

SUPREME COURT OF OKLAHOMA

State of Oklahoma ex rel. Oklahoma Bar Association v. John Eldon Dalton

2018 OK 84 · No. SCBD-6684 · Decided October 29, 2018

SUMMARY

The Supreme Court of Oklahoma approved John Eldon Dalton's resignation from the Oklahoma Bar Association pending disciplinary proceedings. The court ordered that his resignation be effective September 20, 2018, struck his name from the Roll of Attorneys, imposed a five-year bar on reinstatement applications, and assessed \$14.10 in costs.

CASE DETAILS

COURT	Supreme Court of Oklahoma
WRITING FOR THE COURT	Combs, C.J.; Gurich, V.C.J.; Winchester, J.; Edmondson, J.; Colbert, J.; Reif, J.; Wyrick, J.; Darby, J.; Kauger, J.
JURISDICTION	Oklahoma
DECIDED	October 29, 2018
DOCKET	SCBD-6684
DISPOSITION	approved
PROCEDURAL POSTURE	The Oklahoma Bar Association applied to the Oklahoma Supreme Court for approval of John Eldon Dalton's resignation from the bar while disciplinary proceedings were pending.
PRECEDENTIAL VALUE	published
PARTIES	State of Oklahoma ex rel. Oklahoma Bar Association v. John Eldon Dalton

TOPICS

appellate procedure writ of certiorari

PRACTICE AREAS

legal ethics attorney discipline professional responsibility

QUESTIONS PRESENTED

1. Whether Dalton's resignation from the Oklahoma Bar Association during pending disciplinary proceedings should be approved under Rule 8.2 of the Rules Governing Disciplinary Proceedings.
2. When the approved resignation should become effective.
3. What conditions should govern Dalton's removal from the roll of attorneys and any future reinstatement application.

HOLDINGS

1. A resignation pending disciplinary proceedings was properly approved because Dalton's affidavit established that the resignation was voluntary, uncoerced, informed, and accompanied by his waiver of the right to contest the disciplinary allegations.
2. The resignation was effective September 20, 2018, the date it was executed and filed with the Court.
3. Upon approval, Dalton's name was to be stricken from the Roll of Attorneys, he could not apply for reinstatement for five years, and any future reinstatement was subject to payment of the assessed costs and reimbursement of qualifying Client's Security Fund payments with interest.

FACTUAL BACKGROUND

The Oklahoma Bar Association was investigating Dalton based on multiple Oklahoma criminal convictions involving driving under the influence and related offenses. Dalton executed a resignation affidavit freely and voluntarily, without coercion or duress, while aware of the investigation, the allegations, their possible consequences, and the applicable reinstatement and client-security-fund requirements. He agreed to reimburse \$14.10 in investigative costs.

PROCEDURAL HISTORY

Dalton executed and filed an affidavit of resignation on September 20, 2018, acknowledging the disciplinary investigation, waiving contest of the allegations, and agreeing to comply with post-resignation requirements. The Oklahoma Bar Association requested approval with the resignation effective on the execution date. The Supreme Court approved the resignation, struck Dalton's name from the roll of attorneys, imposed a five-year bar on reinstatement applications, and assessed costs.

DISPOSITION

approved

CASES CITED

- State ex rel. Oklahoma Bar Ass'n v. Demopolos, 2015 OK 50, ¶ 36 & n.56, 352 P.3d 1210, 1221 n.56
- State ex rel. Oklahoma Bar Ass'n v. Bourland, 2001 OK 12, ¶¶ 14-17, 19 P.3d 289, 291
- State ex rel. Oklahoma Bar Ass'n v. Bourland, 2001 OK 12, 19 P.3d 289
- In re Reinstatement of Hird, 2001 OK 28, 21 P.3d 1043
- State ex rel. Oklahoma Bar Ass'n v. Heinen, 2003 OK 36, ¶ 9, 84 P.3d 708, 709

OPINION

PER CURIAM.

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OKLAHOMA BAR ASSOCIATION v. DALTON2018 OK 84Case Number: SCBD-6684Decided:
10/29/2018THE SUPREME COURT OF THE STATE OF OKLAHOMA Cite as: 2018 OK 84, __
P.3d __ NOTICE: THIS OPINION HAS NOT BEEN RELEASED FOR PUBLICATION. UNTIL
RELEASED, IT IS SUBJECT TO REVISION OR WITHDRAWAL. STATE OF OKLAHOMA ex
rel. OKLAHOMA BAR ASSOCIATION, Complainant, v. JOHN ELDON DALTON, Respondent.
¶0 ORDER APPROVING RESIGNATION PENDING DISCIPLINARY PROCEEDINGS ¶1
Complainant, Oklahoma Bar Association (Bar Association), has applied pursuant to Rule 8.2 of
the Rules Governing Disciplinary Proceedings (5 O.S.2011 Ch. 1, App.

