

SUPREME COURT OF OKLAHOMA

In re Amendment of Rule Two of Rules Governing Admission to Practice of Law

2020 OK 78 (Okla. 2020) · No. SCBD-6961 · Decided September 28, 2020

SUMMARY

The Supreme Court of Oklahoma amended Sections 1 and 5 of Rule Two of the Rules Governing Admission to the Practice of Law. The amendments address reciprocal-state admission without examination, qualifying practice experience, and special temporary permits for attorneys employed by businesses in Oklahoma.

CASE DETAILS

COURT	Supreme Court of Oklahoma
JURISDICTION	Oklahoma
DECIDED	September 28, 2020
DOCKET	SCBD-6961
DISPOSITION	other
PROCEDURAL POSTURE	The Oklahoma Supreme Court considered an application to amend Sections 1 and 5 of Rule Two of the Rules Governing Admission to the Practice of Law.
PRECEDENTIAL VALUE	published

TOPICS

rulemaking

administrative law

PRACTICE AREAS

administrative law

legal profession and attorney admission

QUESTIONS PRESENTED

1. Whether the Supreme Court of Oklahoma had jurisdiction to consider the application to amend Rule Two of the Rules Governing Admission to the Practice of Law.
2. Whether Sections 1 and 5 of Rule Two should be amended as set out in Exhibit A.

HOLDINGS

1. The Supreme Court of Oklahoma had jurisdiction over the matter.
2. Sections 1 and 5 of Rule Two of the Rules Governing Admission to the Practice of Law were amended as set out in Exhibit A, effective immediately.

KEY QUOTATIONS

“This Court finds that it has jurisdiction over this matter and the Rules are hereby amended as set out in Exhibit A attached hereto, effective immediately.” (Order)

FACTUAL BACKGROUND

The Board of Bar Examiners' admission rules govern admission upon motion without examination and special temporary permits for attorneys from reciprocal states. An application was presented to amend Sections 1 and 5 of Rule Two, including provisions concerning reciprocal-state practice, qualifying legal experience, and special temporary permits.

PROCEDURAL HISTORY

The matter came before the Supreme Court of Oklahoma on an application to amend Rule Two. The court found that it had jurisdiction and adopted the amendments set out in Exhibit A, effective immediately.

DISPOSITION

other

OPINION

PER CURIAM.

IN RE AMENDMENT OF RULE TWO OF RULES GOVERNING ADMISSION TO PRACTICE OF LAW

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IN RE AMENDMENT OF RULE TWO OF RULES GOVERNING ADMISSION TO
PRACTICE OF LAW2020 OK 78Case Number: SCBD-6961Decided: 09/28/2020THE
SUPREME COURT OF THE STATE OF OKLAHOMA

Cite as: 2020 OK 78, __ P.3d __

In Re: Amendment of Rule Two of the Rules Governing Admission to the Practice of Law, 5 O.S.
2011, Ch. 1, app. 5

ORDER

This matter comes on before this Court upon an Application to Amend Rule Two, Sections 1 and 5
of the Rules Governing Admission to the Practice of Law, 5 O.S. 2011, Ch. 1, app 5. This Court
finds that it has jurisdiction over this matter and the Rules are hereby amended as set out in
Exhibit A attached hereto, effective immediately.

DONE BY THE SUPREME COURT IN CONFERENCE this 28th day of September, 2020.

/S/CHIEF JUSTICE

ALL JUSTICES CONCUR

EXHIBIT A

Rules Governing Admission to the Practice of Law in the State of OklahomaChapter 1, App.
5Rule 2. Admission Upon Motion Without Examination.

(1) For purposes of this Rule, the term "reciprocal state" shall mean a state which grants
Oklahoma judges and lawyers the right of admission on motion, without the requirement of taking
an examination and whose requirements for admission are similar to Oklahoma's admission upon
motion without examination standards. Reciprocal state includes the District of Columbia,
territories, districts, and commonwealths or possessions of the United States.

The following persons, when found by the Board of Bar Examiners to be qualified under Section I
and 2 of Rule One, may be admitted by the Supreme Court to the practice of law in the State of
Oklahoma upon the recommendation and motion of the Board, without examination:

Section 1. Persons who are graduates of an American Bar Association approved law school, have
been lawfully admitted to practice and are in good standing on active status in by a reciprocal
state, and have engaged in the actual and continuous practice of law under the supervision and
subject to the disciplinary requirements of a reciprocal state bar association or supreme court in a
reciprocal state for at least five of the seven years immediately preceding application for
admission under this Rule. The years of practice earned under the supervision and subject to the
disciplinary requirements of in multiple reciprocal states may be combined.

