

DISTRICT OF COLUMBIA COURT OF APPEALS

In re Matthew Kluger

80 A.3d 648 (D.C. 2013) · No. No. 12-BG-1968 · Decided November 27, 2013

SUMMARY

The District of Columbia Court of Appeals held that obstruction of justice under 18 U.S.C. § 1512(c) (2) is a crime involving moral turpitude per se. Because Matthew Kluger was convicted of that offense, along with related securities-fraud and money-laundering offenses, the court accepted the Board on Professional Responsibility's recommendation and disbarred him. The disbarment period was ordered to run from the date he filed the required affidavit.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	Per Curiam; Blackburne-Rigsby; McLeese; King
JURISDICTION	District of Columbia
DECIDED	November 27, 2013
DOCKET	No. 12-BG-1968
DISPOSITION	other
PROCEDURAL POSTURE	Attorney-discipline proceeding arising from respondent's federal criminal convictions and the Board on Professional Responsibility's recommendation that he be disbarred.
STANDARD OF REVIEW	De novo review of the Board's legal determination that obstruction of justice under 18 U.S.C. § 1512(c)(2) is a crime of moral turpitude per se.
PRECEDENTIAL VALUE	Published opinion; precedential

TOPICS

- appellate procedure
- statutory interpretation
- criminal procedure

PRACTICE AREAS

- legal ethics and attorney discipline
- appellate procedure
- criminal law

QUESTIONS PRESENTED

1. Whether obstruction of justice under 18 U.S.C. § 1512(c)(2) is a crime of moral turpitude per se under District of Columbia law.
2. Whether Kluger must be disbarred under D.C. Code § 11-2503(a) because of that conviction.

HOLDINGS

1. Obstruction of justice under 18 U.S.C. § 1512(c)(2) is a crime of moral turpitude per se because every conviction under that provision necessarily involves conduct that disregards the system of law and due process and is materially equivalent to obstruction offenses previously held to involve moral turpitude per se.
2. A member of the District of Columbia Bar convicted of a crime of moral turpitude must be disbarred; because Kluger's § 1512(c)(2) conviction was a crime of moral turpitude per se, disbarment was required.

KEY QUOTATIONS

“We therefore hold that obstruction of justice under § 1512 (c)(2) is a crime of moral turpitude per se.” (at 4)

“Mr. Kluger is disbarred from the practice of law in the District of Columbia.” (at 5)

FACTUAL BACKGROUND

Matthew Kluger was convicted in federal district court in New Jersey of obstruction of justice under 18 U.S.C. § 1512(c)(2), conspiracy to commit securities fraud, securities fraud, and conspiracy to commit money laundering. After Bar Counsel filed a certified copy of the judgment of conviction, the District of Columbia Court of Appeals suspended Kluger and referred the matter to the Board on Professional Responsibility. The Board determined that the obstruction conviction involved moral turpitude per se and recommended disbarment, which Kluger did not oppose.

PROCEDURAL HISTORY

Matthew Kluger was convicted in the United States District Court for the District of New Jersey of obstruction of justice and related offenses. The District of Columbia Court of Appeals suspended him after Bar Counsel filed a certified copy of the convictions, then referred the matter to the Board on Professional Responsibility to determine whether the convictions involved moral turpitude. The Board concluded that obstruction of justice under 18 U.S.C. § 1512(c)(2) was a crime of moral turpitude per se and recommended disbarment. The court reviewed that legal determination de novo, agreed with the Board, and accepted the recommendation.

DISPOSITION

other

CASES CITED

- In re Johnson, 48 A.3d 170, 172 (D.C. 2012)
- In re Colson, 412 A.2d 1160, 1164-65, 1168 (D.C. 1979) (en banc)

- In re Squillacote, 790 A.2d 514, 517 (D.C. 2002)
- In re Rehberger, 891 A.2d 249, 251-52 (D.C. 2006)
- In re Luvara, 942 A.2d 1125, 1127 (D.C. 2008)
- In re Daum, 69 A.3d 400, 401 (D.C. 2013)
- In re Safavian, 29 A.3d 470, 471 (D.C. 2011)

OPINION

PER CURIAM.

