

SUPREME COURT OF OKLAHOMA

State of Oklahoma ex rel. Oklahoma Bar Association v. Daniel Allen Woolverton

2011 OK 38 (Okla. 2011) · No. Nos. SCBD-5696, OBAD-1843 · Decided May 2, 2011

SUMMARY

The Supreme Court of Oklahoma approved Daniel Allen Woolverton's resignation from the Oklahoma Bar Association pending disciplinary proceedings after his guilty plea to sexual exploitation of a child. The court ordered that his name be stricken from the roll of attorneys, barred reinstatement applications for five years, and imposed client-notification and Client Security Fund repayment conditions.

CASE DETAILS

COURT	Supreme Court of Oklahoma
WRITING FOR THE COURT	All justices
JURISDICTION	Oklahoma
DECIDED	May 2, 2011
DOCKET	Nos. SCBD-5696, OBAD-1843
DISPOSITION	approved
PROCEDURAL POSTURE	Attorney-discipline proceeding concerning the respondent's resignation pending disciplinary proceedings after he pleaded guilty to sexual exploitation of a child in federal court.
PRECEDENTIAL VALUE	Published Oklahoma Supreme Court per curiam opinion
PARTIES	State of Oklahoma ex rel. Oklahoma Bar Association v. Daniel Allen Woolverton

TOPICS

[appellate procedure](#) [remedies](#) [mootness](#)

PRACTICE AREAS

[attorney discipline](#) [professional responsibility](#) [legal ethics](#)

QUESTIONS PRESENTED

1. Whether Woolverton's resignation pending disciplinary proceedings complied with the requirements of Rule 8.1 and should be approved.
2. What disciplinary consequences and reinstatement restrictions followed from approval of the resignation.

HOLDINGS

1. The court approved Woolverton's resignation pending discipline because his affidavit demonstrated compliance with the requirements of Rule 8.1, including that the resignation was voluntary, uncoerced, and made with knowledge of its consequences.
2. An approved resignation pending disciplinary proceedings is tantamount to disbarment; therefore, Woolverton's name was stricken from the roll of attorneys and he could not apply for reinstatement for five years from the order's date.
3. The pending referral to the Professional Responsibility Commission was moot because Woolverton's voluntary resignation resolved the disciplinary matter.

KEY QUOTATIONS

“Because resignation pending disciplinary proceedings is tantamount to disbarment, the respondent may not make an application for reinstatement prior to the expiration of 5 years from the date of this order.” (255 P.3d at 420)

FACTUAL BACKGROUND

Daniel Allen Woolverton pleaded guilty in the United States District Court for the Eastern District of Virginia to one count of sexual exploitation of a child. The Oklahoma Bar Association notified the Oklahoma Supreme Court, which suspended Woolverton from practicing law pending further order and disciplinary proceedings. Woolverton later submitted an affidavit resigning from the Oklahoma Bar Association, stating that the resignation was voluntary, free of coercion or duress, and made with knowledge of its consequences.

PROCEDURAL HISTORY

The Oklahoma Bar Association notified the Oklahoma Supreme Court of the respondent's federal criminal plea. The court immediately suspended him under Rule 7.3 and directed him to show cause why the suspension should be set aside. After determining that an earlier attempted resignation was ineffective, the court considered and approved a resignation complying with Rules 8.1 and 8.2, rendered the pending disciplinary referral moot, struck the respondent's name from the roll of attorneys, and imposed conditions governing any future reinstatement.

DISPOSITION

approved

CASES CITED

- In the Matter of Reinstatement of Fraley, 2005 OK 39, ¶ 17, 115 P.3d 842

OPINION

PER CURIAM.

255 P.3d 419 (2011) 2011 OK 38 STATE of Oklahoma ex rel. OKLAHOMA BAR ASSOCIATION, Complainant, v. Daniel Allen WOOLVERTON, Respondent. Nos. SCBD-5696, OBAD-1843. Supreme Court of Oklahoma. May 2, 2011. ORDER APPROVING RESIGNATION ¶ 1 On November 15, 2010, the Oklahoma Bar Association (Bar Association), notified the Office of the Chief Justice that the respondent, Daniel Allen Woolverton (lawyer/respondent), had pled guilty to one count of sexual exploitation of a child in the United States District Court for the Eastern District of Virginia. ¶ 2 Upon consideration of the notice of criminal charges, the Court immediately suspended *420 the respondent from the practice of law on December 6, 2010, pursuant to Rule 7.3 of the Rules Governing Disciplinary Proceedings, 5 O.S.

Supp. 2007 Ch. 1, App. 1-A, until further order of the Court. The respondent was also directed to show cause by January 1, 2011, why, the suspension should be set aside. The respondent's attempted resignation by letter was determined to be ineffective pursuant to In the Matter of Reinstatement of Fraley, 2005 OK 39, ¶ 17, 115 P.3d 842. ¶ 3 THE COURT FINDS: 1.

The respondent has voluntarily resigned from the Oklahoma Bar Association by complying with Rule 8.1 and Rule 8.2, Rules Governing Disciplinary Proceedings, 5 Ohio St. 2001 Ch. 1, App. 1-A. The respondent's affidavit of resignation reflects that: a) it was freely and voluntarily rendered; b) he was not subject to coercion or duress; and c) he was fully aware of the consequences of submitting the resignation.

2. The respondent states in his affidavit of resignation that he is aware that his judgment and sentence constitutes a violation Rule 8.4 of the Oklahoma Rules of Professional Conduct, 5 O.S.2001, Ch. 1, App. 3-A and Rule 1.3 of the Rules Governing Disciplinary Proceedings, 5 Ohio St. 2001, Ch. 1, App. 1-A and of his oath as an attorney. 3.

The respondent's resignation pending disciplinary proceedings is in compliance with all of the requirements set forth in Rule 8.1, Rules Governing Disciplinary Proceedings, 5 Ohio St. 2001, Ch. 1, App. 1-A and it should be approved.

Because of the respondent's voluntary resignation, the Court's previous order of December 6, 2010, referring the matter to the Professional Responsibility Commission to initiate and conduct disciplinary proceedings immediately pursuant to Rule 7.7, and 7.6 of the Rules Governing Disciplinary Proceedings, 5 O.S. Supp. 2007 Ch. 1, App. 1-A has been rendered moot by today's resignation.

4. The official roster address of the respondent as shown by the Oklahoma Bar Association is: Daniel A. Wollverton, 7104 Remington Oaks Loop, Lakeland Fl XXXXX-XXXX. His current mailing address is Daniel A. Woolverton, # XXXXX-XXX, FCI Petersburg Medium, P.O. Box 1000, Petersburg, VA 23804. 5.

The Bar Association has not sought the imposition of costs and the respondent asks that any costs incurred be waived. IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Daniel A. Woolverton's resignation pending discipline be approved. IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Daniel A. Woolverton's name be stricken from the roll of attorneys.

Because resignation pending disciplinary proceedings is tantamount to disbarment, the respondent may not make an application for reinstatement prior to the expiration of 5 years from the date of this order. Pursuant to Rule 9.1, Rules Governing Disciplinary Proceedings, 5 O.S.2001, Ch. 1, App. 1-A, the respondent shall notify all of his clients, if any, having legal business pending with him within 20 days, by certified mail, of his inability to represent them and of the necessity for promptly retaining new counsel.

The Bar Association has waived the imposition of costs. Repayment to the Client Security Fund for any monies expended because of the malfeasance or nonfeasance of the respondent, shall be a condition of reinstatement. DONE BY ORDER OF THE SUPREME COURT THIS 2nd DAY OF MAY 2011. ALL JUSTICES CONCUR.