

SUPREME COURT OF VERMONT

In re Ahmed M. Hamid-Ahmed, 2018 VT 113

200 A.3d 179 (Vt. 2018) · No. 2018-045 · Decided October 12, 2018

SUMMARY

The Vermont Supreme Court affirmed the Board of Bar Examiners' denial of Ahmed M. Hamid-Ahmed's application to take the Vermont bar examination. The court held that the Rule 8(c)(4) curing provision applies to applicants with qualifying foreign law degrees who satisfy the other Rule 8(b) requirements, and rejected the applicant's due process argument as harmless.

CASE DETAILS

COURT	Supreme Court of Vermont
WRITING FOR THE COURT	Skoglund, J.; Reiber, C.J.; Robinson, J.; Eaton, J.; Carroll, J.
JURISDICTION	Vermont
DECIDED	October 12, 2018
DOCKET	2018-045
DISPOSITION	affirmed
PROCEDURAL POSTURE	Applicant appealed, in the Vermont Supreme Court's original jurisdiction, from the Vermont Board of Bar Examiners' denial of his application to take the Vermont bar examination.
STANDARD OF REVIEW	The court applied a plain-meaning interpretation of the Vermont Rules of Admission to the Bar and reviewed the alleged notice error for prejudice and harmlessness.
PRECEDENTIAL VALUE	Published Vermont Supreme Court opinion; precedential
PARTIES	Ahmed M. Hamid-Ahmed v. Vermont Board of Bar Examiners

TOPICS

[appellate procedure](#)[statutory interpretation](#)[plain meaning rule](#)[due process](#)[harmless error](#)

PRACTICE AREAS

[appellate procedure](#)[bar admission](#)[statutory and rule interpretation](#)[constitutional procedure](#)

QUESTIONS PRESENTED

1. Whether an applicant who lacks a qualifying foreign law degree and admission to another bar may use Vermont Rule of Admission to the Bar 8(c)(4)'s curing provision solely by obtaining an LLM degree.
2. Whether the Board violated the applicant's due process rights by denying his application without expressly notifying him of the procedure for appealing to the Vermont Supreme Court.

HOLDINGS

1. Rule 8(c)(4)'s curing provision applies only to applicants who satisfy the other requirements of Rule 8(b), including having a qualifying foreign law degree and having been admitted to and maintained good standing in another bar. An LLM alone does not make an applicant eligible to take the Vermont bar examination.
2. Any failure by the Board to provide express notice of the appellate procedure was harmless because the applicant timely appealed and received a merits judgment; the alleged error therefore did not warrant reversal.

KEY QUOTATIONS

“It is an essentially universal practice to interpret rules, regulations, and statutes based on the plain meaning of the language when read in context of the text as a whole.” (¶ 7)

“To cure a shortcoming in foreign law degree, an applicant must have a foreign law degree and must also meet the other requirements of Rule 8(b).” (¶ 8)

“Because applicant suffered no prejudice from the Board’s failure to inform him of the appellate procedures—he timely appealed to this Court and we have rendered judgment on the merits—any alleged error resulting from the Board’s lack of notice was harmless and therefore does not warrant reversal.” (¶ 9)

FACTUAL BACKGROUND

Hamid-Ahmed had a bachelor's degree in criminal justice and a Master of Laws degree from Widener University School of Law. He did not have a Juris Doctor or substantially equivalent law degree from a foreign or domestic non-approved law school, had not enrolled in a law office study program, and had not been admitted to any other bar. The Board denied his application to take the Vermont bar examination, and he timely appealed.

PROCEDURAL HISTORY

The Vermont Board of Bar Examiners denied Hamid-Ahmed's application to sit for the Vermont bar examination. He appealed to the Vermont Supreme Court, arguing that his Master of Laws degree qualified him under the curing provision of Vermont Rule of Admission to the Bar 8(c)(4) and that the Board violated due process by failing to notify him expressly of the appellate procedure. The Supreme Court rejected both arguments and affirmed.

DISPOSITION

affirmed

CASES CITED

- City of Burlington v. Dep't of Emp't & Training, 148 Vt. 151, 154, 530 A.2d 573, 575 (1987)
- Heffernan v. State, 2018 VT 47, ¶ 7, 187 A.3d 1149
- Trudell v. State, 2013 VT 18, ¶ 30, 193 Vt. 515, 71 A.3d 1235
- Parker v. Hoefer, 118 Vt. 1, 10-11, 100 A.2d 434, 441 (1953)

OPINION

SKOGLUND, J.

NOTICE: This opinion is subject to motions for reargument under V.R.A.P. 40 as well as formal revision before publication in the Vermont Reports. Readers are requested to notify the Reporter of Decisions by email at: JUD.Reporter@vermont.gov or by mail at: Vermont Supreme Court, 109 State Street, Montpelier, Vermont 05609-0801, of any errors in order that corrections may be made before this opinion goes to press.

2018 VT 113 No. 2018-045 In re Ahmed M. Hamid-Ahmed Original Jurisdiction Board of Bar Examiners September Term, 2018 Keith Kasper, Chair Ahmed M. Hamid-Ahmed, Pro Se, Philadelphia, Pennsylvania, Petitioner-Appellant. Thomas J. Donovan, Jr., Attorney General, and Eleanor L.P. Spottswood, Assistant Attorney General, Montpelier, for Respondent-Appellee. PRESENT: Reiber, C.J., Skoglund, Robinson, Eaton and Carroll, JJ. ¶ 1.

