

APPELLATE DIVISION OF THE SUPREME COURT OF THE STATE OF NEW YORK, THIRD DEPARTMENT

Matter of Smith

183 N.Y.S.3d 330 (N.Y. App. Div. 2023) · No. PM-43-23 · Decided March 2, 2023

SUMMARY

The Appellate Division, Third Department granted Gary John Smith's application to resign from the New York bar for nondisciplinary reasons. The court accepted his resignation, struck his name from the roll of attorneys, prohibited him from practicing law in New York, and ordered him to surrender his Attorney Secure Pass.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, Third Department
WRITING FOR THE COURT	Garry, P.J.; Clark, J.; Aarons, J.; Fisher, J.; McShan, J.
JURISDICTION	New York
DECIDED	March 2, 2023
DOCKET	PM-43-23
DISPOSITION	other
PROCEDURAL POSTURE	An attorney admitted to practice in New York applied for permission to resign from the New York bar for nondisciplinary reasons. The Appellate Division granted the application and accepted the resignation.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Gary John Smith v. Attorney Grievance Committee for the Third Judicial Department

TOPICS

appellate procedure

PRACTICE AREAS

legal ethics attorney discipline bar admission and resignation

QUESTIONS PRESENTED

1. Whether Gary John Smith was eligible to resign from the New York bar for nondisciplinary reasons.
2. Whether the court should grant Smith's application, accept his resignation, strike his name from the roll of attorneys, and impose the related restrictions prescribed by the governing rules.

HOLDINGS

1. Smith was eligible to resign for nondisciplinary reasons under 22 NYCRR 1240.22(a).
2. The application for permission to resign was granted, the nondisciplinary resignation was accepted, Smith's name was stricken from the roll of New York attorneys effective immediately until further order, and he was prohibited from practicing law or holding himself out as an attorney in New York.

FACTUAL BACKGROUND

Gary John Smith was admitted to practice by the Appellate Division, Third Department, in 1999 and maintained a business address in San Francisco, California with the Office of Court Administration. He sought permission to resign from the New York bar for nondisciplinary reasons. The Attorney Grievance Committee did not oppose the application, and the court determined that Smith was eligible to resign.

PROCEDURAL HISTORY

Smith filed an affidavit seeking nondisciplinary resignation. The Attorney Grievance Committee advised that it did not oppose the application, and the Appellate Division determined that Smith was eligible to resign and entered an order accepting his resignation.

DISPOSITION

other