

SUPREME COURT OF OKLAHOMA

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

37 P.3d 809 (Okla. 2001) · Decided October 8, 2001

SUMMARY

The Oklahoma Supreme Court approved Karen E. Faulk's resignation from the Oklahoma Bar Association while disciplinary proceedings were pending. The order struck her name from the roll of attorneys, barred reinstatement applications for five years, required compliance with post-resignation rules, required reimbursement of potential Client Security Fund payments, and assessed \$674.11 in investigation costs.

CASE DETAILS

COURT	Supreme Court of Oklahoma
WRITING FOR THE COURT	Hargrave, C.J.; Watt, V.C.J.; Hodges, J.; Lavender, J.; Opala, J.; Kauger, J.; Boudreau, J.; Winchester, J.
JURISDICTION	Oklahoma
DECIDED	October 8, 2001
DISPOSITION	approved
PROCEDURAL POSTURE	The Oklahoma Bar Association applied for an order approving Karen E. Faulk's resignation from the Oklahoma Bar Association while disciplinary proceedings and investigations were pending.
STANDARD OF REVIEW	The approval of a resignation under Rule 8 is within the discretion of the Supreme Court of Oklahoma.
PRECEDENTIAL VALUE	Published Oklahoma Supreme Court per curiam disciplinary order
PARTIES	State ex rel. Oklahoma Bar Association v. Karen E. Faulk

TOPICS

- remedies
- appellate procedure
- civil procedure

PRACTICE AREAS

- legal ethics and attorney discipline

QUESTIONS PRESENTED

1. Whether the Supreme Court of Oklahoma should approve an attorney's voluntary resignation from the Oklahoma Bar Association while disciplinary proceedings are pending.
2. What consequences and conditions attach to approval of the resignation under Rule 8 of the Rules Governing Disciplinary Proceedings.

HOLDINGS

1. A lawyer under investigation for alleged misconduct may resign from Oklahoma Bar Association membership by satisfying the prerequisites in Rule 8.1, and the court approved Faulk's voluntary resignation because the prerequisites were satisfied and the resignation was freely and voluntarily tendered.
2. A resignation approved under Rule 8 is the equivalent of disbarment and relinquishes the respondent's right to practice law.
3. Following approval, Faulk was required to comply with Rule 9.1, could not seek reinstatement for five years, was required to reimburse the Client Security Fund for covered claims with statutory interest, and was required to pay \$674.11 in investigation costs.

KEY QUOTATIONS

“A resignation under Rule 8 is the equivalent of disbarment.” (810)

FACTUAL BACKGROUND

Karen E. Faulk tendered her resignation from the Oklahoma Bar Association on September 19, 2001, while six grievances were under investigation. She acknowledged the allegations, waived the right to contest them, and understood that the alleged conduct, if proven, would violate specified disciplinary rules and her attorney's oath. She also acknowledged potential Client Security Fund claims and \$674.11 in investigation costs.

PROCEDURAL HISTORY

The Oklahoma Bar Association submitted an application under Rules 8.1 and 8.2 of the Rules Governing Disciplinary Proceedings, together with Faulk's affidavit tendering her resignation. The Supreme Court of Oklahoma approved the application, accepted the resignation, struck Faulk's name from the Roll of Attorneys, and imposed conditions concerning compliance, reinstatement, the Client Security Fund, and investigation costs.

DISPOSITION

approved

OPINION

PER CURIAM.

T0 Order Approving Resignation from the Oklahoma Bar Association Pending Disciplinary Proceedings 1 1 This matter is before the Court pursuant to Rules 8.1 and 8.2, Rules Governing

Disciplinary Proceedings, 5 O.S.1991, ch. 1, app. 1-A (RGDP), for consideration of the complainant's, Oklahoma Bar Association (OBA), application for an order approving respondent's, Karen E. Faulk (respondent), resignation from OBA membership pending disciplinary proceedings.

Upon consideration of the OBA's application and the respondent's affidavit, we find: 1. Respondent executed her affidavit tendering her resignation as a member of the OBA pending disciplinary proceedings on September 19, 2001. 2. Respondent freely and voluntarily tendered her resignation, not being subjected to coercion or duress. 3. Respondent executed her resignation in conformity with Rule 8.1, RGDP, and she is fully aware of the consequences of submitting her resignation.

