOLTA account, and deposits of casino winnings and cash withdrawals at casinos. Howard stated that his resignation was voluntary and understood its consequences, acknowledged that the alleged conduct would constitute professional violations if proven, waived the right to contest the allegations, and agreed to comply with reinstatement and client-protection requirements.

PROCEDURAL HISTORY

The Oklahoma Bar Association presented the Oklahoma Supreme Court with Howard's application and affidavit seeking approval of his resignation pending disciplinary proceedings. Howard acknowledged the alleged misconduct, waived his right to contest the allegations, agreed to comply with post-resignation requirements, and accepted the consequences of resignation. The Supreme Court approved the resignation and imposed related conditions, including striking his name from the attorney roll, a five-year bar on seeking reinstatement, compliance with Rule 9.1, reimbursement of Client Security Fund payments, and payment of costs.

DISPOSITION

approved

OPINION

STATE ex rel. OKLAHOMA BAR ASSOCIATION v. HOWARD 494 P.3d 911
PER CURIAM.

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HOWARD2021 OK 44494 P.3d 911Case Number: SCBD-7084Decided: 09/14/2021THE
SUPREME COURT OF THE STATE OF OKLAHOMA Cite as: 2021 OK 44, 494 P.3d 911
STATE OF OKLAHOMA, ex rel. OKLAHOMA BAR ASSOCIATION, Complainant, v. JOSEPH
T. HOWARD, Respondent.

ORDER APPROVING RESIGNATION

¶1 The State of Oklahoma, ex rel. Oklahoma Bar Association ("OBA") has presented the Court with an application to approve the resignation of Joseph T. Howard ("Respondent"), from membership in the OBA. Respondent submits his resignation pending disciplinary proceedings and investigation into alleged misconduct as authorized by Rule 8.1 of the Rules Governing Disciplinary Proceedings ("RGDP"), 5 O.S. 2011, ch. 1, app. 1-A. On July 9, 2021, Respondent's affidavit was filed simultaneously with the OBA's application; Respondent requested that he be allowed to resign his membership in the OBA and relinquish his right to practice law. The application and affidavit reflect the following:

(1) Respondent's affidavit was (A) freely and voluntarily rendered; (B) not secured by subjecting Respondent to coercion or duress; and (C) Respondent was aware of the consequences associated with submission of his resignation.

(2) Respondent further acknowledged that his resignation must be approved by the Oklahoma Supreme Court. Nevertheless, Respondent agreed to conduct himself as if the resignation was immediate, and previously surrendered his membership card to the OBA.

(3) Respondent attested to having personal knowledge of several grievances received by the OBA and expressed his understanding that the OBA had initiated investigations for the following grievances:

(A) DC 19-134, alleging Respondent financially harmed Kevin McLaughlin during the sale of certain mineral rights on behalf of Mr. McLaughlin's sister, Krisha Boardman; (B) DC 19-162, alleging misappropriation of proceeds derived from the sale of Krisha Boardman's mineral rights; (C) DC 20-204, alleging that on October 14, 2020, Respondent issued a check in the amount of \$1,200.00 from his IOLTA account which was returned for insufficient funds and assessed an overdraft fee of \$17.00 (D) DC 20-216, alleging that on November 3, 2020, an electronic fund transfer of \$2,003.00 was initiated from Respondent's IOLTA account; the EFT was returned for insufficient funds and assessed an overdraft fee of \$17.00. A subsequent investigation by the OBA

General Counsel's Office indicated that numerous checks for personal casino winnings were deposited into the IOLTA account and numerous cash withdrawals were made from the IOLTA at various casinos. (E) DC 21-101, alleging that on June 23, 2021, Respondent presented a \$300.00 automatic clearing house ECHECK, connected to Respondent's IOLTA, to River Spirit Casino. There were insufficient funds in the IOLTA to cover the ECHECK and the trust account was assessed an overdraft fee of \$17.00. (F) DC 21-103, alleging that on June 2, 2021, Respondent presented a \$725.00 automatic clearing house ECHECK, connected to Respondent's IOLTA, to River Spirit Casino. There were insufficient funds in the IOLTA to cover the ECHECK and the trust account was assessed an overdraft fee of \$17.00. (G) DC 21-109, alleging that on June 29, 2021, Respondent presented a \$725.00 automatic clearing house ECHECK, connected to Respondent's IOLTA, to River Spirit Casino. There were insufficient funds in the IOLTA to cover the ECHECK and the trust account was assessed an overdraft fee of \$17.00.

(4) Respondent has acknowledged, that if proven, the above charges of professional misconduct would constitute violations of Oklahoma Rules of Professional Conduct ("ORPC"), 5 O.S. 2011, ch. 1, app. 3-A Rules 1.1, 1.3, 1.4, 1.5, 1.7(a)(1), 1.14, 1.15, and 8.4. In addition, Respondent acknowledged that his misconduct would constitute a violation of RGDP Rule 1.3. Respondent stated in his affidavit that he is aware the burden of proving these violations rests with the OBA; however, Respondent has waived any and all right to contest the OBA allegations created by the pending grievance investigations.

(5) Respondent states that he has familiarized himself with RGDP Rule 9.1, and agreed to comply with the requirements therein within twenty (20) days following approval of his tendered resignation.

(6) Respondent recognizes (a) that pursuant to RGDP Rule 8.2, the decision to approve or disapprove his resignation is in the sole discretion of the Oklahoma Supreme Court. Further, Respondent has stated he recognizes that he may only be reinstated to the practice of law after full compliance with the terms and procedures outlined by RGDP Rule 11. Respondent has also acknowledged that no application for reinstatement may be presented prior to five (5) years from the effective date of this order approving his resignation.

(7) Respondent's official roster address as shown from the affidavit and OBA records is Joseph T. Howard, OBA # 15019, 1705 S. Baltimore Avenue, Tulsa, Oklahoma 74119.

(8) As a result of his conduct, the Client Security Fund may receive claims from Respondent's former clients. Respondent has agreed to reimburse the OBA for any such claims, prior to filing an application for reinstatement, including the principal amounts and applicable statutory interest expended by the Client Security Fund.

¶2 IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the voluntary resignation of Joseph T. Howard, pending disciplinary proceedings, should be approved and shall be effective upon the filing of this order in the Office of the Clerk of the Oklahoma Supreme Court. ¶3 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the name of Joseph T. Howard shall

be stricken from the roll of attorneys. 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. ¶4 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Respondent shall comply with RGDP Rule 9.1 by (a) notifying each of his clients having pending legal business of the need to promptly retain new legal counsel; (b) filing a formal withdrawal from all cases pending before any tribunal; (c) submitting the required affidavits attesting to compliance with Rule 9.1, together with a list of all clients notified; and (d) presenting this Court with a list of any court or administrative body where the attorney was admitted to practice. ¶5 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that repayment of any sums expended from the Client Security Fund for monies paid to former clients of Respondent shall be a condition satisfied prior to any future reinstatement. ¶6 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the OBA's Application to Assess Costs pursuant to RGDP Rule 6.16 is sustained. Respondent is directed to pay costs in the sum of \$21.00 within thirty (30) days of this order. ¶7 DONE BY ORDER OF THE SUPREME COURT IN CONFERENCE the 13th day of SEPTEMBER, 2021.

/S/ACTING CHIEF JUSTICE

ALL JUSTICES CONCUR

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