1-A) for an order approving the resignation of the respondent, John Eldon Dalton, pending
disciplinary proceedings. The Bar's application and the respondent's affidavit of resignation reveal
the following. ¶2 On September 20, 2018, the respondent both executed and filed with this Court
his affidavit of resignation from membership in the Bar Association pending disciplinary
proceedings. ¶3 The respondent's affidavit of resignation reflects that: (a) it was freely and
voluntarily rendered; (b) he was not subject to coercion or duress; and (c) he was fully aware of
the consequences of submitting the resignation. ¶4 The affidavit of resignation states respondent's
awareness of an investigation by the Bar Association, regarding the following criminal convictions
which suffice as a basis for discipline: (a) State of Oklahoma v. John Eldon Dalton, Oklahoma
County, Case No. CF 2016-2943: On April 19, 2016, Dalton was charged with (Count 1) Driving
Under the Influence and (Count 2) Driving Under Revocation.

On July 13, 2018, after Dalton pled guilty to these charges, he was sentenced to twenty years as to
Count 1 and one year as to Count 2, suspended, all counts to run concurrent with each other and
concurrent with his sentence in Oklahoma County, Case No. CF-2013-572 and to attend weekend
community service and to pay fines. (b) State of Oklahoma v. John Eldon Dalton, Oklahoma
County, Case No. CF-2013-572: On January 24, 2013, Dalton was charged with (Count 1) Driving
While Under the Influence and (Count 2) Speeding.

On June 13, 2013, after Dalton pled guilty to these charges, he was sentenced to a ten-year
suspended sentence as to Count 1 and a fine only as to Count 2. (c) State of Oklahoma v. John
Eldon Dalton, Oklahoma County, Case No. CF-2009-1638: On March 12, 2009, Dalton was

charged with (Count 1) Driving Under the Influence and (Count 2) Driving While Privilege Revoked.

Dalton entered a plea of guilty with a delayed sentencing agreement and performance contract for Drug /DUI Court on May 20, 2009. On December 30, 2010, this case was dismissed against Dalton for his successful completion of Drug/DUI Court. (d) State of Oklahoma v. John Eldon Dalton, Oklahoma County Case No. CF-2006-6224: On September 25, 2006, Dalton was charged with (Count 1) Driving Under the Influence and (Count 2) Driving While Privilege Revoked.

On May 16, 2007, after Dalton pled guilty to these charges, he was sentenced to six years suspended as to Count 1 and Count 2 was dismissed. (e) State of Oklahoma v. John Eldon Dalton, Oklahoma County, Case No. CF-2003-6442: On November 24, 2003, Dalton was charged with Driving Under the Influence.

On February 9, 2004, after he pled guilty to this charge, he was sentenced to five years, suspended, along with fines, community service, random urinalyses and other programs. As a result of this conviction, Dalton was issued a Private Reprimand by the Professional Responsibility Commission on March 26, 2004 (State of Oklahoma ex rel. Oklahoma Bar Association v. John Eldon Dalton, OBAD No. 1606). ¶5 The resignation states the respondent is aware the allegations against him, if proven, would constitute violations of Rules 1.3 of the Rules Governing Disciplinary Proceedings (RGDP) 5 O.S.

2011, CH. 1, APP. 1-a and Rules 8.4 (a) and (b) of the Oklahoma Rules of Professional Conduct (ORPC), 5 O.S. 2011, ch. 1, app. 3-A, and his oath as an attorney. ¶6 The respondent states he is aware the burden of proof regarding the allegations against him rests upon the Oklahoma Bar Association, and he waives any and all rights to contest the allegations. ¶7 The respondent states his awareness of the requirements of Rule 9.1 of the Rules Governing Disciplinary Proceedings, and he states he shall comply with that Rule within twenty (20) days following the date of his resignation. ¶8 The respondent states his intent that his resignation be effective from the date and time of its execution and that he will conduct his affairs accordingly.

The Bar Association requests the Court make the resignation effective on the date of its execution by respondent. We note the resignation was executed by respondent, submitted to the Bar Association, and filed in this Court on the same day. See State ex rel. Oklahoma Bar Ass'n v. Demopolos, 2015 OK 50, ¶ 36 & n.56, 352 P.3d 1210, 1221 n.56 (a proper resignation may be made effective on the date of submission to the Court); State ex rel.

