SUPREME COURT OF OKLAHOMA

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

State ex rel. Okla. Bar Ass'n v. Spradling, 213 P.3d 570 (Okla. 2009) · No. OBAD No. 1736; SCBD No. 5379 · Decided June 16, 2009

SUMMARY

The Supreme Court of Oklahoma considered post-conviction disciplinary proceedings against an attorney who pleaded guilty to willfully failing to file a federal income tax return. The court held that the conviction demonstrated unfitness to practice law and imposed discipline consisting of suspension from the date of the interim suspension through the effective date of the opinion, plus costs.

CASE DETAILS

COURT	Supreme Court of Oklahoma
WRITING FOR THE COURT	Opala, J.
JURISDICTION	Oklahoma
DECIDED	June 16, 2009
DOCKET	OBAD No. 1736; SCBD No. 5379
DISPOSITION	other
PROCEDURAL POSTURE	Post-conviction attorney disciplinary proceeding under Rule 7.1 of the Rules Governing Disciplinary Proceedings. After the Professional Responsibility Tribunal recommended a six-month suspension, the Supreme Court of Oklahoma independently reviewed the complete record in its original disciplinary jurisdiction.
STANDARD OF REVIEW	Complete de novo consideration of the entire record, with the Supreme Court independently examining and weighing the evidence as a tribunal of first instance exercising original and exclusive jurisdiction over attorney discipline. The Professional Responsibility Tribunal's findings are neither binding nor persuasive.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Oklahoma
PARTIES	State of Oklahoma ex rel. Oklahoma Bar Association v. Cameron Maxwell Spradling

TOPICS

tax · tax evasion · post-conviction relief · appellate procedure · standard of review

PRACTICE AREAS

attorney discipline · legal ethics · federal income tax offenses

QUESTIONS PRESENTED

1. Whether a lawyer's conviction for willful failure to file a federal income tax return demonstrates unfitness to practice law under Rule 7.1 of the Rules Governing Disciplinary Proceedings.
2. Whether the period of Spradling's pendente lite suspension constituted an adequate disciplinary sanction.
3. What standard of review governs the Supreme Court of Oklahoma's consideration of a post-conviction attorney disciplinary proceeding.

HOLDINGS

1. A lawyer's conviction for willful failure to file an income tax return demonstrates unfitness to practice law under Rule 7.1 and warrants professional discipline, regardless of whether the offense is classified as a misdemeanor or felony.
2. The period of Spradling's pendente lite suspension, running from February 7, 2008, until the effective date of the opinion, was an adequate disciplinary measure for his misconduct, subject to payment of proceeding costs.
3. The Supreme Court of Oklahoma must give complete de novo consideration to the entire record and independently determine the lawyer's continued fitness to practice law in its original disciplinary jurisdiction.

KEY QUOTATIONS

> *"The findings of the PRT are hence neither binding nor persuasive. They do not constitute the decision of an independent tribunal."* (¶ 5)

> *"By willfully failing to file tax returns, a lawyer appears to the public to be placing himself above the law."* (¶ 8)

> *"On its complete de novo consideration of the entire record, the court holds that Spradling's conviction demonstrates his unfitness to practice law within the meaning of Rule 7.1 and warrants the imposition of discipline."* (¶ 10)

FACTUAL BACKGROUND

Spradling pleaded guilty to one misdemeanor count of willfully failing to file his 2003 federal income tax return; two similar counts for 2001 and 2002 were dismissed under the plea agreement. He received six months' imprisonment, twelve months' supervised release, a $25 assessment, and a $12,000 fine. He had previously received a public censure in an unrelated disciplinary matter. The parties stipulated that the conviction constituted professional misconduct and that Spradling had completed supervised release.

PROCEDURAL HISTORY

Spradling pleaded guilty in the United States District Court for the Western District of Oklahoma to willful failure to file a 2003 federal income tax return, in violation of 26 U.S.C. § 7203. The Oklahoma Supreme Court suspended him pendente lite on February 7, 2008. Following a Professional Responsibility Tribunal hearing, the tribunal found that the conviction demonstrated unfitness to practice law and recommended a six-month suspension. The parties stipulated that the conviction constituted professional misconduct and that a six-month suspension was appropriate; the Supreme Court conducted a complete de novo review and imposed discipline through the period of the interim suspension, plus costs.

DISPOSITION

other

CASES CITED

- State ex rel. Okla. Bar Ass'n v. Livshee, 1994 OK 12, 870 P.2d 770
- Application of Sanger, 1993 OK 158, 865 P.2d 338
- State ex rel. Okla. Bar Ass'n v. Carpenter, 1993 OK 86, 863 P.2d 1123
- Appeal of Evinger, 1981 OK 58, 629 P.2d 363
- State ex rel. Okla. Bar Ass'n v. Trower, 1963 OK 93, 381 P.2d 142
- Brown v. Burkett, 1988 OK 49, 755 P.2d 650
- Atchison, Topeka & Santa Fe Ry. Co. v. State, 1984 OK 87, 692 P.2d 554
- Shelton v. Lambert, 1965 OK 28, 399 P.2d 467
- Globe-Union, Inc. v. Chi. Tel. Supply Co., 103 F.2d 722
- Niehaus v. Madden, 348 Mo. 770, 155 S.W.2d 141
- Willner v. Comm. on Character and Fitness, 373 U.S. 96, 83 S. Ct. 1175, 10 L. Ed. 2d 224 (1963)
- State ex rel. Okla. Bar Ass'n v. Groshon, Jr., 2003 OK 112, 82 P.3d 99
- State ex rel. Okla. Bar Ass'n v. Schraeder, 2002 OK 51, 51 P.3d 570
- State ex rel. Okla. Bar Ass'n v. Spradling, 2008 OK 14
- State ex rel. Okla. Bar Ass'n v. Spradling, 1994 OK 77, 880 P.2d 358
- Comm. on Prof'l Ethics v. Bromwell, 221 N.W.2d 777 (Iowa 1974)
- St. Pierre's Case, 113 N.H. 198, 304 A.2d 88
- In re Schub, 54 Ill. 2d 277, 296 N.E.2d 738
- In re Calhoun, 127 Vt. 220, 245 A.2d 560
- Attorney Grievance Comm'n of Md. v. Walman, 280 Md. 453, 374 A.2d 354
- Cleveland Bar Ass'n v. Stein, 29 Ohio St. 2d 77, 278 N.E.2d 670
- State v. Arneson, 36 Wis. 2d 618, 153 N.W.2d 497
- Ohio State Bar Ass'n v. Hart, 15 Ohio St. 2d 97, 238 N.E.2d 560
- In re Knapp, 127 Vt. 222, 245 A.2d 561