SUPREME COURT OF OKLAHOMA

State ex rel. Oklahoma Bar Association v. Nichols

Nichols, 2015 OK 57 (Okla. 2015) · No. SCBD-6293 · Decided July 29, 2015

SUMMARY

The Oklahoma Supreme Court immediately suspended Robert John Nichols from the practice of law under Rule 6.2A of the Rules Governing Disciplinary Proceedings. The suspension followed allegations that Nichols settled matters without client approval and converted client funds, creating an immediate threat of substantial and irreparable public harm. The Court also ordered restrictions on withdrawals from his client trust accounts, directed the Oklahoma Bar Association to seek appointment of a receiver, and required notices to clients and opposing counsel.

CASE DETAILS

COURT	Supreme Court of Oklahoma
WRITING FOR THE COURT	Vice Chief Justice Combs; Justice Kauger; Justice Watt; Justice Edmondson; Justice Taylor; Justice Colbert; Justice Gurich; Justice Winchester; Chief Justice Reif
JURISDICTION	Oklahoma
DECIDED	July 29, 2015
DOCKET	SCBD-6293
DISPOSITION	other
PROCEDURAL POSTURE	Original attorney-discipline proceeding on the Oklahoma Bar Association's verified complaint and application for an emergency immediate interim suspension.
PRECEDENTIAL VALUE	Unpublished; designated for publication in OBJ only and not released for publication.

TOPICS

sanctions · remedies · civil procedure

PRACTICE AREAS

attorney discipline · professional responsibility · legal ethics · receivership

QUESTIONS PRESENTED

1. Whether an immediate interim suspension from the practice of law was warranted under Rule 6.2A of the Rules Governing Disciplinary Proceedings.
2. Whether Nichols should be prohibited from withdrawing funds from his client trust accounts pending an audit.
3. What protective measures were necessary to protect Nichols's clients and implement the interim suspension.

HOLDINGS

1. An immediate interim suspension was warranted because Nichols's conduct posed an immediate threat of substantial and irreparable public harm.
2. Nichols was prohibited from withdrawing funds from his client trust account or accounts until an audit could be performed.
3. The Oklahoma Bar Association was directed to seek appointment of a receiver over Nichols's law practice, assets, and accounts, and Nichols was ordered to notify opposing counsel and clients of the suspension and related protective proceedings.

KEY QUOTATIONS

> *"the Court finds that Respondent's conduct poses an immediate threat of substantial and irreparable public harm."* (¶ 5)

> *"Robert John Nichols is immediately suspended from the practice of law, pursuant to Rule 6.2A of the RGDP."* (¶ 6)

> *"In order to protect the interests of Respondent's clients and to implement the Order of immediate interim suspension, this Court directs the Complainant to seek, in Tulsa County, the appointment of a Receiver over Respondent's law practice, assets, and accounts as soon as practicable."* (Receivership and Notice ¶ 2)

FACTUAL BACKGROUND

The Oklahoma Bar Association alleged that Robert John Nichols settled matters without client knowledge or approval and converted client funds for personal use. The Bar Association also alleged that Nichols continued to handle condemnation matters involving anticipated large awards or settlements. The Professional Responsibility Tribunal found sufficient evidence of violations of the Oklahoma Rules of Professional Conduct and an immediate threat of substantial and irreparable public harm.

PROCEDURAL HISTORY

The Oklahoma Bar Association filed a verified complaint and application for immediate interim suspension under Rules 6 and 6.2A of the Rules Governing Disciplinary Proceedings. After the Supreme Court ordered Nichols to show cause, referred the matter to the Professional Responsibility Tribunal, and received the Tribunal's recommendation that suspension be imposed, Nichols withdrew his objection. The Supreme Court entered an immediate interim suspension, prohibited withdrawals from his client trust accounts pending audit, and ordered steps toward a receivership and client and opposing-counsel notice.

DISPOSITION

other

OPINION

PER CURIAM.

OSCN Found Document:STATE ex rel. OKLAHOMA BAR ASSOCIATION v. NICHOLS OSCN navigation Home Courts Court Dockets Legal Research Calendar Help Previous Case Top Of Index This Point in Index Citationize Next Case Print Only STATE ex rel. OKLAHOMA BAR ASSOCIATION v. NICHOLS2015 OK 57Case Number: SCBD-6293Decided: 07/29/2015THE SUPREME COURT OF THE STATE OF OKLAHOMA Cite as: 2015 OK 57, __ P.3d __ FOR PUBLICATION IN OBJ ONLY.

NOT RELEASED FOR PUBLICATION. STATE OF OKLAHOMA ex rel. OKLAHOMA BAR ASSOCIATION, Complainant, v. ROBERT JOHN NICHOLS, Respondent. ORDER OF IMMEDIATE INTERIM SUSPENSION ¶1 On June 16, 2015, the complainant, Oklahoma Bar Association (OBA), filed a verified complaint against the respondent, Robert John Nichols, pursuant to Rule 6 of the Rules Governing Disciplinary Proceedings (RGDP), 5 O.S.2011, ch. 1, app.

