

SUPREME COURT OF OKLAHOMA

State ex rel. Oklahoma Bar Ass'n v. Berry

142 P.3d 388 (Okla. 2006) · Decided June 13, 2006

SUMMARY

The Oklahoma Supreme Court approved James D. Berry, Jr.'s resignation from the Oklahoma Bar Association while disciplinary proceedings were pending. The order struck his name from the Roll of Attorneys, required compliance with Rule 9.1, and barred an application for reinstatement for five years, subject to reimbursement of qualifying Client Security Fund payments.

CASE DETAILS

COURT	Supreme Court of Oklahoma
JURISDICTION	Oklahoma
DECIDED	June 13, 2006
DISPOSITION	approved
PROCEDURAL POSTURE	The Oklahoma Bar Association sought approval of James D. Berry, Jr.'s resignation from the Oklahoma Bar Association while disciplinary investigations were pending.
PRECEDENTIAL VALUE	precedential
PARTIES	State ex rel. Oklahoma Bar Association v. James D. Berry, Jr.

TOPICS

civil procedure waiver

PRACTICE AREAS

legal ethics attorney discipline

QUESTIONS PRESENTED

- Whether Berry's resignation from the Oklahoma Bar Association while disciplinary proceedings were pending complied with Rule 8.1 and should be approved.
- What conditions should govern Berry's removal from the Roll of Attorneys and any future application for reinstatement.

HOLDINGS

1. The Supreme Court of Oklahoma approved Berry's resignation because it complied with Rule 8.1, was freely and voluntarily tendered, and was accompanied by his acknowledgment of the pending allegations and their potential disciplinary consequences.
2. Berry's name was ordered stricken from the Roll of Attorneys, and he was barred from applying for reinstatement for five years from the effective date of the order and until he reimbursed the Client Security Fund for any principal and interest paid on his behalf.

KEY QUOTATIONS

“IT IS THEREFORE ORDERED THAT Complainant’s Application and Respondent’s resignation pending disciplinary proceedings is approved.” (¶ 3)

“Respondent’s name be stricken from the Roll of Attorneys, and that he may make no application for reinstatement to membership in the Oklahoma Bar Association prior to the lapse of five years from the effective date of this Order” (¶ 4)

FACTUAL BACKGROUND

James D. Berry, Jr. voluntarily tendered his resignation from the Oklahoma Bar Association while four grievances were under investigation. The grievances involved alleged neglect of client matters, insufficient funds in a trust account, an unpaid loan from a client, and failure to perform work after receiving a retainer. Berry acknowledged the allegations, waived his right to contest them, agreed to comply with disciplinary rules, and accepted restrictions on any future reinstatement.

PROCEDURAL HISTORY

Berry submitted an affidavit and resignation pursuant to Rule 8.1 of the Rules Governing Disciplinary Proceedings. The Oklahoma Bar Association filed an application for an order approving the resignation, and the Supreme Court of Oklahoma approved both the application and resignation.

DISPOSITION

approved