

MASSACHUSETTS SUPREME JUDICIAL COURT

Matter of an Integrated Bar

321 Mass. 747 (1947) · Decided October 15, 1946

SUMMARY

The Massachusetts Supreme Judicial Court considered a petition by the Massachusetts Bar Association seeking establishment of an integrated bar requiring all attorneys in the Commonwealth to belong to it. Without deciding whether it had jurisdiction to establish such a bar, the court concluded that the proposal was not presently supported by the Massachusetts bar generally and would not currently serve the public interest or administration of justice; the petition was dismissed without prejudice.

CASE DETAILS

COURT	Massachusetts Supreme Judicial Court
JURISDICTION	Massachusetts
DECIDED	October 15, 1946
DISPOSITION	dismissed
PROCEDURAL POSTURE	The Massachusetts Bar Association petitioned the Supreme Judicial Court to examine proposed rules and bylaws for an integrated, self-governing bar and to determine whether the court should adopt the plan by rule or order.
PRECEDENTIAL VALUE	Published opinion; precedential value limited because the court expressly declined to decide its jurisdiction to establish an integrated bar or the validity of the proposed rules and bylaws.
PARTIES	Massachusetts Bar Association

TOPICS

- constitutional law
- civil procedure

PRACTICE AREAS

- constitutional law
- civil procedure
- legal profession regulation

QUESTIONS PRESENTED

1. Whether the Supreme Judicial Court had jurisdiction to establish an integrated bar requiring every Massachusetts attorney to be a member in order to practice law.
2. Whether establishing an integrated bar would be in the public interest and in the interest of the administration of justice.
3. What rules and bylaws should govern an integrated bar if one were established.

HOLDINGS

1. The court declined to establish an integrated bar because the record did not show that Massachusetts attorneys generally favored such action and because establishing one at that time would not be in the public interest or the interest of the administration of justice.
2. The petition for court action concerning the proposed integrated bar was dismissed without prejudice.

KEY QUOTATIONS

“since it does not appear that members of the bar of Massachusetts generally are in favor of action by the court to establish an integrated bar, it is not at present advisable for the court by rule or order to establish an integrated bar so called in which every attorney in the Commonwealth must be a member in order to practise law, and that the establishment at present of such an integrated bar would not be in the interest of the public and the administration of justice.” (321 Mass. at 748)

“Consequently, it is ordered that the petition be dismissed without prejudice.” (321 Mass. at 748)

FACTUAL BACKGROUND

The Massachusetts Bar Association, acting through authorized officers, submitted proposed rules and bylaws for an organized, self-governing integrated bar. The proposal would have required every attorney in Massachusetts to belong to the bar as a condition of practicing law. After notice and a full hearing, the court determined that Massachusetts lawyers generally did not appear to favor court action establishing an integrated bar and that establishing one at that time would not serve the public interest or the administration of justice.

PROCEDURAL HISTORY

The Supreme Judicial Court ordered notice to Massachusetts attorneys and other interested persons, received arguments and briefs at a hearing on April 14, 1947, and considered the proposed integrated-bar plan. The court dismissed the petition without prejudice, declining to express an opinion on its jurisdiction to establish an integrated bar or on the details of the proposed rules and bylaws.

DISPOSITION

dismissed

OPINION

PER CURIAM.

On April 14, 1947, the petition was heard by the full court. On May 27, 1947, the court entered the following order: This is a petition to the Supreme Judicial Court by the Massachusetts Bar Association acting by its officers authorized by vote of the association praying that the Supreme Judicial Court examine certain rules and by-laws for an organized self-governing bar submitted with said petition, and take such action thereon as the court may deem proper including the determination of the question whether the adoption by rule of court of said plan with or without amendment would be in the interest of the public and the administration of justice, and for the ascertainment of the views of the lawyers of the Commonwealth upon said, matters.

Upon this petition it was ordered "that the petitioner give notice to the members of the bar of Massachusetts and to all other persons interested in said petition, to appear, if they desire to be heard thereon, before the justices of this court at Boston on Monday, April 14, 1947, at ten o'clock a.m., at which place and time the court will hear arguments and receive briefs in the matter of said petition, particularly (1) as to whether the court has jurisdiction to establish an integrated bar, so called, in which every attorney in the Commonwealth must be a member in order to practise law, (2) as to whether the establishment of such an integrated bar would be in the public interest, and (3) as to what rules and by-laws ought to be adopted *748for the establishment and government of such a bar." And the petitioner was ordered "to give notice of this order by mailing a copy hereof, postage prepaid, to each person known to the petitioner to be a member of the bar of the Commonwealth, addressed to him at his last known address, and also by publishing an attested copy hereof in some newspaper published in the several counties of Suffolk, Worcester, Hampden, Berkshire and Bristol, all before the fifteenth day of January, 1947." Service of this order of notice was made in conformity therewith and hearing was had on said petition at which arguments were heard and briefs received in the matter thereof.

Upon consideration of the arguments and briefs, it is concluded by the court, without expressing any opinion as to its jurisdiction to establish an integrated bar or any opinion as to the details of the rules and by-laws submitted, that, since it does not appear that members of the bar of Massachusetts generally are in favor of action by the court to establish an integrated bar, it is not at present advisable for the court by rule or order to establish an integrated bar so called in which every attorney in the Commonwealth must be a member in order to practise law, and that the establishment at present of such an integrated bar would not be in the interest of the public and the administration of justice.

Consequently, it is ordered that the petition be dismissed without prejudice.