4. Respondent knows that the following six grievances are under investigation by the Office of General Counsel of the OBA: *810(a) DC 98-247, alleging that respondent received settlement funds and did not immediately distribute the funds but used them for her own benefit. (b) DC 98-289, alleging that respondent neglected a personal injury matter and did not forward the proceeds of the attendant settlement to the client until the OBA intervened. (c) DC 00-084, alleging that respondent charged improper fees, lost an abstract, and neglected a client.

Respondent did not respond to this grievance until subpoenaed by the OBA. (d) DC 00-277, alleging that respondent participated in a fraud by her lawyer client by filing untruthful answers to interrogatories and permitting that client to testify untruthfully in a deposition. Respondent did not respond to this grievance until subpoenaed by the OBA. (e) DC 01-087, alleging that respondent neglected a personal injury matter and converted funds received in settlement of the matter.

The OBA alleged respondent did not timely respond to this grievance. (f) DC 01-252, alleging that respondent neglected a matter and converted funds in settlement of the matter. Respondent has not responded to this grievance. 5. Respondent knows that the OBA has the burden of proof regarding the allegations set forth, however, respondent waives any and all right to contest the allegations.

6. Respondent knows that, if proven, the allegations set forth would constitute violations of Rules 1.8, 1.4(b), and 5.2, RGDP; and Rules 1.1, 1.3, 1.4, 1.5, 1.15, 8.8, 8.4, and 8.4, Oklahoma Rules of Professional Conduct (ORPC), 5 O.S.1991, ch. 1, app. 3-A, as amended, and her oath as an attorney. 7. Respondent knows that the approval of her resignation is within the discretion of this Court.

8. Respondent is familiar with the provisions of Rule 9.1, RGDP, and agrees to comply with those provisions within twenty (20) days following the date of her resignation. 9. Respondent 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 that she may

not apply for reinstatement prior to the expiration of five (5) years from the effective date of this Court's approval of her resignation.

10. Respondent acknowledges that, as a result of her conduct, the Client Security Fund may receive claims from her former clients. Respondent also agrees, that should the OBA approve and pay such claims, she will reimburse the Client Security Fund the principal amount and the applicable statutory interest prior to applying for reinstatement. 11. Respondent acknowledges that the OBA incurred investigation costs in the amount of \$674.11.

12. Respondent's name and address appears on the OBA's official roster as: Karen E. Faulk, OBA No. 10802, 5080 N. May # 284, Oklahoma City, Oklahoma 78112. 13. A lawyer, who is the subject of an investigation into allegations of misconduct, may resign membership in the OBA by complying with the prerequisites for resignations set forth in Rule 8.1, RGDP. This Court may enter an order approving the resignation or, in the alternative, may refuse to approve the resignation and allow the Professional Responsibility Commission to proceed.

A resignation under Rule 8 is the equivalent of disbarment. In the interest of conserving judicial resources, we approve respondent's resignation. 14. This Court's approval of respondent's resignation should be effective on the date of this order. ¶ 2 It is therefore ORDERED that complainant's application is approved and respondent's resignation is accepted and approved and respondent's right to practice law is relinquished. ¶ 3 It is further ORDERED that respondent's name be stricken from the Roll of Attorneys and that respondent make no application for reinstatement to membership in the Oklahoma Bar Association before five years from the date of this order.

T4 It is further ORDERED that respondent comply with Rule 9.1, Rules Governing Disciplinary Proceedings, 5 O.S. 1991, ch. 1, app. 1-A, within twenty (20) days from the date of this order. 15 It is further ORDERED that respondent reimburse the Client Security Fund of the Oklahoma Bar Association, including interest at the statutory rate, should it pay any funds to respondent's former clients for claims based upon respondent's alleged misconduct set forth herein.

T6 It is further ORDERED that respondent pay investigation costs in the amount of \$674.11 to the Oklahoma Bar Association within ninety (90) days from the date of this order. T7 DONE BY ORDER OF THE SUPREME COURT IN CONFERENCE this 8th day of October, 2001. HARGRAVE, C.J., WATT, V.C.J., and HODGES, LAVENDER, OPALA, KAUGER, BOUDREAU, and WINCHESTER, JJ., concur.

SUMMERS, J., not participating.