SUPREME COURT OF OKLAHOMA

In the Matter of the Reinstatement of James David Ogle to Membership in the Oklahoma Bar Association and to the Roll of Attorneys

2015 OK 60 · No. SCBD-6160 · Decided October 6, 2015

SUMMARY

The Oklahoma Supreme Court granted James David Ogle's petition for reinstatement to membership in the Oklahoma Bar Association after his suspension for two years and one day. Applying de novo review, the Court found that Ogle satisfied the requirements for reinstatement despite outstanding personal tax liabilities and his Offer in Compromise with the IRS. The Court ordered Ogle to pay $1,746.53 in costs within 60 days.

CASE DETAILS

COURT	Supreme Court of Oklahoma
WRITING FOR THE COURT	Reif, C.J.; Combs, V.C.J.; Watt, J.; Winchester, J.; Edmondson, J.; Taylor, J.; Colbert, J.
JURISDICTION	Oklahoma
DECIDED	October 6, 2015
DOCKET	SCBD-6160
DISPOSITION	other
PROCEDURAL POSTURE	Original proceeding on an attorney's petition for reinstatement to the Oklahoma Bar Association following a suspension of two years and one day. The Professional Responsibility Tribunal recommended reinstatement over the Oklahoma Bar Association's objection, and the Oklahoma Supreme Court conducted de novo review.
STANDARD OF REVIEW	De novo review
PRECEDENTIAL VALUE	Published Oklahoma Supreme Court opinion
PARTIES	James David Ogle v. Oklahoma Bar Association

TOPICS

appellate procedure · tax collection · offers in compromise · tax court procedure

PRACTICE AREAS

legal ethics and professional responsibility | attorney reinstatement | tax obligations

QUESTIONS PRESENTED

1. Whether Ogle established by clear and convincing evidence that he satisfied the procedural, competency, rehabilitation, moral-character, and fitness requirements for reinstatement to the Oklahoma Bar Association.
2. Whether Ogle's personal federal and state tax arrearages and statements in an IRS Offer in Compromise demonstrated a lack of candor or otherwise precluded reinstatement.
3. Whether the Professional Responsibility Tribunal's recommendation was binding on the Oklahoma Supreme Court.

HOLDINGS

1. The Professional Responsibility Tribunal's reinstatement recommendation is advisory, and the Oklahoma Supreme Court exercises original jurisdiction and reviews reinstatement proceedings de novo.
2. An applicant for reinstatement after a suspension of two years and one day must establish by clear and convincing evidence that the requirements for reinstatement are satisfied and that the applicant's future conduct will conform to the high standards required of a member of the bar.
3. Personal tax arrearages and an IRS Offer in Compromise do not alone preclude reinstatement when the applicant has acted in good faith, complied with applicable tax procedures, timely filed returns, and taken substantial steps toward resolving the liability.
4. Ogle established by clear and convincing evidence that reinstatement was warranted, and he was reinstated as a member of the Oklahoma Bar Association and placed on the Roll of Attorneys.

KEY QUOTATIONS

> *"Rather, this Court will review the matter de novo in determining whether reinstatement is warranted."* (¶ 6)

> *"A suspension from the practice of law for a period in excess of two years is tantamount to disbarment."* (¶ 7)

> *"The ultimate decision on the Offer in Compromise rests with the IRS, not with this Court."* (¶ 12)

> *"PETITION FOR REINSTATEMENT GRANTED; PETITIONER ORDERED TO PAY COSTS OF $1,746.53 WITHIN SIXTY (60) DAYS."* (¶ 14)

FACTUAL BACKGROUND

James David Ogle had been suspended from practicing law for two years and one day following disciplinary proceedings arising from an attorney-client relationship and a misdemeanor obstruction conviction. During the suspension, he completed continuing legal education, did not practice law, worked as a paralegal, timely filed tax returns, and took steps to resolve approximately $133,263 in federal tax, penalties, and interest, as well as state tax obligations. The Oklahoma Bar Association objected to reinstatement based on statements in Ogle's IRS

Form 656 Offer in Compromise, but the court found that he had followed applicable procedures and was cooperating in resolving his tax liability.

PROCEDURAL HISTORY

Ogle was suspended from practicing law for two years and one day in summary disciplinary proceedings under Rule 7.1 of the Rules Governing Disciplinary Proceedings. After a reinstatement hearing, the Professional Responsibility Tribunal unanimously recommended reinstatement despite the Bar Association's objection, principally based on concerns regarding Ogle's federal and state tax arrearages and his IRS Offer in Compromise. The Oklahoma Supreme Court reviewed the matter de novo, granted reinstatement, and assessed $1,746.53 in costs against Ogle.

DISPOSITION

other

CASES CITED

- In re Gassaway, 2002 OK 48, ¶ 3, 48 P.3d 805, 806
- In re Golden, 2013 OK 96, ¶ 5, 315 P.3d 377, 380
- In re Munson, 2010 OK 27, ¶¶ 11-12, 236 P.3d 96, 101
- In re Fraley, 2005 OK 39, ¶ 37, 115 P.3d 842, 852
- In re Page, 2004 OK 49, ¶ 3, 94 P.3d 80, 82
- In re Kamins, 1988 OK 32, ¶ 20, 752 P.2d 1125, 1130
- In re Jones, 2006 OK 33, 142 P.3d 380
- In re McKenzie, 1996 OK 72, ¶ 9, 925 P.2d 18, 20
- In re Stewart, 2010 OK 61, 240 P.3d 666
- State ex rel. Oklahoma Bar Association v. Ogle, 2013 OK 78, 318 P.3d 1099