

NORTH DAKOTA SUPREME COURT

Varriano v. Disciplinary Board of the Supreme Court, 2015 ND 288

872 N.W.2d 338 (N.D. 2015) · Decided December 11, 2015

SUMMARY

The North Dakota Supreme Court reinstated Richard D. Varriano to the practice of law after a reciprocal suspension arising from misconduct related in part to conflicts of interest and misuse of a trust account. The Court adopted the hearing panel's findings and imposed conditions addressing supervision, continuing legal education, financial management, sobriety, and periodic compliance reporting.

CASE DETAILS

COURT	North Dakota Supreme Court
WRITING FOR THE COURT	Per Curiam; Gerald W. VandeWalle, C.J.; Dale V. Sandstrom, J.; Carol Ronning Kapsner, J.; Daniel J. Crothers, J.; Lisa Fair McEvers, J.
JURISDICTION	North Dakota
DECIDED	December 11, 2015
DISPOSITION	other
PROCEDURAL POSTURE	Petition for reinstatement to the practice of law following a reciprocal one-year suspension; the Disciplinary Board hearing panel recommended reinstatement subject to conditions, and the North Dakota Supreme Court reviewed and adopted the panel's findings, conclusions, and recommendations.
PRECEDENTIAL VALUE	Published North Dakota Supreme Court opinion
PARTIES	Richard D. Varriano v. Disciplinary Board of the Supreme Court

TOPICS

administrative law agency adjudication judicial review of agency action

PRACTICE AREAS

legal ethics and professional responsibility attorney discipline lawyer reinstatement administrative law

QUESTIONS PRESENTED

1. Whether Varriano satisfied the requirements for reinstatement to the practice of law in North Dakota.

2. Whether reinstatement should be conditioned on supervision, continuing legal education, sobriety-related assistance and monitoring, financial-management safeguards, and periodic compliance reports.

HOLDINGS

1. Varriano satisfied the applicable reinstatement requirements, and the Disciplinary Board hearing panel's findings, conclusions, and recommendations were adopted.
2. Reinstatement was ordered subject to conditions requiring payment of costs, compliance with continuing legal education requirements, association with an experienced supervising lawyer, assistance concerning financial management and conflicts, participation in the Lawyer Assistance Program, maintenance of sobriety, attendance at Alcoholics Anonymous meetings, and periodic compliance affidavits.

KEY QUOTATIONS

“IT IS FURTHER ORDERED, that Varriano be reinstated to the practice of law in the State of North Dakota and he is eligible to obtain a license, effective immediately.” (¶ 12)

“FURTHER ORDERED, that Varriano be allowed to apply to the Disciplinary Board to lift conditions three, four, five, seven and eight of reinstatement when evidence demonstrates they are no longer needed.” (¶ 15)

FACTUAL BACKGROUND

Varriano had been suspended from practicing law in North Dakota since February 1, 2010, following a reciprocal suspension based on misconduct that included representing clients despite clear conflicts of interest and using a trust account to shelter personal funds from the Internal Revenue Service. He attributed the misconduct to alcoholism, became sober after a 2011 arrest for driving under the influence, completed inpatient and outpatient treatment, and continued attending Alcoholics Anonymous. He worked as a paralegal without engaging in the unauthorized practice of law, completed continuing legal education, and obtained the support of an experienced attorney willing to supervise his practice. The hearing panel found that he was rehabilitated, competent, honest, and fit to practice, while recommending conditions designed to protect the public.

PROCEDURAL HISTORY

Varriano was reciprocally suspended in North Dakota effective February 1, 2010, after Minnesota imposed a one-year suspension for professional misconduct. He filed a petition for reinstatement on May 28, 2015. A Disciplinary Board hearing panel considered the evidence and recommended reinstatement subject to specified conditions. Varriano and disciplinary counsel stipulated that they had no objections and waived briefing, after which the Supreme Court adopted the panel's recommendations and ordered reinstatement.

DISPOSITION

other

CASES CITED

- In re Varriano, 2010 ND 12, 777 N.W.2d 852