Notice: This opinion is subject to formal revision before publication in the Atlantic and Maryland Reporters. Users are requested to notify the Clerk of the Court of any formal errors so that corrections may be made before the bound volumes go to press. DISTRICT OF COLUMBIA COURT OF APPEALS No. 12-BG-1968 IN RE MATTHEW KLUGER, RESPONDENT. A Suspended Member of the Bar of the District of Columbia Court of Appeals (Bar Registration No. 981786) On Report and Recommendation of the Board on Professional Responsibility (BDN 12-BD-102) (Submitted October 2, 2013 Decided November 21, 2013) (Amended November 27, 2013) Before BLACKBURNE-RIGSBY and MCLEESE, Associate Judges, and KING, Senior Judge.

PER CURIAM: The Board on Professional Responsibility recommends that we disbar Matthew Kluger because Mr. Kluger’s conviction for obstruction of justice is a crime of moral turpitude per se. We agree and accept the Board’s recommendation. This opinion is amended to correct the court where Mr. Kluger was convicted. 2 I. In June 2012, respondent Matthew Kluger was convicted in federal district court in New Jersey of obstruction of justice, in violation of 18 U.S.C. § 1512 (c)(2); conspiracy to commit securities fraud, in violation of 18 U.S.C. § 371; securities fraud, in violation of 15 U.S.C. §§ 78j (b) and 78ff (a); and conspiracy to commit money laundering, in violation of 18 U.S.C. § 1956 (h).

Bar Counsel filed with this court a certified copy of Mr. Kluger’s judgment of convictions, and we suspended Mr. Kluger under District of Columbia Bar Rule XI, § 10 (c). We then asked the Board to determine whether Mr. Kluger’s convictions involved moral turpitude under D.C. Code § 11-2503 (a) (2012 Repl.).

In April 2013, the Board concluded that obstruction of justice under § 1512 (c)(2) is a crime of moral turpitude per se and recommended that we disbar Mr. Kluger. Mr. Kluger did not oppose the Board’s recommendation.

We review de novo the Board’s legal determination that obstruction of justice under § 1512 (c)(2) is a crime of moral turpitude per se. In re Johnson, 48 A.3d 170, 172 (D.C. 2012). 3 II. Under D.C. Code § 11-2503 (a), this court must disbar a bar member who is convicted of a crime of “moral turpitude.” See, e.g., In re Colson, 412 A.2d 1160, 1164-65 (D.C. 1979) (en banc).

A crime involves moral turpitude per se if “every conviction for that particular [crime] must necessarily involve moral turpitude.” In *re Squillacote*, 790 A.2d 514, 517 (D.C. 2002). Although this court has not precisely defined “moral turpitude,” see *Johnson*, 48 A.3d at 172, it has said that a crime involves moral turpitude if: (1) “the act denounced by the statute offends the generally accepted moral code of mankind;” (2) the act involves “baseness, vileness or depravity in the private and social duties which a man owes to his fellow men or to society in general, contrary to the accepted and customary rule of right and duty between man and man;” or (3) the act is “contrary to justice, honesty, modesty, or good morals.” In *re Colson*, 412 A.2d at 1168 (internal quotation marks omitted).

See also, e.g., In *re Rehberger*, 891 A.2d 249, 251-52 (D.C. 2006). 4 We agree with the Board that obstruction of justice under § 1512 (c)(2) is a crime of moral turpitude per se. First, we have said generally that obstruction of justice constitutes moral turpitude per se, because “the offender knowingly or intentionally disregards the system of law and due process that defines our civilized society.” In *re Luvara*, 942 A.2d 1125, 1127 (D.C.

2008). Second, we have previously held that obstruction of justice under various other provisions of the United States Code constitutes moral turpitude per se, and the elements of § 1512 (c)(2) are not materially different from the elements of those provisions. See, e.g., In *re Daum*, 69 A.3d 400, 401 (D.C. 2013) (obstruction of justice under 18 U.S.C. § 1503); In *re Safavian*, 29 A.3d 470, 471 (D.C.

2011) (obstruction of justice under 18 U.S.C. § 1505; “[I]t is well settled that obstruction of justice is inherently a crime of moral turpitude.”). We therefore hold that obstruction of justice under § 1512 (c)(2) is a crime of moral turpitude per se. III. Mr. Kluger is disbarred from the practice of law in the District of Columbia.

For purposes of reinstatement, the period of Mr. Kluger’s disbarment shall run from the date that he files his affidavit in accordance with District of Columbia Bar Rule XI, § 14 (g). 5 So ordered.