Oklahoma Bar Ass'n v. Bourland, 2001 OK 12, ¶¶ 14-17, 19 P.3d 289, 291 (a proper resignation may be made effective on the date filed with the Court when the lawyer's conduct has treated the resignation as effective upon that date). ¶9 The respondent states his awareness that a Rule 8.2 resignation pending disciplinary proceedings may be either approved or disapproved by the

Oklahoma Supreme Court. ¶10 The respondent states he is aware he may make no application for reinstatement prior to the expiration of five years from the effective date of the order approving his resignation, and that reinstatement requires compliance with Rule 11 of the Rules Governing Disciplinary Proceedings.

See 5 O.S.2011 Ch. 1, App. 1-A, Rule 8.2, Rules Governing Disciplinary Proceedings; State ex rel. Oklahoma Bar Ass'n. v. Bourland, 2001 OK 12, 19 P.3d 289; In re Reinstatement of Hird, 2001 OK 28, 21 P.3d 1043. ¶11 The respondent states he is aware the Client's Security Fund may receive claims from his former clients, and he shall pay to the Oklahoma Bar Association, prior to reinstatement, those funds, including principal and interest, expended by the Client's Security Fund for claims against him.

See 5 O.S.2011 Ch. 1, App. 1-A, Rule 11.1(b), Rules Governing Disciplinary Proceedings; State ex rel. Oklahoma Bar Ass'n. v. Heinen, 2003 OK 36, ¶ 9, 84 P.3d 708, 709. ¶12 The respondent states he surrendered his Oklahoma Bar Association membership card to the Office of the General Counsel. ¶13 The respondent acknowledges he must cooperate with the Office of the General Counsel by providing current contact information and identifying active cases wherein client documents and files should be returned to the client or forwarded to new counsel, and cases where fees or refunds are owed by respondent. ¶14 Respondent acknowledges the OBA has incurred costs in the amount of \$14.10 in the investigation of this matter.

Respondent agrees he is responsible for reimbursement of these costs. ¶15 The official roster name and address of the respondent is John Eldon Dalton, O.B.A. No. 19261, 7836 N.W. 133rd Terrace, Oklahoma City, OK 73142. ¶16 IT IS THEREFORE ORDERED that the application by the Bar Association for an order approving John Eldon Dalton's resignation be approved, and the resignation is deemed effective on the date it was executed and filed in this Court, September 20, 2018. ¶17 IT IS FURTHER ORDERED that respondent's name be stricken from the Roll of Attorneys and that he make no application for reinstatement to membership in the Oklahoma Bar Association prior to five years from the effective date of his resignation. ¶18 IT IS FURTHER ORDERED that the respondent pay costs in the amount of \$14.10 within thirty days from the date of this order.

Any consideration of any future Rule 11 petitions is conditioned upon such payment. ¶19 IT IS FURTHER ORDERED that if any funds of the Client's Security Fund of the Oklahoma Bar Association are expended on behalf of respondent, he must show the amount paid and that the same has been repaid, with interest, to the Oklahoma Bar Association to reimburse such Fund prior to reinstatement. ¶20 DONE BY ORDER OF THE SUPREME COURT IN CONFERENCE THIS 29th DAY OF OCTOBER, 2018. /S/CHIEF JUSTICE CONCUR: COMBS, C.J., GURICH, V.C.J., WINCHESTER, EDMONDSON, COLBERT, REIF, WYRICK, and DARBY, JJ.

CONCUR IN RESULT: KAUGER, J. Citationizer© Summary of Documents Citing This Document Cite Name Level None Found.

Citationizer: Table of Authority Cite Name Level Oklahoma Supreme Court Cases CiteNameLevel
2001 OK 12, 19 P.3d 289, 72 OBJ 553, STATE ex. rel. OKLAHOMA BAR ASSN. v. BOURLANDDiscussed at Length 2001 OK 28, 21 P.3d 1043, 72 OBJ 845, IN THE MATTER OF THE REINSTATEMENT OF HIRDDiscussed 2003 OK 36, 84 P.3d 708, STATE ex rel. OKLAHOMA BAR ASSOCIATION v. HEINENDiscussed 2015 OK 50, 352 P.3d 1210, STATE ex rel.

OKLAHOMA BAR ASSOCIATION v. DEMOPOLOSDiscussed oscn EMAIL: webmaster@oscn.net Oklahoma Judicial Center 2100 N Lincoln Blvd. Oklahoma City, OK 73105 courts Supreme Court of Oklahoma Court of Criminal Appeals Court of Civil Appeals District Courts decisions New Decisions Supreme Court of Oklahoma Court of Criminal Appeals Court of Civil Appeals programs The Sovereignty Symposium Alternative Dispute Resolution Early Settlement Mediation Children's Court Improvement Program (CIP) Judicial Nominating Commission Certified Courtroom Interpreters Certified Shorthand Reporters Accessibility ADA Contact Us Careers Accessibility ADA