DISTRICT OF COLUMBIA COURT OF APPEALS

In re Thomas O'Toole

877 A.2d 151 (D.C. 2005) · No. 04-BG-245 · Decided June 23, 2005

SUMMARY

The District of Columbia Court of Appeals imposed reciprocal discipline on Thomas O'Toole based on a 30-day suspension imposed by the Maryland Court of Appeals for willfully failing to file federal and state income tax returns. The court ordered the suspension to run nunc pro tunc from June 7, 2004, the date the required affidavits were filed.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	Per Curiam; Terry, Associate Judge; Ruiz, Associate Judge; Glickman, Associate Judge
JURISDICTION	District of Columbia
DECIDED	June 23, 2005
DOCKET	04-BG-245
DISPOSITION	other
PROCEDURAL POSTURE	Reciprocal attorney-discipline proceeding based on a Maryland suspension. The District of Columbia Board on Professional Responsibility recommended an identical thirty-day suspension.
STANDARD OF REVIEW	The court gives deference to a foreign jurisdiction that has afforded the attorney a full disciplinary proceeding and generally imposes identical discipline when the respondent does not oppose it, subject to the District of Columbia's independent consideration of the matter.
PRECEDENTIAL VALUE	Published opinion; precedential District of Columbia Court of Appeals decision

TOPICS

income tax · appellate procedure · tax

PRACTICE AREAS

attorney discipline · professional responsibility · income tax

QUESTIONS PRESENTED

1. Whether the District of Columbia should impose reciprocal discipline identical to the thirty-day Maryland suspension.
2. What effective date should apply to the reciprocal suspension when the respondent did not timely file the affidavits required for nunc pro tunc treatment.

HOLDINGS

1. Willfully failing to file income-tax returns constitutes misconduct in the District of Columbia.
2. The District of Columbia should impose a thirty-day suspension identical to the Maryland suspension.
3. The thirty-day reciprocal suspension runs nunc pro tunc from June 7, 2004, the date O'Toole filed the necessary affidavit, rather than from the date of the Maryland suspension.

KEY QUOTATIONS

> *"Willfully failing to file income tax returns constitutes misconduct in this jurisdiction."* (152)

> *"Accordingly, it is ORDERED, that Thomas O'Toole is suspended from the practice of law in the District of Columbia for thirty days, effective June 7, 2004."* (154)

FACTUAL BACKGROUND

O'Toole willfully failed to file his individual federal and state income-tax returns over a three-year period from 1998 to 2001, although he had made substantial estimated tax payments. The Maryland Court of Appeals found by clear and convincing evidence that the conduct violated Maryland tax law and Maryland professional-conduct rules and suspended him for thirty days. After reporting the Maryland discipline, O'Toole delayed filing the affidavits required for nunc pro tunc treatment in the District of Columbia but ultimately obtained permission to file a supplemental affidavit.

PROCEDURAL HISTORY

The Maryland Court of Appeals suspended O'Toole for thirty days after finding that he willfully failed to file individual federal and state income-tax returns from 1998 through 2001. The District of Columbia Court of Appeals imposed an interim suspension, and O'Toole later filed the affidavits required for nunc pro tunc treatment. The court adopted the Board's recommendation and made the reciprocal suspension effective June 7, 2004.

DISPOSITION

other

CASES CITED

- Attorney Grievance Comm'n v. O'Toole, 379 Md. 595, 598-600, 843 A.2d 50, 52-53 (2004)
- In re Levitt, 724 A.2d 1206, 1207 (D.C. 1999)

- In re Zdravkovich, 831 A.2d 964, 968-69 (D.C. 2003)
- In re Cole, 809 A.2d 1226, 1227 n. 3 (D.C. 2002)
- In re Goldberg, 460 A.2d 982, 985 (D.C. 1983)
- In re Glass, 805 A.2d 236, 236 n. 1 (D.C. 2002)
- In re Cornish, 691 A.2d 156, 158 n. 3 (D.C.), cert. denied, 522 U.S. 867, 118 S.Ct. 176, 139 L.Ed.2d 117 (1997)
- In re Slosberg, 650 A.2d 1329, 1331-33 (D.C. 1994)
- In re Gardner, 650 A.2d 693, 697 (D.C. 1994)
