

SUPREME COURT OF OKLAHOMA

State of Oklahoma ex rel. Oklahoma Bar Association v. Janet Bickel Phillips

175 P.3d 353 (Okla. 2007) · No. SCBD No. 5285 · Decided September 25, 2007

SUMMARY

The Supreme Court of Oklahoma approved Janet Bickel Phillips's resignation from the Oklahoma Bar Association while disciplinary proceedings were pending. The court ordered that her name be stricken from the roll of attorneys, barred her from seeking reinstatement for five years, and imposed client-notification and Client Security Fund repayment conditions. The resignation was treated as tantamount to disbarment.

CASE DETAILS

COURT	Supreme Court of Oklahoma
WRITING FOR THE COURT	Winchester, C.J.; Hargrave, J.; Opala, J.; Watt, J.; Taylor, J.; Colbert, J.; Kauger, J.; Edmondson, V.C.J.
JURISDICTION	Oklahoma
DECIDED	September 25, 2007
DOCKET	SCBD No. 5285
DISPOSITION	approved
PROCEDURAL POSTURE	The Oklahoma Bar Association applied for an order approving Janet Bickel Phillips's resignation from the Oklahoma Bar Association pending disciplinary proceedings.
PRECEDENTIAL VALUE	published opinion
PARTIES	State of Oklahoma ex rel. Oklahoma Bar Association v. Janet Bickel Phillips

TOPICS

appellate procedure

PRACTICE AREAS

legal ethics

attorney discipline

bar admission and reinstatement

QUESTIONS PRESENTED

1. Whether Phillips's resignation from the Oklahoma Bar Association pending disciplinary proceedings complied with Rule 8.1 of the Rules Governing Disciplinary Proceedings.
2. What consequences and reinstatement conditions followed from approval of the resignation.

HOLDINGS

1. Phillips's resignation pending disciplinary proceedings complied with all requirements of Rule 8.1 of the Rules Governing Disciplinary Proceedings and was approved.
2. A resignation pending disciplinary proceedings is tantamount to disbarment; therefore, Phillips's name was stricken from the roll of attorneys and she could not apply for reinstatement for five years from the effective date of the order.
3. Phillips was required to notify clients with pending legal business of her inability to represent them within twenty days by certified mail, and repayment to the Client Security Fund for amounts expended because of her malfeasance or nonfeasance was made a condition of reinstatement.

KEY QUOTATIONS

“Because resignation pending disciplinary proceedings is tantamount to disbarment, Phillips may not make application for reinstatement prior to the expiration of five years from the effective date of this order.” (¶ 2)

FACTUAL BACKGROUND

On July 3, 2007, Janet Bickel Phillips submitted a voluntary affidavit resigning from the Oklahoma Bar Association while disciplinary proceedings were pending. She acknowledged guilty pleas arising from Wagoner County and Oklahoma County criminal cases, an interim suspension issued on March 27, 2007, and her waiver of any right to contest the disciplinary allegations or submit mitigating evidence. She also agreed to comply with reinstatement conditions, including a five-year waiting period and reimbursement of qualifying Client Security Fund payments.

PROCEDURAL HISTORY

Phillips submitted an affidavit resigning from the Oklahoma Bar Association while disciplinary proceedings were pending. She acknowledged criminal guilty pleas, an interim suspension from the practice of law, the allegations against her, and her waiver of the right to contest the allegations or present mitigating evidence. The Supreme Court of Oklahoma approved the resignation and ordered that her name be stricken from the roll of attorneys.

DISPOSITION

approved

CASES CITED

- 2007 OK 1, 174 P.3d 566

OPINION

PER CURIAM.

175 P.3d 353 (2007) 2007 OK 70 STATE of Oklahoma ex rel. OKLAHOMA BAR ASSOCIATION, Complainant, v. Janet Bickel PHILLIPS, Respondent. No. SCBD No. 5285. Supreme Court of Oklahoma. September 25, 2007. ORDER APPROVING RESIGNATION FROM OKLAHOMA BAR ASSOCIATION PENDING DISCIPLINARY PROCEEDINGS ¶ 1 Upon consideration of the Oklahoma Bar Association's application for an order approving the resignation of Janet Bickel Phillips pending disciplinary proceedings, this Court finds: 1.

