

DISTRICT OF COLUMBIA COURT OF APPEALS

In re Donald L. McClure

No. 15-BG-1402 (D.C. Aug. 11, 2016) · No. 15-BG-1402 · Decided August 11, 2016

SUMMARY

The District of Columbia Court of Appeals adopted the Board on Professional Responsibility's recommendation to disbar Donald L. McClure for multiple violations of the District of Columbia Rules of Professional Conduct arising from his representation of clients in a medical malpractice case. The court held that his resignation from the District of Columbia Bar during suspension did not preclude disbarment. Disbarment was effective as of the date of the order, with the disbarment period for reinstatement purposes running from the date he filed the required affidavit.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	Per Curiam; Thompson, Associate Judge; Nebeker, Senior Judge; Reid, Senior Judge
JURISDICTION	District of Columbia
DECIDED	August 11, 2016
DOCKET	15-BG-1402
DISPOSITION	other
PROCEDURAL POSTURE	The District of Columbia Court of Appeals reviewed the Board on Professional Responsibility's report and recommendation that respondent be disbarred for violations of multiple District of Columbia Rules of Professional Conduct.
STANDARD OF REVIEW	Under D.C. Bar R. XI, § 9(h)(1), the court accepts the Board's factual findings unless unsupported by substantial evidence of record and adopts the Board's recommended disposition unless doing so would foster inconsistent dispositions for comparable conduct or otherwise be unwarranted. The recommended sanction receives a strong presumption in favor of imposition and will be adopted if it falls within a wide range of acceptable outcomes.
PRECEDENTIAL VALUE	precedential
PARTIES	Disciplinary Counsel v. Donald L. McClure

TOPICS

appellate procedure

standard of review

health law

PRACTICE AREAS

legal ethics

attorney discipline

professional responsibility

medical malpractice

QUESTIONS PRESENTED

1. Whether the Board's factual findings were supported by substantial evidence.
2. Whether the Board's recommended sanction of disbarment was warranted and consistent with sanctions imposed for comparable misconduct.
3. Whether McClure's resignation from the District of Columbia Bar precluded the court from imposing disbarment.

HOLDINGS

1. The court accepted the Board's factual findings because the findings regarding each rule violation were supported by substantial evidence in the record.
2. Disbarment was warranted because the sanction was consistent with comparable misconduct and fell within the range of acceptable outcomes.
3. McClure's resignation did not preclude disbarment because he was suspended and therefore was not a member in good standing, and an attorney may not avoid disciplinary review or the Board's recommended sanction by resigning during the disciplinary process.

KEY QUOTATIONS

“The Board’s recommended sanction “comes to us with a strong presumption in favor of its imposition.” (4)

““[I]f the Board’s recommended sanction falls within a wide range of acceptable outcomes, it will be adopted and imposed.”” (4)

“Nor may an attorney avoid the Board’s recommended sanction by resigning during temporary suspension and prior to this court’s decision on the Board’s Report and Recommendation.” (6)

FACTUAL BACKGROUND

McClure represented Sharon Marbury, her minor child, and her granddaughter in a medical malpractice action involving alleged negligence in prenatal care and childbirth. The Ad Hoc Hearing Committee found violations involving competence, fees, candor, fairness to opposing parties, and dishonesty. McClure had practiced in the District of Columbia since 1978, had one prior informal admonition, and resigned from the Bar while suspended and while the disciplinary matter remained pending.

PROCEDURAL HISTORY

After an Ad Hoc Hearing Committee held a two-day evidentiary hearing, it found that McClure violated Rules 1.1(a) and (b), 1.5(a), 3.3(a), 3.4(c), and 8.4(c) and (d), but recommended an eighteen-month suspension with a fitness requirement. Disciplinary Counsel took exception to the sanction. The Board adopted the factual findings and recommended disbarment, which the court accepted. McClure did not challenge the substance of the Board's report, filed no brief, and submitted a pleading resigning from the District of Columbia Bar.

DISPOSITION

other

CASES CITED

- In re Rodriguez-Quesada, 122 A.3d 913, 919 (D.C. 2015) (per curiam)
- In re Baber, 106 A.3d 1072, 1076-77 (D.C. 2015) (per curiam)
- In re Vohra, 68 A.3d 766, 771 (D.C. 2013)
- In re Phillips, 452 A.2d 345, 348 (D.C. 1982) (per curiam)
- In re Webster, 661 A.2d 144, 145 n.2 (D.C. 1995)