

SUPREME COURT OF VIRGINIA

Tidwell v. Virginia State Bar, 262 Va. 548

554 S.E.2d 451 (2001) · No. Record No. 010692 · Decided November 2, 2001

SUMMARY

The Supreme Court of Virginia affirmed the Virginia State Bar Disciplinary Board's revocation of Drew Virgil Tidwell's license to practice law after his automatic disbarment in New York following a felony conviction. The court held that the relevant due-process inquiry encompassed the entire criminal and disbarment process, and that Tidwell had notice and an opportunity to be heard because he defended, but ultimately pleaded guilty to, the criminal charge and could have appealed the disbarment order.

CASE DETAILS

COURT	Supreme Court of Virginia
JURISDICTION	Virginia
DECIDED	November 2, 2001
DOCKET	Record No. 010692
DISPOSITION	affirmed
PROCEDURAL POSTURE	Tidwell appealed an order of the Virginia State Bar Disciplinary Board revoking his Virginia law license after his New York felony conviction resulted in automatic disbarment in New York.
STANDARD OF REVIEW	The Supreme Court of Virginia independently reviewed the record, gave the Disciplinary Board's factual findings substantial weight and treated them as prima facie correct, and sustained the Board's conclusions unless they were unsupported by a reasonable view of the evidence or contrary to law.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Drew Virgil Tidwell v. Virginia State Bar

TOPICS

- procedural due process
- due process
- administrative law
- appellate procedure
- standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Paragraph 13(G) required the Virginia Disciplinary Board to consider only the automatic disbarment proceeding, rather than the entire criminal and disbarment process, in deciding whether Tidwell was denied due process.
2. Whether the New York proceedings resulting in Tidwell's automatic disbarment denied him notice or an opportunity to be heard.
3. Whether the Virginia State Bar Disciplinary Board erred in revoking Tidwell's Virginia law license.

HOLDINGS

1. In determining whether reciprocal disbarment was improper because of a due-process violation, the Disciplinary Board properly considered the record of the entire process resulting in disbarment, including the criminal proceeding and the disbarment proceeding, rather than reviewing the automatic disbarment proceeding in isolation.
2. Tidwell failed to show that the New York proceedings denied him due process because he had notice of the criminal charge and the consequence of conviction, had an opportunity to defend against the charge, knowingly pleaded guilty, and could have appealed the disbarment order.
3. The Virginia State Bar Disciplinary Board did not err in revoking Tidwell's Virginia law license.

KEY QUOTATIONS

“Thus the Disciplinary Board properly considered the record of the criminal proceeding along with the disbarment proceeding in making its determination.” (453)

“Based on our review of the record, we hold that the Disciplinary Board did not err in concluding that Tidwell failed to satisfy his burden to show that he was denied due process because the evidence before the Disciplinary Board supported a finding that the New York proceedings resulting in Tidwell's disbarment did not violate Tidwell's due process rights.” (453)

FACTUAL BACKGROUND

Tidwell pleaded guilty in New York to leaving the scene of an incident without reporting, a class E felony. Under New York law, conviction of a felony resulted in automatic disbarment, and Tidwell's name was struck from the roll of attorneys. Virginia's Disciplinary Board initiated reciprocal-disbarment proceedings, and Tidwell argued that the New York process denied him notice and an opportunity to be heard. The record showed that he had notice of the criminal charge and the consequence of conviction, chose to plead guilty, did not claim coercion or a due-process violation concerning the plea, and did not appeal the New York disbarment order.

PROCEDURAL HISTORY

Tidwell pleaded guilty in New York to a class E felony. His felony conviction resulted in automatic disbarment under New York law. After receiving notice of the New York disbarment, the Virginia State Bar Disciplinary

Board issued a show-cause order under Paragraph 13(G), held a hearing, found that Tidwell had not been denied due process, and revoked his Virginia license. The Supreme Court of Virginia independently reviewed the record and affirmed.

DISPOSITION

affirmed

CASES CITED

- Hawker v. New York, 170 U.S. 189, 195-96, 18 S. Ct. 573, 42 L. Ed. 1002 (1898)
- In re Collins, 188 Cal. 701, 704-06, 206 P. 990, 991-92 (1922)
- Blue v. Seventh Dist. Comm. of Virginia State Bar, 220 Va. 1056, 1061-62, 265 S.E.2d 753, 757 (1980)