On July 3, 2007, Phillips submitted her affidavit of resignation from membership in the Oklahoma Bar Association pending disciplinary proceedings. 2. Phillips' affidavit of resignation reflects that: a) it was freely and voluntarily rendered; b) she was not subject to coercion or duress; and c) she was fully aware of the consequences of submitting her resignation.

3. Phillips states the following in her affidavit of resignation: I am aware a disciplinary proceeding pursuant to Rule 7, [Rules Governing Disciplinary Proceedings], as amended by 2007 OK 1 [174 P.3d 566], is pending before the Supreme Court of the State of Oklahoma in State of Oklahoma v. Janet Bickel Phillips, OBAD # 1702, SCBD # 5285.

The matter was filed after I entered guilty pleas on September 8, 2006 in exchange for a five (5) year deferred sentence in Wagoner *354 County District Court Case No. CF-2006-037 for offering false evidence in violation of 21 Ohio St. 453 and for Possession of Controlled Dangerous Substance in violation of 63 Ohio St. 2-402, and in Oklahoma County District Court Case No. CF-2006-597 for Perjury in violation of 21 Ohio St. 491.

I acknowledge that on March 27, 2007, the Court issued an Order of Interim Suspension immediately suspending me from the practice of law in accordance with Rule 7.3, RGDP, as amended by 2007 OK 1. Further, I acknowledge that I have filed a response to the Court's order issued March 27, 2007 setting a date for me to show cause why the suspension should be set aside and why final discipline should not be imposed.

However, I am unequivocally waiving my right to explain my conduct and submit evidence tending to mitigate the severity of discipline. 4. Phillips is aware that the allegations set forth, if proven, would constitute violations of the Oklahoma Rules Governing Professional Conduct, Okla. Stat. tit. 5, ch. 1, app. 3-A (2001), and her oath as an attorney. She waives any and all right to contest the allegations.

5. Phillips' resignation pending disciplinary proceedings is in compliance with all the requirements set forth in Rule 8.1, Rules Governing Disciplinary Proceedings (RGDP), Okla. Stat. tit. 5, ch.1, app. 1-A (2001), and it should be approved. 6. Phillips acknowledges and agrees that she may be reinstated to the practice of law only upon full compliance with the conditions and procedures

prescribed by Rule 11 RGDP, and she will make no application for reinstatement prior to the expiration of five years from the effective date of this Order Approving Resignation Pending Disciplinary Proceedings.

7. Phillips acknowledges that, as a result of her conduct, the Client Security Fund may receive claims from her former clients. Phillips agrees that, should the Oklahoma Bar Association approve and pay such Client Security Fund Claims, she will reimburse the fund the principal amounts and the applicable statutory interest prior to the filing of any application for reinstatement.

8. Phillips acknowledges that the Oklahoma Bar Association has incurred costs in the investigation of this matter but has agreed to waive these costs. 9. The official roster address of Phillips as shown by Bar Association records is Janet Bickel Phillips, 60 Mazie Landing Ct., Chouteau, Oklahoma 74337. ¶ 2 IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the name of Janet Bickel Phillips be stricken from the roll of attorneys.

Because resignation pending disciplinary proceedings is tantamount to disbarment, Phillips may not make application for reinstatement prior to the expiration of five years from the effective date of this order. Pursuant to Rule 9.1, Phillips shall notify all of her clients having legal business pending with her of her inability to represent them and of the necessity for promptly retaining new counsel.

Notification shall be given to these clients within twenty days by certified mail. Repayment to the Client Security Fund for any monies expended because of the malfeasance or nonfeasance of the attorney shall be one of the conditions of reinstatement. ¶ 3 DONE BY ORDER OF THE SUPREME COURT IN CONFERENCE this 24th day of September, 2007. /s/ James R. Winchester James R. Winchester, Chief Justice CONCUR: WINCHESTER, C.J., HARGRAVE, OPALA, WATT, TAYLOR, COLBERT, JJ. CONCURS IN RESULT: KAUGER, J. NOT PARTICIPATING: EDMONDSON, V.C.J.

KAUGER, J., concurs in result. I would make the date of the application for reinstatement run from the date of Respondent's interim suspension.

WINCHESTER, J.

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