

DISTRICT OF COLUMBIA COURT OF APPEALS

In re: Emerson V. Briggs, III

108 A.3d 1248 (D.C. 2015) · No. Nos. 12-BG-1889 & 14-BG-1221 · Decided February 5, 2015

SUMMARY

The District of Columbia Court of Appeals imposed reciprocal discipline and disbarred Emerson V. Briggs, III, nunc pro tunc to December 28, 2012, based on his disbarment by the Supreme Court of New York, Appellate Division, Third Judicial Department. The court consolidated the related proceedings and dismissed the original disciplinary matter.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	Per Curiam; Thompson; Ferren; Farrell
JURISDICTION	District of Columbia
DECIDED	February 5, 2015
DOCKET	Nos. 12-BG-1889 & 14-BG-1221
DISPOSITION	other
PROCEDURAL POSTURE	Reciprocal attorney-discipline proceeding arising from a New York disbarment order. The court consolidated two disciplinary matters, considered respondent's opposition and request for alternate discipline, and imposed reciprocal disbarment in the District of Columbia.
PRECEDENTIAL VALUE	published and precedential

TOPICS

appellate procedure

PRACTICE AREAS

legal ethics

attorney discipline

reciprocal discipline

QUESTIONS PRESENTED

1. Whether the District of Columbia should impose reciprocal discipline based on respondent's New York disbarment.

2. Whether respondent could relitigate the merits of the New York discipline or obtain a lesser sanction based on mitigating circumstances.

HOLDINGS

1. A reciprocal disciplinary proceeding is not a forum for rearguing the discipline imposed by the originating jurisdiction.
2. The District of Columbia imposed reciprocal disbarment based on respondent's New York disbarment, nunc pro tunc to December 28, 2012.

KEY QUOTATIONS

“Put simply, reciprocal discipline proceedings are not a forum to reargue the foreign discipline” (108 A.3d at 1248)

FACTUAL BACKGROUND

Respondent was disbarred from practicing law in New York after entering a plea in a criminal case. He submitted evidence and argument concerning the appropriate discipline and mitigating circumstances in the originating jurisdiction, but that court rejected those circumstances.

PROCEDURAL HISTORY

The Supreme Court of New York, Appellate Division, Third Judicial Department disbarred respondent. The District of Columbia Court of Appeals previously suspended respondent pending further action and ordered him to show cause why reciprocal discipline should not be imposed; it then consolidated the proceedings, imposed reciprocal disbarment nunc pro tunc to December 28, 2012, and dismissed the earlier disciplinary matter.

DISPOSITION

other

CASES CITED

- In re Zdravkovich, 831 A.2d 964, 969 (D.C. 2003)

OPINION

PER CURIAM.

Notice: This opinion is subject to formal revision before publication in the Atlantic and Maryland Reporters. Users are requested to notify the Clerk of the Court of any formal errors so that corrections may be made before the bound volumes go to press. DISTRICT OF COLUMBIA COURT OF APPEALS Nos. 12-BG-1889 & 14-BG-1221 IN RE: EMERSON V. BRIGGS, III, Respondent.

Bar Registration No. 446158 BDN: 262-11 & BDN: 335-14 BEFORE: Thompson, Associate Judge, and Ferren and Farrell, Senior Judges. ORDER (FILED - February 5, 2015) On consideration of the certified order of the Supreme Court of New York, Appellate Division, Third Judicial Department disbaring respondent from the practice of law in that jurisdiction, this court's November 11, 2014, order in no. 14- BG-1221 suspending respondent pending further action of the court and directing him to show cause why reciprocal discipline should not be imposed, respondent's motion to consolidate these two proceedings, Bar Counsel's motion for leave to file the lodged late opposition thereto, respondent's response to the order to show cause wherein he states that alternate discipline should be imposed, the declarations submitted on behalf of respondent, the response of Bar Counsel, and it appearing that respondent filed his affidavit in no. 14-BG-1221 as required by D.C.

Bar R. XI, §14 (g) on October 15, 2014, and that it further appearing that respondent filed his affidavit in no. 12-BG-1889 as required by D.C. Bar R. XI, §14 (g) on December 28, 2012, it is ORDERED that Bar Counsel's motion for leave to file the opposition to the motion to consolidate is granted and the Clerk shall file the lodged opposition. It is FURTHER ORDERED that respondent's motion to consolidate these two matters is granted.

It is FURTHER ORDERED that in no. 14-BG-1221 reciprocal discipline is hereby imposed and Emerson V. Briggs, III, is hereby disbarred in this jurisdiction, nunc pro tunc to December 28, 2012. To the extent that respondent attempts to challenge Nos. 12-BG-1889 & 14-BG-1221 imposition of reciprocal discipline by attempting to re-litigate the discipline imposed by the state of New York, such a challenge is improper in reciprocal disciplinary proceedings, see *In re Zdravkovich*, 831 A.2d 964, 969 (D.C.

2003) ("Put simply, reciprocal discipline proceedings are not a forum to reargue the foreign discipline"). The reciprocal discipline was based on a plea entered by respondent in a criminal case; therefore, there is no deficiency in the evidence. Further, respondent was permitted to submit evidence and argument in the originating jurisdiction on why he should not be disbarred.

To the extent that respondent argues that mitigating circumstances exist that would support a lesser disciplinary sanction, the originating court considered and rejected these circumstances and this court defers to the decision of the originating jurisdiction. It is FURTHER ORDERED that the original disciplinary matter, no. 12-BG-1889, is hereby dismissed. PER CURIAM