For the purposes of this section, "practice of law" shall mean:

(a) Private practice as a sole practitioner or for a law firm, legal services office, legal clinic or
similar entity, provided such practice was subsequent to being admitted to the practice of law in
the reciprocal state in which that practice occurred;

- (b) Practice as an attorney for a corporation, partnership, trust, individual or other entity, provided such practice was subsequent to being admitted to the practice of law in the reciprocal state in which the practice occurred and involved the primary duties of furnishing legal counsel, drafting legal documents and pleadings, interpreting and giving advice regarding the law, or preparing, trying or presenting cases before courts, executive departments, administrative bureaus, or agencies;
- (c) Practice as an attorney for the federal, state, local government (including a territory, district, commonwealth or possession of the United States), branch of the armed services, or sovereign Indian nation with the same primary duties as described in Section I (b) above;
- (d) Employment as a judge, magistrate, referee, law clerk, or similar official for the federal, state or local government (including a territory, district, commonwealth or possession of the United States); provided that such employment is available only to attorneys;
- (e) Full time employment as a teacher of law at a law school approved by the American Bar Association; or
- (f) Any combination of the above.

The period of the "practice of law" as defined above in subparagraphs 1(a) through 1(f) shall have occurred outside the State of Oklahoma under the supervision and subject to the disciplinary requirements of a reciprocal state bar association or supreme court in a reciprocal state. Applicants for admission without examination shall furnish such proof of practice and licensing as may be required by the Board. No applicant for admission without examination under this rule will be admitted if the applicant has taken and failed an Oklahoma bar examination without having later passed such examination.

An attorney practicing in Oklahoma under a Special Temporary Permit cannot later gain admission via Admission Upon Motion if five of the past seven years of actual and continuous practice experience were acquired in Oklahoma.

Section 2. Applicant shall provide at his or her own expense a report by the National Conference of Bar Examiners.

Section 3. Applications must be upon forms prescribed by the Board of Bar Examiners.

Section 4. It is the purpose of this rule to grant reciprocity to qualified judges and lawyers from other reciprocal states and to secure for Oklahoma judges and lawyers like privileges. If the former state of the applicant does not grant to Oklahoma judges and lawyers the right of admission on motion, then this Rule shall not apply and the applicant must, before being admitted to practice in Oklahoma, comply with the provisions of Rule Four. If the former state of the applicant permits the admission of Oklahoma judges and lawyers upon motion but the Rules are more stringent and exacting and contain other limitations, restrictions or conditions of admission and the fees required to be paid are higher, the admission of applicant shall be governed by the same Rules and shall pay the same fees which would apply to an applicant from Oklahoma seeking admission to the bar in the applicant's former state. If the applicant's actual and continuous practice for the past five of

seven years is from a nonreciprocal state that does not grant Oklahoma judges and lawyers the right of admission on motion, the professional experience from the former state will not be considered, and any professional experience from a nonreciprocal state cannot be combined with the professional experience from a reciprocal state to meet the requisite five of seven years of actual and continuous practice.

Section 5. Any person who is admitted to the practice of law in a reciprocal state and who remains under the supervision and subject to the disciplinary requirements of a reciprocal state bar association or supreme court who becomes a resident of Oklahoma to accept or continue employment by a person, firm, association or corporation engaged in business in Oklahoma other than the practice of law, whose full time job is, or will be, devoted to the business of such employer, and who receives, or will receive, his or her entire compensation from such employer for applicant's legal services, may be granted a Special Temporary Permit to practice law in Oklahoma, without examination, if the applicant would be fully qualified to take the bar examination in Oklahoma under the rules of the Supreme Court, and so long as such person remains in the employ of, and devotes his or her full time to the business of, and receives compensation for legal services from no other source than applicant's said employer. Upon the termination of such employment or transfer outside the State of Oklahoma, the right of such person to practice law in Oklahoma shall terminate immediately without further action from the Bar Association or the Supreme Court of Oklahoma unless such person shall have been admitted to practice law in this state pursuant to some other rule.

The application must comply with Section 2 of Rule Two and be accompanied by a certificate from the clerk of the highest appellate court of the state in which the applicant last practiced, showing that applicant has been admitted, and is a member in good standing of the bar of that state; and a certificate from the employer of such applicant showing applicant's employment by such employer and that applicant's full time employment will be by such employer in Oklahoma. The Special Temporary Permit shall recite that it is issued under this Rule, and shall briefly contain the contents thereof. Such Special Temporary Permit shall be subject to Rule Ten of these Rules. An attorney practicing in Oklahoma under a Special Temporary Permit cannot gain admission via Rule Two, Section 2, Admission Upon Motion, if any of the five of the seven years immediately preceding of actual and continuous practice experience were acquired in Oklahoma under a Special Temporary Permit.

