

DISTRICT OF COLUMBIA COURT OF APPEALS

In re Thomas McCarthy, Jr.

In re McCarthy · No. 22-BG-700 · Decided November 23, 2022

SUMMARY

The District of Columbia Court of Appeals granted Thomas McCarthy, Jr.'s motion for an extension of time and filed his late response in a reciprocal-discipline proceeding. Based on his disbarment in Maryland and the presumption favoring identical reciprocal discipline, the court disbarred him from practicing law in the District of Columbia nunc pro tunc to November 14, 2022.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	McLeese, Associate Judge; Howard, Associate Judge; Ferren, Senior Judge
JURISDICTION	District of Columbia
DECIDED	November 23, 2022
DOCKET	22-BG-700
DISPOSITION	other
PROCEDURAL POSTURE	Reciprocal attorney-discipline proceeding based on Maryland's disbarment of respondent.
PRECEDENTIAL VALUE	Published

TOPICS

appellate procedure administrative law

PRACTICE AREAS

attorney discipline professional responsibility reciprocal discipline

QUESTIONS PRESENTED

- Whether the District of Columbia Court of Appeals should impose reciprocal discipline identical to Maryland's disbarment.
- Whether respondent's arguments established an exception to the presumption favoring identical reciprocal discipline.

3. Whether respondent could relitigate the Maryland disciplinary findings or collaterally attack the Maryland proceeding in the reciprocal-discipline case.
4. Whether the Maryland disciplinary proceeding denied respondent due process.

HOLDINGS

1. The court imposed identical reciprocal discipline and disbarred respondent from the practice of law in the District of Columbia, nunc pro tunc to November 14, 2022.
2. Respondent may not relitigate or collaterally attack the findings or judgment underlying the foreign disciplinary order in a reciprocal-discipline proceeding.
3. Respondent did not establish a due-process violation because he had notice of the Maryland proceedings, an opportunity to respond, and in fact participated in them.

KEY QUOTATIONS

“It is FURTHER ORDERED that Thomas McCarthy, Jr., is hereby disbarred from the practice of law in the District of Columbia, nunc pro tunc to November 14, 2022.” (Order)

“our responsibility in reciprocal discipline matters is not to sit in appellate review of the foreign disciplinary proceedings, in order to determine whether they conformed in every respect to local procedural and substantive law.” (Order)

“is not entitled to relitigate or collaterally attack the findings or judgment of the [original disciplining court]” (Order)

FACTUAL BACKGROUND

Maryland disbarred Thomas McCarthy, Jr., from the practice of law. In the District of Columbia reciprocal-discipline proceeding, McCarthy argued that exceptions to identical reciprocal discipline applied and that the Maryland proceedings violated due process, but the court found that he had notice, an opportunity to respond, and had participated in those proceedings.

PROCEDURAL HISTORY

The District of Columbia Court of Appeals suspended respondent pending final disposition and directed him to show cause why reciprocal discipline should not be imposed. After granting respondent an extension and filing his late response, the court considered the Maryland disbarment order and the response of Disciplinary Counsel, then imposed reciprocal disbarment.

DISPOSITION

other

CASES CITED

- In re Sibley, 990 A.2d 483, 487-88 (D.C. 2010)

- In re Fuller, 930 A.2d 194, 198 (D.C. 2007)
- In re Chaganti, 144 A.3d 20, 24 (D.C. 2016)
- In re Zdravkovich, 831 A.2d 964, 969 (D.C. 2003)

OPINION

PER CURIAM.

Notice: This opinion is subject to formal revision before publication in the Atlantic and Maryland Reporters. Users are requested to notify the Clerk of the Court of any formal errors so that corrections may be made before the bound volumes go to press.

DISTRICT OF COLUMBIA COURT OF APPEALS

No. 22-BG-700

IN RE THOMAS MCCARTHY, JR.

DDN: 2021-D106

An Administratively Suspended Member
of the Bar of the District of Columbia Court of Appeals

Bar Registration No. 996764

BEFORE: McLeese and Howard, Associate Judges, and Ferren, Senior Judge.

ORDER

(FILED—November 23, 2022)

On consideration of the opinion and certified copy of the order from the state of Maryland disbaring respondent from the practice of law; this court's September 21, 2022, order suspending respondent pending final disposition of this proceeding and directing him to show cause why reciprocal discipline should not be imposed; respondent's motion for an extension of time to file his lodged late response; and the statement of Disciplinary Counsel; and it appearing that respondent filed his D.C. Bar R. XI, § 14(g) affidavit on November 14, 2022, it is

ORDERED that respondent's motion for an extension of time is granted and his lodged response is filed. It is

FURTHER ORDERED that Thomas McCarthy, Jr., is hereby disbarred from the practice of law in the District of Columbia, nunc pro tunc to November 14, 2022. See In re Sibley, 990 A.2d 483, 487-88 (D.C. 2010) (explaining that there is a rebuttable presumption in favor of imposition of identical discipline and exceptions to this presumption should be rare); In re Fuller, 930 A.2d 194, 198 (D.C. 2007)

(stating that a rebuttable presumption of identical reciprocal discipline applies unless one of the exceptions is established). Although respondent argues that exceptions apply and reciprocal discipline should not be imposed, these arguments merely
No. 22-BG-700

attempt to relitigate the discipline imposed by the state of Maryland, which is not permitted in reciprocal discipline cases. See *In re Chaganti*, 144 A.3d 20, 24 (D.C. 2016) (“[O]ur responsibility in reciprocal discipline matters is not to sit in appellate review of the foreign disciplinary proceedings, in order to determine whether they conformed in every respect to local procedural and substantive law.”); *In re Zdravkovich*, 831 A.2d 964, 969 (D.C. 2003) (holding that, in a reciprocal matter, respondent “is not entitled to relitigate or collaterally attack the findings or judgment of the [original disciplining court]” and the infirmity of proof exception “is not an invitation to the attorney to relitigate in the District of Columbia the adverse findings of another court in a procedurally fair setting”) (citations omitted). We also reject respondent’s assertion that the Maryland disciplinary proceedings deprived him of due process because (1) he had notice of those proceedings and an opportunity to respond, and (2) he in fact participated in those proceedings.

PER CURIAM