

SUPREME COURT OF WISCONSIN

Office of Lawyer Regulation v. Scott E. Selmer

761 N.W.2d 6 (2009) · No. 2008AP2868-D · Decided February 17, 2009

SUMMARY

The Wisconsin Supreme Court imposed reciprocal discipline on Scott E. Selmer after the Minnesota Supreme Court publicly reprimanded him and ordered one year of unsupervised probation. Because Selmer did not respond and did not establish any exception under Wisconsin's reciprocal-discipline rule, the court ordered a public reprimand and noted his separate failure to timely notify the Office of Lawyer Regulation.

CASE DETAILS

COURT	Supreme Court of Wisconsin
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Wisconsin
DECIDED	February 17, 2009
DOCKET	2008AP2868-D
DISPOSITION	other
PROCEDURAL POSTURE	The Office of Lawyer Regulation filed a complaint and motion requesting reciprocal discipline identical to a public reprimand imposed on Selmer by the Minnesota Supreme Court. The Wisconsin Supreme Court ordered Selmer to show cause why reciprocal discipline should not be imposed; Selmer did not respond.
PRECEDENTIAL VALUE	Published Wisconsin Supreme Court opinion; precedential.
PARTIES	Office of Lawyer Regulation v. Scott E. Selmer

TOPICS

administrative law

appellate procedure

PRACTICE AREAS

legal ethics

attorney discipline

reciprocal discipline

professional responsibility

QUESTIONS PRESENTED

1. Whether Wisconsin should impose reciprocal discipline identical to the public reprimand imposed by the Minnesota Supreme Court.
2. Whether Selmer's failure to notify the Office of Lawyer Regulation of the Minnesota discipline within 20 days constituted misconduct under SCR 22.22(1).

HOLDINGS

1. Wisconsin must impose discipline identical to that imposed by another jurisdiction unless one of the exceptions in SCR 22.22(3) applies; because Selmer did not allege that any exception applied, reciprocal public reprimand was warranted.
2. An attorney's failure to notify the director of public discipline imposed by another jurisdiction within 20 days of the effective date constitutes misconduct under SCR 22.22(1).

KEY QUOTATIONS

"SCR 22.22(3) provides that this court "shall impose the identical discipline or license suspension unless ... [t]he procedure in the other jurisdiction was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process" violation; "there was such an infirmity of proof establishing the misconduct ... that [this court] could not accept as final" the other jurisdiction's misconduct finding; or "the misconduct justifies substantially different discipline" here." (§ 5)

FACTUAL BACKGROUND

Selmer was licensed to practice law in Wisconsin and Minnesota. The Minnesota Supreme Court publicly reprimanded him and imposed one year of unsupervised probation for failing to comply with probation terms, failing to file timely individual income tax returns, and a fifth-degree assault conviction. Selmer did not notify the Wisconsin Office of Lawyer Regulation of the Minnesota discipline within 20 days and did not respond to the Wisconsin complaint or show-cause order.

PROCEDURAL HISTORY

The Minnesota Supreme Court publicly reprimanded Selmer and imposed one year of unsupervised probation. The Office of Lawyer Regulation then sought reciprocal discipline in Wisconsin and alleged that Selmer failed to notify the OLR of the Minnesota discipline within the required 20-day period. After Selmer failed to respond to the complaint and show-cause order, the Wisconsin Supreme Court imposed identical reciprocal discipline.

DISPOSITION

other

CASES CITED

- In re Disciplinary Proceedings Against Selmer, 195 Wis. 2d 687, 538 N.W.2d 252 (1995)
- In re Disciplinary Proceedings Against Selmer, 227 Wis. 2d 85, 595 N.W.2d 373 (1999)

OPINION

PER CURIAM.

761 N.W.2d 6 (2009) 2009 WI 15 In the Matter of DISCIPLINARY PROCEEDINGS AGAINST Scott E. SELMER, Attorney at Law: Office of Lawyer Regulation, Complainant, v. Scott E. Selmer, Respondent. No. 2008AP2868-D. Supreme Court of Wisconsin. Decided February 17, 2009. ¶ 1 PER CURIAM.

The Office of Lawyer Regulation (OLR) has filed a complaint and motion pursuant to SCR 22.22 requesting that this court impose reciprocal discipline against Attorney Scott E. Selmer identical to the public reprimand imposed by the Minnesota Supreme Court.

The OLR's complaint further alleges that Attorney Selmer failed to notify the OLR of the public reprimand in Minnesota within 20 days of the effective date of the order, contrary to SCR 22.22(1).[1] *7 ¶ 2 On November 20, 2008, in response to the OLR's motion, this court issued an order directing Attorney Selmer to show cause in writing by December 10, 2008, why the imposition of the identical discipline imposed by the Minnesota Supreme Court would be unwarranted.

Attorney Selmer failed to respond to either the OLR's complaint or the order to show cause. ¶ 3 Attorney Selmer was licensed to practice law in Wisconsin in 1978 and was admitted to practice law in Minnesota in 1991. His most recent address is Golden Valley, Minnesota.

In 1990 he received a consensual private reprimand for filing documents with the Pierce County circuit court and the court of appeals while under a continuing legal education (CLE) suspension. In 1995 he was publicly reprimanded for failing to promptly provide a client in a personal injury matter with a full accounting of funds. See *In re Disciplinary Proceedings Against Selmer*, 195 Wis. 2d 687, 538 N.W.2d 252 (1995).

In 1999 Attorney Selmer's law license was reciprocally suspended for a period of one year for professional misconduct in Minnesota consisting of engaging in a pattern of frivolous and harassing conduct by filing counterclaims alleging racial discrimination in actions brought against him by his creditors. See *In re Disciplinary Proceedings Against Selmer*, 227 Wis. 2d 85, 595 N.W.2d 373 (1999).

Attorney Selmer's license to practice law in Wisconsin is currently suspended for failure to comply with CLE requirements and for failure to pay his state bar dues. ¶ 4 On May 22, 2008, the Minnesota Supreme Court ordered Attorney Selmer to be publicly reprimanded and also ordered one year of unsupervised probation.

The misconduct upon which Attorney Selmer's Minnesota discipline was imposed consisted of failure to comply with the terms of probation; failure to file timely individual income tax returns; and a fifth-degree assault conviction. ¶ 5 SCR 22.22(3) provides that this court "shall impose the

identical discipline or license suspension unless... [t]he procedure in the other jurisdiction was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process" violation; "there was such an infirmity of proof establishing the misconduct... that [this court] could not accept as final" the other jurisdiction's misconduct finding; or "the misconduct justifies substantially different discipline" here.

Attorney Selmer has not alleged that any of these three exceptions exist. Accordingly, the imposition of reciprocal discipline against Attorney Selmer is warranted. ¶ 6 IT IS ORDERED that Scott E. Selmer is publicly reprimanded as reciprocal discipline to that imposed by the Minnesota Supreme Court. NOTES [1] SCR 22.22(1) provides: Reciprocal discipline. An attorney on whom public discipline for misconduct or a license suspension for medical incapacity has been imposed by another jurisdiction shall promptly notify the director of the matter.

Failure to furnish the notice within 20 days of the effective date of the order or judgment of the other jurisdiction constitutes misconduct.