SKOGLUND, J. Applicant, Ahmed M. Hamid-Ahmed, appeals a decision of the Vermont Board of Bar Examiners (Board) denying his application to take the Vermont bar exam. Because appellant does not meet the requirements outlined in the Vermont Rules of Admission to the Bar, we affirm. ¶ 2. No material facts are in dispute. Applicant has a bachelor's degree with a major in criminal justice and a Master of Laws degree (LLM) from Widener University School of Law.

However, he does not have a Juris Doctor (JD) or a substantially equivalent law degree from a foreign or domestic non-approved law school, he has not enrolled in a law office study program, and he has not been admitted to any other bar, foreign or domestic. Despite this, applicant argues that he is eligible to take the bar exam under Vermont Rule of Admission to the Bar 8(c)(4)'s "curing provision" by virtue of his LLM.

He further argues that the Board violated his due process rights when it denied his application but did not explicitly notify him of the process for appealing that decision to this Court. ¶ 3. The Vermont Rules of Admission to the Bar lay out three ways an applicant can satisfy the educational requirements necessary to be eligible to sit for the bar exam: (a) graduate from an approved law school, (b) complete the Law Office Study Program, or (c) graduate from a non-approved law school, if the equivalency requirements of Rule 8 are met.

V.R.A.B. 6. Rule 8 outlines the differing requirements when the non-approved law school is within the United States and outside the United States. ¶ 4. If an applicant is a graduate from a foreign, non-approved law school, they must meet the requirements of both Rule 8(b)(1) and (b)(2). Subsection (b)(1) requires the applicant to establish that “he or she has... completed a legal education at a Foreign Law School whose curriculum provided training in a system based on the common law of England and that is otherwise equivalent to graduation from an Approved Law School, as determined by the equivalency determination process.” And, subsection (b)(2) requires the applicant to have “been admitted to the bar of a court of general jurisdiction in the country in which the Applicant attended the Foreign Law School and [to have] maintained good standing in that bar or resigned from that bar while still in good standing.” ¶ 5.

Subsection (c) of Rule 8, titled “Equivalency Determination Process” and referenced in Rule 8(b)(1), outlines the requirements an applicant must meet to show that their graduation from a non-approved law school satisfies the educational requirements. Within this subsection, there is a “Cure Provision,” which provides that “[a]pplicants who do not meet the requirements of paragraph (b)(1) of this rule, may cure deficiency by obtaining an LLM degree... at an Approved Law School in the United States.” V.R.A.B.

8(c)(4). 2 ¶ 6. Applicant urges this Court to adopt a broad reading of Rule 8(c)(4) to make the curing provision applicable to everyone with an LLM applying to sit for the Vermont bar exam, regardless of their legal educational and professional background. This interpretation is contrary to the most basic principles of statute and rule interpretation. ¶ 7. It is an essentially universal practice to interpret rules, regulations, and statutes based on the plain meaning of the language when read in context of the text as a whole.

City of Burlington v. Dep’t of Emp’t & Training, 148 Vt. 151, 154, 530 A.2d 573, 575 (1987) (explaining that court must interpret statute as whole “and if possible, give effect to every word, clause, and sentence.” (quotation omitted)). And, if the plain meaning is clear on the face of the rule, it must be enforced as such. See e.g., *Heffernan v. State*, 2018 VT 47, ¶ 7, ___ Vt. ___, 187 A.3d 1149 (noting that “interpretation begins with the plain language” and “if the language in question is clear,” analysis ends). ¶ 8.

Based on the plain meaning of its terms, Rule 8(c)(4) allows those who graduated from a foreign law school to “cure” the shortcomings of their foreign law degree, which has provided inadequate preparation to practice law in Vermont either because the degree was not based on the common law of England or did not meet the other equivalency requirements set forth in Rule 8(c)(1)-(3).

To cure a shortcoming in foreign law degree, an applicant must have a foreign law degree and must also meet the other requirements of Rule 8(b). Here, applicant does not deny that he does not have a foreign law degree and that he has not been admitted to another bar, either foreign or domestic. Applicant’s proposed interpretation of Rule 8(c)(4) is untenable when the plain language

is read in the context of Rule 8 and the remainder of the Vermont Rules of Admission to the Bar, and thus the Board properly rejected it and denied applicant's application to take the bar exam. ¶ 9.

Next, applicant argues that the Board violated his due process rights when it denied his application but did not explicitly notify him of the process for appealing that decision to this 3 Court. This Court has consistently held that "a party's failure to present any substantive analysis or argument on... constitutional issues constitutes inadequate briefing, which we [will] decline to address." *Trudell v. State*, 2013 VT 18, ¶ 30, 193 Vt. 515, 71 A.3d 1235 (declining to address appellant's argument because it consisted of one citation to case law with no explanation or supporting analysis); *V.R.A.P.*

28. And although we find applicant's briefing insufficient, we nevertheless briefly address and dismiss his argument. Because applicant suffered no prejudice from the Board's failure to inform him of the appellate procedures—he timely appealed to this Court and we have rendered judgment on the merits—any alleged error resulting from the Board's lack of notice was harmless and therefore does not warrant reversal.

Parker v. Hoefer, 118 Vt. 1, 10-11, 100 A.2d 434, 441 (1953) ("[E]rror works a reversal only when the record satisfies the court that the rights of the excepting party have been injuriously affected thereby. And he who alleges error has the burden of showing that he has been prejudiced thereby." (citations omitted)). Affirmed. FOR THE COURT: Associate Justice 4