

# INDIANA SUPREME COURT

## In re Darby

801 N.E.2d 627 (Ind. 2004) · Decided January 14, 2004

### SUMMARY

The Indiana Supreme Court imposed reciprocal discipline on Richard D. Darby, Jr., based on his disbarment by the Illinois Supreme Court for misconduct including client neglect, dishonesty, tax-related misconduct, and false bankruptcy filings. The court suspended Darby from practicing law in Indiana and made reinstatement contingent on his reinstatement in Illinois or further order of the court.

### CASE DETAILS

|                    |                                                                                                                                                                                                                                                                                         |
|--------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT              | Indiana Supreme Court                                                                                                                                                                                                                                                                   |
| JURISDICTION       | Indiana                                                                                                                                                                                                                                                                                 |
| DECIDED            | January 14, 2004                                                                                                                                                                                                                                                                        |
| DISPOSITION        | other                                                                                                                                                                                                                                                                                   |
| PROCEDURAL POSTURE | Reciprocal attorney-discipline proceeding initiated by the Indiana Supreme Court Disciplinary Commission after the respondent was disbarred in Illinois.                                                                                                                                |
| STANDARD OF REVIEW | Under Indiana Admission and Discipline Rule 23(28)(c), foreign discipline is imposed identically unless the lawyer or disciplinary authority demonstrates a specified due-process, proof, sanction, or injustice exception; the burden rests on the party seeking different discipline. |
| PRECEDENTIAL VALUE | Published Indiana Supreme Court disciplinary order                                                                                                                                                                                                                                      |

### TOPICS

- appellate procedure
- administrative law

### PRACTICE AREAS

- attorney discipline
- reciprocal discipline
- professional responsibility
- appellate procedure
- administrative law

### QUESTIONS PRESENTED

1. Whether Indiana should impose reciprocal discipline after Illinois disbarred the respondent for professional misconduct.
2. Whether the respondent demonstrated any basis under Indiana Admission and Discipline Rule 23(28)(c) for imposing discipline different from the Illinois discipline.

## HOLDINGS

1. Indiana must impose discipline identical to that imposed by the other jurisdiction when the Rule 23(28)(c) exceptions are not established; the respondent was therefore suspended from practicing law in Indiana and made ineligible to seek reinstatement until reinstated in Illinois or further order of the Indiana Supreme Court.
2. The final Illinois adjudication conclusively established the respondent's misconduct for purposes of the Indiana reciprocal-discipline proceeding.

## KEY QUOTATIONS

*“Upon the expiration of thirty (30) days from service of the order [order to show cause] set out in subsection (b), this Court shall impose discipline identical to that ordered in the other jurisdiction unless the Executive Secretary or the lawyer demonstrate, or this Court finds that it clearly appears upon the face of the record from which the discipline is predicated, that:” (801 N.E.2d at 628)*

*“The burden is on the party seeking different discipline in this state to demonstrate that the imposition of the same discipline is unwarranted.” (801 N.E.2d at 628)*

## FACTUAL BACKGROUND

Richard D. Darby, Jr. was admitted to practice in Indiana in 1972 and Illinois in 1986. Illinois disciplinary proceedings found that he neglected a client's case, misled the client, failed to file a state tax return, and filed false or misleading pleadings and gave false testimony in his personal bankruptcy. The Illinois Supreme Court disbarred him, and he did not meaningfully participate in the Illinois proceeding or respond to Indiana's order to show cause.

## PROCEDURAL HISTORY

The Indiana Supreme Court Disciplinary Commission filed a verified notice of foreign discipline and petition for an order to show cause. After the court issued an order to show cause, the respondent did not respond. The court imposed reciprocal discipline based on the Illinois disbarment and the respondent's failure to demonstrate grounds for different discipline.

## DISPOSITION

other

## CASES CITED

- In re Richard D. Darby, Jr., No. 98 CH 628

