

SUPREME COURT OF OKLAHOMA

State ex rel. Oklahoma Bar Ass'n v. Patterson

28 P.3d 547 (Okla. 2001) · Decided June 26, 2001

SUMMARY

The Oklahoma Supreme Court considers reciprocal discipline imposed after the United States Court of Appeals for the Tenth Circuit disbarred William J. Patterson. The court holds that the record permits meaningful de novo review and imposes public censure, together with payment of proceeding costs, rather than reciprocal disbarment.

CASE DETAILS

COURT	Supreme Court of Oklahoma
WRITING FOR THE COURT	Per curiam; Hargrave, C.J.; Watt, V.C.J.; Hodges, J.; Lavender, J.; Kauger, J.; Summers, J.; Boudreau, J.; Winchester, J.; Opala, J.
JURISDICTION	Oklahoma
DECIDED	June 26, 2001
DISPOSITION	other
PROCEDURAL POSTURE	Reciprocal attorney-discipline proceeding initiated by the Oklahoma Bar Association after the United States Court of Appeals for the Tenth Circuit disbarred Patterson. The Oklahoma Supreme Court ordered an adversarial hearing before a Professional Responsibility Tribunal and then conducted a de novo review of the record and recommended sanction.
STANDARD OF REVIEW	De novo consideration of the record and the appropriate disciplinary sanction. In reviewing the foreign adjudication, the court may not relitigate the underlying misconduct and is limited by Rule 7.7(b) to the certified foreign record and issues concerning mitigation or the severity of discipline.
PRECEDENTIAL VALUE	Published Oklahoma Supreme Court opinion; precedential attorney-discipline decision.
PARTIES	State ex rel. Oklahoma Bar Association v. William J. Patterson

TOPICS

appellate procedure

federalism

administrative law

PRACTICE AREAS

legal ethics

attorney discipline

reciprocal discipline

professional responsibility

QUESTIONS PRESENTED

1. Whether the record contained sufficient evidence for a meaningful de novo review of the charges and the appropriate disposition in the reciprocal disciplinary proceeding.
2. Whether public censure, together with payment of proceeding costs, was an appropriate sanction for Patterson's professional misconduct.

HOLDINGS

1. The record was sufficient to permit meaningful de novo consideration of the relevant facts and the appropriate discipline.
2. In a reciprocal disciplinary proceeding, the underlying misconduct adjudicated in the other jurisdiction cannot be relitigated; it may be reviewed only within the limited framework and evidentiary materials permitted by RGDP Rule 7.7(b).
3. Public censure and payment of the costs of the proceeding were the appropriate discipline for Patterson's violations.

KEY QUOTATIONS

"Hence, the facts that resulted in the imposition of discipline by the other jurisdiction cannot be relitigated, but only reviewed within the context of the evidence previously presented in the other jurisdiction." (28 P.3d at 555)

"RESPONDENT IS ORDERED DISCIPLINED BY PUBLIC CENSURE AND IS DIRECTED TO PAY THE COSTS OF THIS PROCEEDING, WHICH SHALL BE DUE NOT LATER THAN NINETY DAYS AFTER THIS OPINION BECOMES FINAL." (28 P.3d at 561)

FACTUAL BACKGROUND

The Tenth Circuit disciplined Patterson after he failed to respond to show-cause orders arising from his neglect of client appeals and his practice of law while suspended. Patterson also failed to notify the Oklahoma Bar Association of the Tenth Circuit's discipline, as required by Oklahoma's reciprocal-discipline rules. In the Oklahoma proceeding, the tribunal found the notification violations but concluded that ignorance of the rule and surrounding circumstances mitigated culpability; it recommended public censure. The record also reflected that Patterson had represented clients during a period of suspension and had not complied with the applicable reinstatement procedure.

PROCEDURAL HISTORY

The Tenth Circuit disbarred Patterson for practicing law while suspended. Patterson did not notify the Oklahoma Bar Association of the discipline as required by Oklahoma's disciplinary rules. The Oklahoma Bar initiated reciprocal discipline proceedings; after initially finding the record insufficient, the Oklahoma Supreme Court

ordered a tribunal hearing. The tribunal found violations and recommended public censure, which the Supreme Court adopted, along with an assessment of costs.

DISPOSITION

other

CASES CITED

- Matter of Beren, 178 Ariz. 400, 874 P.2d 320, 322 (Ariz. 1994)
- Veiser v. Armstrong, 1984 OK 61, 688 P.2d 796, 799 n.5
- Bigelow v. Old Dominion Copper Mining & Smelting Co., 225 U.S. 111, 129-30 (1912)
- Hancock Nat'l Bank v. Farnum, 176 U.S. 640, 645 (1900)
- Phoenix Fire & Marine Ins. Co. v. Tennessee, 161 U.S. 174, 185 (1896)
- Nelson v. George, 399 U.S. 224, 229 (1970)
- Huntington v. Attrill, 146 U.S. 657 (1892)
- State ex rel. Okla. Bar Ass'n v. Livshee, 1994 OK 12, 870 P.2d 770, 772
- State ex rel. Okl. Bar Ass'n v. Leigh, 1996 OK 37, 914 P.2d 661, 666
- State ex rel. Okl. Bar Ass'n v. Eakin, 1995 OK 106, 914 P.2d 644, 647
- State ex rel. Okl. Bar Ass'n v. Bolton, 1994 OK 53, 880 P.2d 339, 344
- State ex rel. Okla. Bar Ass'n v. Smith, 1980 OK 126, 615 P.2d 1014, 1018
- State ex rel. Okla. Bar Ass'n v. Lowe, 1982 OK 20, 640 P.2d 1361, 1362
- State ex rel. Okla. Bar Ass'n v. Cummings, 1993 OK 127, 863 P.2d 1164, 1174
- State ex rel. Okla. Bar Ass'n v. Hall, 1977 OK 117, 567 P.2d 975, 978