SUPREME COURT OF KENTUCKY

Inquiry Commission v. Truesdell

336 S.W.3d 431 (Ky. 2011) · No. 2010-SC-000738-KB · Decided March 24, 2011

SUMMARY

The Supreme Court of Kentucky permanently disbarred Scott Truesdell after finding probable cause that he failed to pay $185,443.97 in mortgage-refinancing funds to Bank of America. The order also imposed client-notification and advertising-cessation requirements, terminated pending disciplinary matters, relieved a bank from a subpoena, and assessed costs against Truesdell.

CASE DETAILS

COURT	Supreme Court of Kentucky
WRITING FOR THE COURT	John D. Minton, Jr., Chief Justice
JURISDICTION	Kentucky
DECIDED	March 24, 2011
DOCKET	2010-SC-000738-KB
DISPOSITION	other
PROCEDURAL POSTURE	Attorney-discipline proceeding in which the Inquiry Commission sought temporary suspension based on probable cause, and the respondent moved to withdraw permanently from the Kentucky Bar Association under SCR 3.480(3).
PRECEDENTIAL VALUE	Published Kentucky Supreme Court disciplinary order
PARTIES	Inquiry Commission v. Scott Truesdell

TOPICS

remedies appellate procedure

PRACTICE AREAS

attorney discipline professional responsibility legal ethics

QUESTIONS PRESENTED

1. Whether the court should accept Truesdell's motion to withdraw his Kentucky Bar Association membership under SCR 3.480(3) and impose permanent disbarment.

2. What ancillary obligations and consequences should accompany the permanent disbarment order.

HOLDINGS

1. The court granted Truesdell's request to withdraw from the Kentucky Bar Association under SCR 3.480(3) and permanently disbarred him from practicing law in Kentucky.
2. The disbarred attorney was required to notify clients of his inability to continue representation, cease advertising to the extent reasonably possible, pay the costs of the disciplinary proceedings, and comply with the other conditions specified in the order; pending disciplinary proceedings were terminated and the subpoena recipient was relieved of its obligations.

KEY QUOTATIONS

> *"In light of the Order of Temporary Suspension entered previously, with a recitation of facts and finding of probable cause, this Court will accept those facts as incorporated by reference in Scott Truesdell's motion to withdraw, which states it is pursuant to SCR 3.480(3), which applies when a member has engaged in unethical or unprofessional conduct."* (432)

FACTUAL BACKGROUND

The court had found probable cause to believe that Scott Truesdell, acting as closing attorney for a mortgage refinancing, failed to pay $185,443.97 to Bank of America after receiving that amount from First Federal Bank to satisfy Bank of America's existing mortgage. Truesdell acknowledged that he had violated the Rules of Professional Conduct and sought permanent withdrawal from the Kentucky Bar Association. He agreed not to seek reinstatement and not to practice law in Kentucky, while the Kentucky Bar Association stated that it had no objection.

PROCEDURAL HISTORY

The Supreme Court of Kentucky entered an order of temporary suspension on January 20, 2011, after considering the Inquiry Commission's petition and supporting documents. While the petition was under consideration, Truesdell filed a pro se motion to withdraw his Kentucky Bar membership under SCR 3.480(3), acknowledged violations of the Rules of Professional Conduct, and agreed not to seek reinstatement or practice law in Kentucky. The Kentucky Bar Association did not object, and the court granted the request and entered an order of permanent disbarment.

DISPOSITION

other

OPINION

MINTON, J.

336 S.W.3d 431 (2011) INQUIRY COMMISSION, Movant, v. Scott TRUESDELL, Respondent. No. 2010-SC-000738-KB. Supreme Court of Kentucky. March 24, 2011. ORDER OF

PERMANENT DISBARMENT On January 20, 2011, this Court entered an Order of Temporary Suspension from the practice of law in this Commonwealth until further order of this Court against Scott Truesdell. Said suspension was ordered after considering a petition of the Inquiry Commission, together with supporting documents, and a lack of a response from Scott Truesdell.

After considering the above, this Court concluded *432 probable cause existed to believe Scott Truesdell, as the closing attorney for a mortgage refinancing, failed to pay $185,443.97 to Bank of America after First Federal Bank wired that amount to him for the purpose of satisfying Bank of America's existing mortgage. While this Court was considering the Inquiry Commission's petition for temporary suspension, Scott Truesdell filed a pro se[1] motion to withdraw his membership in the Kentucky Bar Association, pursuant to SCR 3.480(3), which applies to members under investigation, complaint, or charges of professional misconduct.

In said motion, Scott Truesdell recognized that he had violated the Rules of Professional Conduct, that he was seeking to permanently withdraw from the Kentucky Bar Association under SCR 3.480(3), that he would not seek reinstatement, that SCR 3.510 and SCR 3.520 (terms as to applications for future reinstatement) would not apply to him, and that he would not practice law in the Commonwealth subsequent to the permanent disbarment order.

The Kentucky Bar Association filed a response stating that it had no objection to Scott Truesdell's withdrawal of his membership under terms of permanent disbarment. Said response also notifies this Court that other than the complaint before us, there are no other pending disciplinary actions.

The Association does note that Scott Truesdell's motion does not contain the specifics of his violation of the Rules of Professional Conduct. In light of the Order of Temporary Suspension entered previously, with a recitation of facts and finding of probable cause, this Court will accept those facts as incorporated by reference in Scott Truesdell's motion to withdraw, which states it is pursuant to SCR 3.480(3), which applies when a member has engaged in unethical or unprofessional conduct.

The Kentucky Bar Association also requests an order excusing the Chase Bank from compliance with a subpoena duces tecum issued December 10, 2010, if said permanent disbarment is granted. Having considered Scott Truesdell's request to withdraw from the Kentucky Bar Association under terms of permanent disbarment, the Kentucky Bar Association's response thereto, and otherwise being advised, we hereby Grant said request.

Accordingly, IT IS HEREBY ORDERED THAT: 1. Scott Truesdell, whose KBA number is 87216, and whose Bar Roster Address is 2901 Richmond Road, Suite 130-115, Lexington, KY 40509, be and is hereby permanently disbarred from the practice of law in this Commonwealth; 2. Within twenty (20) days from the date of entry of this order of disbarment, Scott Truesdell shall notify all clients, if any, in writing of his inability to continue to represent them, and shall furnish copies of the letters of notice to the Director of the Kentucky Bar Association; 3.

Upon the issuance of this order of disbarment, Scott Truesdell shall immediately, to the extent reasonably possible, cancel and cease any advertising activities in which the attorney is engaged; 4. All disciplinary investigations and pending disciplinary proceedings against Scott Truesdell shall be terminated with this order of permanent disbarment, and J.P.

Morgan Chase Bank, N.A., is relieved of its obligations *433 under the subpoena duces tecum issued on December 10, 2010; and 5. Scott Truesdell shall pay all costs of this disciplinary investigation and proceedings in accordance with SCR 3.450. All sitting. All concur. ENTERED: March 24, 2011. /s/ John D. Minton, Jr. Chief Justice NOTES [1] Because the written request was pro se, the requirement of a verified motion has been substantially complied with, even though the motion itself does not contain a separate "verification" clause.