

NEBRASKA SUPREME COURT

State of Nebraska ex rel. Counsel for Discipline of the Nebraska Supreme Court v. John D. Feller

299 Neb. 461 (2018) · No. S-17-1291 · Decided March 23, 2018

SUMMARY

The Nebraska Supreme Court accepted John D. Feller's voluntary surrender of his law license after he stated that he would not contest allegations that he misappropriated client funds. The court entered an immediate judgment of disbarment and directed Feller to comply with applicable disciplinary rules and pay any ordered costs and expenses.

CASE DETAILS

COURT	Nebraska Supreme Court
WRITING FOR THE COURT	Heavican, C.J.; Miller-Lerman, J.; Cassel, J.; Stacy, J.; Funke, J.
JURISDICTION	Nebraska
DECIDED	March 23, 2018
DOCKET	S-17-1291
DISPOSITION	other
PROCEDURAL POSTURE	Original disciplinary action arising from respondent's voluntary surrender of his license to practice law.
PRECEDENTIAL VALUE	published
PARTIES	State of Nebraska ex rel. Counsel for Discipline of the Nebraska Supreme Court v. John D. Feller

TOPICS

[sanctions](#) [contempt](#) [costs](#) [remedies](#) [civil procedure](#)

PRACTICE AREAS

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

QUESTIONS PRESENTED

1. Whether the Nebraska Supreme Court should accept Feller's voluntary surrender of his license under Neb. Ct. R. § 3-315.

2. Whether Feller should be disbarred and required to comply with the applicable disciplinary rules and pay any assessed costs and expenses.

HOLDINGS

1. A member who voluntarily surrenders a law license in compliance with Neb. Ct. R. § 3-315, knowingly does not contest the allegations, and waives related proceedings may have the surrender accepted and an order of disbarment entered.
2. Feller should be disbarred from the practice of law in Nebraska effective immediately, must comply with Neb. Ct. R. § 3-316, and must pay costs and expenses as ordered under the cited statutes and disciplinary rules.

KEY QUOTATIONS

“The court accepts respondent’s voluntary surrender of his license, finds that respondent should be disbarred, and hereby orders him disbarred from the practice of law in the State of Nebraska, effective immediately.”
(463)

FACTUAL BACKGROUND

Feller had been admitted to practice law in Nebraska since July 2, 1976. A grievance filed against him alleged that he misappropriated client funds. Feller voluntarily surrendered his license, knowingly declined to contest the allegations, waived further proceedings, and consented to immediate disbarment.

PROCEDURAL HISTORY

After a grievance alleging misappropriation of client funds was filed, John D. Feller voluntarily surrendered his license and stated that he did not contest the allegations. He waived notice, appearance, and hearing and consented to immediate disbarment. The Nebraska Supreme Court accepted the surrender and entered judgment of disbarment.

DISPOSITION

other

OPINION

PER CURIAM.

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No. S-17-1291. Original action. Judgment of disbarment. Heavican, C.J., Miller-Lerman, Cassel, Stacy, and Funke, JJ. Per Curiam. INTRODUCTION This case is before the court on the voluntary surrender of license filed by respondent, John D. Feller, on December 11, 2017.

The court accepts respondent's voluntary surrender of his license and enters a judgment of disbarment. STATEMENT OF FACTS Respondent was admitted to the practice of law in the State of Nebraska on July 2, 1976. On December 11, 2017, respondent filed a voluntary surrender of license to practice law, in which he stated that, on August 22, 2017, a grievance was filed against him with the Counsel for Discipline alleging that he misappropriated client funds.

Respondent stated that he knowingly chooses not to contest the truth of the allegations made against him in the grievance letter. He also stated that he freely and voluntarily waives his right to notice, appearance, or hearing prior to the entry of an order of - 462 - Nebraska Supreme Court Advance Sheets 299 Nebraska Reports STATE EX REL. COUNSEL FOR DIS. v. FELLER Cite as 299 Neb. 461 disbarment, and consents to the entry of an immediate order of disbarment.

ANALYSIS Neb. Ct. R. § 3-315 of the disciplinary rules provides in pertinent part: (A) Once a Grievance, a Complaint, or a Formal Charge has been filed, suggested, or indicated against a member, the member may voluntarily surrender his or her license.

(1) The voluntary surrender of license shall state in writing that the member knowingly admits or knowingly does not challenge or contest the truth of the suggested or indicated Grievance, Complaint, or Formal Charge and waives all proceedings against him or her in connection therewith. Pursuant to § 3-315 of the disciplinary rules, we find that respondent has voluntarily surrendered his license to practice law and knowingly does not challenge or contest the truth of the suggested allegations made against him.

Further, respondent has waived all proceedings against him in connection therewith. We further find that respondent has consented to the entry of an order of disbarment. CONCLUSION Upon due consideration of the court file in this matter, the court finds that respondent has stated that he freely, knowingly, and voluntarily admits that he does not contest the allegations being made against him.

The court accepts respondent's voluntary surrender of his license to practice law, finds that respondent should be disbarred, and hereby orders him disbarred from the practice of law in the State of Nebraska, effective immediately. Respondent shall forthwith comply with all terms of Neb. Ct. R. § 3-316 (rev. 2014) of the disciplinary rules, and upon failure to do so, he shall be subject to punishment for contempt of this court.

Accordingly, respondent is - 463 - Nebraska Supreme Court Advance Sheets 299 Nebraska Reports STATE EX REL. COUNSEL FOR DIS. v. FELLER Cite as 299 Neb. 461 directed to pay costs and expenses in accordance with Neb. Rev. Stat. §§ 7-114 and 7-115 (Reissue 2012) and

Neb. Ct. R. §§ 3-310(P) (rev. 2014) and 3-323 of the disciplinary rules within 60 days after an order imposing costs and expenses, if any, is entered by the court.

Judgment of disbarment. Wright, J., not participating.

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