

SUPREME COURT OF GEORGIA

In re Williams

300 Ga. 781 (Ga. 2017) · Decided March 20, 2017

SUMMARY

The Georgia Supreme Court rejected Samuel Williams, Jr.'s petition for voluntary discipline arising from his guilty plea to selling unregistered securities and his handling of investor funds through his law-firm trust account. The Court concluded that a suspension concurrent only with his criminal probation would be insufficient, particularly because the conduct directly involved his law practice and generated legal fees. The Court declined to impose a longer suspension nunc pro tunc because Williams did not establish that he had stopped practicing law after his conviction.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Per curiam; All the Justices
JURISDICTION	Georgia
DECIDED	March 20, 2017
DISPOSITION	other
PROCEDURAL POSTURE	Attorney-discipline matter arising from the report of a special master recommending acceptance of Samuel Williams Jr.'s petition for voluntary discipline. Williams sought a suspension concurrent with the probation imposed in his Alabama criminal case.
STANDARD OF REVIEW	The Court reviewed the existing disciplinary record and independently determined whether the proposed voluntary discipline was sufficient.
PRECEDENTIAL VALUE	Published Georgia Supreme Court disciplinary opinion; precedential as to the stated disciplinary and nunc pro tunc evidentiary principles.

TOPICS

remedies appellate procedure administrative law

PRACTICE AREAS

legal ethics and attorney discipline professional responsibility securities-related criminal conduct
bar admission and disciplinary sanctions

QUESTIONS PRESENTED

1. Whether the proposed suspension concurrent with Williams's Alabama probation was sufficient discipline for his felony conviction and violation of Georgia Rule of Professional Conduct 8.4(a)(2).
2. Whether the delay between Williams's self-reporting and the initiation of disciplinary proceedings, together with the mitigating circumstances, justified accepting the proposed voluntary discipline.
3. Whether the record supported imposing a suspension nunc pro tunc based on any period during which Williams voluntarily stopped practicing law.

HOLDINGS

1. A suspension lasting only as long as Williams's criminal probation was insufficient discipline under the circumstances, and the Court therefore rejected his petition for voluntary discipline.
2. Although the delay in initiating disciplinary proceedings could be considered as a mitigating factor, the delay did not make the proposed concurrent suspension sufficient.
3. A lawyer seeking a nunc pro tunc suspension based on voluntarily ceasing practice must provide evidence of the date practice ended and compliance with the ethical obligations associated with ceasing practice.

KEY QUOTATIONS

“Accordingly, we reject Williams’s current petition for voluntary discipline.” (784)

“when an attorney requests entry of a suspension or voluntary surrender order nunc pro tunc, it is the lawyer’s responsibility to demonstrate that they voluntarily stopped practicing law, the date on which their law practice ended, and that they complied with all the ethical obligations implicated in such a decision” (784)

FACTUAL BACKGROUND

Williams, a Georgia lawyer, served as escrow officer for a high-yield investment program and used his law-firm trust account to receive and disburse investor funds. Although he claimed minimal involvement and no intent to participate in fraud, he admitted accepting and disbursing \$380,000 after learning of complaints and a criminal investigation. He pleaded guilty in Alabama to selling unregistered securities, received probation and a restitution obligation, and self-reported the conviction to the Georgia Bar. The criminal conduct was directly connected to his law practice, and he received \$6,066.26 in legal fees.

PROCEDURAL HISTORY

Williams pleaded guilty in Alabama to selling unregistered securities and was sentenced to three to five years' probation and restitution of \$380,000. After disciplinary proceedings were initiated in Georgia, he filed petitions for voluntary discipline. The special master rejected his initial request for a formal admonition or public reprimand and later recommended accepting a suspension concurrent with his criminal probation. The Supreme Court of Georgia rejected the petition, concluding that the proposed suspension was insufficient.

DISPOSITION

other

CASES CITED

- In the Matter of Youn, 300 Ga. 134, 135 (793 SE2d 379) (2016)
- In the Matter of Suttle, 288 Ga. 14, 16 (701 SE2d 154) (2010)
- In the Matter of Watson, 294 Ga. 616, 618 (755 SE2d 199) (2014)
- In the Matter of Onipede, 288 Ga. 156, 157 (702 SE2d 136) (2010)
- Bayhi v. State, 629 S2d 782, 789 (Ala. Crim. App. 1993)
- In the Matter of Richbourg, 295 Ga. 356, 356-357 (759 SE2d 865) (2014)
- In the Matter of Ortman, 289 Ga. 130, 130-131 (709 SE2d 784) (2011)
- In the Matter of Wright, 299 Ga. 139, 139-140 (786 SE2d 686) (2016)

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