EXHIBIT A

Rules Governing Admission to the Practice of Law in the State of OklahomaChapter 1, App. 5Rule 2. Admission Upon Motion Without Examination.

(2) For purposes of this Rule, the term "reciprocal state" shall mean a state which grants Oklahoma judges and lawyers the right of admission on motion, without the requirement of taking an examination and whose requirements for admission are similar to Oklahoma's admission upon motion without examination standards. Reciprocal state includes the District of Columbia,

territories, districts, and commonwealths or possessions of the United States.

The following persons, when found by the Board of Bar Examiners to be qualified under Section I and 2 of Rule One, may be admitted by the Supreme Court to the practice of law in the State of Oklahoma upon the recommendation and motion of the Board, without examination:

Section 1. Persons who are graduates of an American Bar Association approved law school, have been lawfully admitted to practice and are in good standing on active status by a reciprocal state, and have engaged in the actual and continuous practice of law under the supervision and subject to the disciplinary requirements of a reciprocal state bar association or supreme court for at least five of the seven years immediately preceding application for admission under this Rule. The years of practice earned under the supervision and subject to the disciplinary requirements of multiple reciprocal states may be combined.

For the purposes of this section, "practice of law" shall mean:

- (a) Private practice as a sole practitioner or for a law firm, legal services office, legal clinic or similar entity, provided such practice was subsequent to being admitted to the practice of law in the reciprocal state in which that practice occurred;
- (b) Practice as an attorney for a corporation, partnership, trust, individual or other entity, provided such practice was subsequent to being admitted to the practice of law in the reciprocal state in which the practice occurred and involved the primary duties of furnishing legal counsel, drafting legal documents and pleadings, interpreting and giving advice regarding the law, or preparing, trying or presenting cases before courts, executive departments, administrative bureaus, or agencies;
- (c) Practice as an attorney for the federal, state, local government (including a territory, district, commonwealth or possession of the United States), branch of the armed services, or sovereign Indian nation with the same primary duties as described in Section I (b) above;
- (d) Employment as a judge, magistrate, referee, law clerk, or similar official for the federal, state or local government (including a territory, district, commonwealth or possession of the United States); provided that such employment is available only to attorneys;
- (e) Full time employment as a teacher of law at a law school approved by the American Bar Association; or
- (f) Any combination of the above.

The period of the "practice of law" as defined above in subparagraphs 1(a) through 1(f) shall have occurred outside the State of Oklahoma under the supervision and subject to the disciplinary requirements of a reciprocal state bar association or supreme court. Applicants for admission without examination shall furnish such proof of practice and licensing as may be required by the Board. No applicant for admission without examination under this rule will be admitted if the applicant has taken and failed an Oklahoma bar examination without having later passed such examination.

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via Admission Upon Motion if five of the past seven years of actual and continuous practice experience were acquired in Oklahoma.

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Section 5. Any person who is admitted to the practice of law in a reciprocal state and who remains under the supervision and subject to the disciplinary requirements of a reciprocal state bar association or supreme court who becomes a resident of Oklahoma to accept or continue employment by a person, firm, association or corporation engaged in business in Oklahoma other than the practice of law, whose full time job is, or will be, devoted to the business of such employer, and who receives, or will receive, his or her entire compensation from such employer for applicant's legal services, may be granted a Special Temporary Permit to practice law in Oklahoma, without examination, if the applicant would be fully qualified to take the bar examination in Oklahoma under the rules of the Supreme Court, and so long as such person remains in the employ of, and devotes his or her full time to the business of, and receives compensation for legal services from no other source than applicant's said employer. Upon the termination of such employment or transfer outside the State of Oklahoma, the right of such person to practice law in Oklahoma shall terminate immediately without further action from the Bar Association or the Supreme Court of Oklahoma unless such person shall have been admitted to practice law in this state pursuant to some other rule.

The application must comply with Section 2 of Rule Two and be accompanied by a certificate from the clerk of the highest appellate court of the state in which the applicant last practiced, showing that applicant has been admitted, and is a member in good standing of the bar of that

state; and a certificate from the employer of such applicant showing applicant's employment by such employer and that applicant's full time employment will be by such employer in Oklahoma. The Special Temporary Permit shall recite that it is issued under this Rule, and shall briefly contain the contents thereof. Such Special Temporary Permit shall be subject to Rule Ten of these Rules. An attorney practicing in Oklahoma under a Special Temporary Permit cannot gain admission via Rule Two, Section 2, Admission Upon Motion, if any of the five of the seven years immediately preceding of actual and continuous practice experience were acquired in Oklahoma under a Special Temporary Permit.

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