1-A, and an application for emergency immediate interim suspension pursuant to Rule 6.2A of the RGDP. The OBA alleged instances of Respondent settling matters without client knowledge or approval and converting client funds to his personal use, and noted that Respondent continues to appear in district court on several condemnation cases where large Commissioner's awards and/or damage settlements are anticipated.

The OBA also requested an Order prohibiting Respondent from withdrawing funds from his client trust account(s) until an audit may be performed. ¶2 On June 17, 2015, this Court ordered Respondent to show cause no later than June 29, 2015, why an order of immediate interim suspension should not be entered. Respondent filed a Response to the Order to Show Cause on June 29, 2015, requesting that the motion for interim suspension be denied.

Respondent asserted that in his pending cases, a pre trial conference, a hearing setting appeal bond, and an answer brief in an appeal would be delayed, and that his practice is entirely condemnation litigation making substitute counsel more difficult to locate. ¶3 On July 2, 2015, this Court assigned the matter to the Professional Responsibility Tribunal for a hearing and recommendation as to whether an Order of Immediate interim Suspension should be entered.

A hearing was held on July 15, 2015. The Trial Panel filed its Report and Recommendation on July 23, 2015, recommending that the Complainant's application for an immediate interim suspension pursuant to Rule 6.2A be granted.

The Tribunal noted that Respondent is no longer objecting to the application, that he filed no Answer to the Complaint, and that he had failed to show cause why he should not be immediately suspended. The Tribunal concluded that Complainant had presented sufficient evidence to demonstrate that Respondent had committed conduct in violation of the Oklahoma Rules of Professional Conduct and that his conduct posed an immediate threat of substantial and irreparable public harm. ¶4 On July 23, 2015, Respondent withdrew his objection to the requested interim suspension. ¶5 Upon consideration of the OBA's Rule 6.2 verified complaint and application for an order of immediate interim suspension, the evidence presented, and the Trial Panel's Report and Recommendation, the Court finds that Respondent's conduct poses an immediate threat of substantial and irreparable public harm. ¶6 IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Robert John Nichols is immediately suspended from the practice of law, pursuant to Rule 6.2A of the RGDP. ¶7 It is further ordered that Respondent is prohibited from withdrawing funds from his client trust account(s) until an audit may be performed.

DONE BY ORDER OF THE SUPREME COURT this 29th day of July, 2015. /S/VICE CHIEF JUSTICE Combs, V.C.J., Kauger, Watt, Edmondson, Taylor, Colbert and Gurich, JJ., concur Winchester, J., not voting Reif, C.J., disqualified ORDER FOR RECEIVERSHIP AND NOTICE ¶1 In its Trial Panel Report and Recommendation filed on July 23, 2015, the panel recommended the appointment of a third-party receiver to marshal the assets of the law practice of Respondent, Robert John Nichols.

The panel also recommended that Respondent be required to notify opposing counsel of these proceedings. ¶2 In order to protect the interests of Respondent's clients and to implement the Order of immediate interim suspension, this Court directs the Complainant to seek, in Tulsa County, the appointment of a Receiver over Respondent's law practice, assets, and accounts as soon as practicable. ¶3 This Court orders Respondent to notify opposing counsel, on all of Respondent's pending legal business, of these proceedings and of his immediate interim suspension within twenty (20) days from the date of this Order by certified mail.

The notice shall include a copy of the Order of Interim Suspension and this Order for Notice and Receivership. The notice shall further advise opposing counsel that the Oklahoma Bar Association will be seeking a receivership in Tulsa County and that any funds payable to Respondents and his clients should be held and paid to the Receiver upon appointment.

The notice shall also advise opposing counsel to notify the Complainant of any settlement or commissioner's award proceeds in any of Respondent's cases from the date of this Order. ¶4 The Court further orders Respondent to notify all of his clients having legal business then pending within twenty (20) days from the date of this Order, by certified mail, of Respondent's immediate interim suspension and the Respondent's inability to represent them and the necessity for promptly retaining new counsel.

The notice shall include a copy of the Order of Interim Suspension and this Order for Notice and Receivership. Respondent shall also file a formal withdrawal as counsel in all cases pending in any tribunal. Respondent must file, within twenty (20) days from the date of this Order, an affidavit with the Commission and with the Clerk of the Supreme Court stating that the Respondent has complied with this Order, together with a list of the clients so notified and a list of all other State and Federal courts and administrative agencies before which the lawyer is admitted to practice.

If Respondent receives any funds pertaining to pending legal business after the date of this Order, the funds shall be held in the Respondent's trust account to be turned over to the Receiver upon appointment. ¶5 DONE BY ORDER OF THE SUPREME COURT THIS JULY 29, 2015. /S/VICE CHIEF JUSTICE Citationizer© Summary of Documents Citing This Document Cite Name Level None Found.

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