

SUPREME COURT OF MISSISSIPPI

Miss. Bar v. Clark

268 So. 3d 578 (Miss. 2018) · Decided June 19, 2018

SUMMARY

The Mississippi Supreme Court accepted Tacey June Clark's irrevocable resignation from the Mississippi Bar pursuant to Mississippi Rule of Discipline 10.5. The court ordered her permanent disbarment, terminated outstanding disciplinary proceedings, imposed related notice and compliance requirements, and assessed costs against her.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Leslie D. King, Justice
JURISDICTION	Mississippi
DECIDED	June 19, 2018
DISPOSITION	other
PROCEDURAL POSTURE	The Mississippi Bar petitioned the Mississippi Supreme Court to accept Tacey June Clark's irrevocable resignation under Rule 10 of the Mississippi Rules of Discipline and enter an order of disbarment.
STANDARD OF REVIEW	De novo review applies to attorney-discipline matters.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Mississippi Bar v. Tacey June Clark

TOPICS

appellate procedure civil procedure standard of review

PRACTICE AREAS

legal ethics attorney discipline

QUESTIONS PRESENTED

1. Whether Clark's Notice of Irrevocable Resignation complied with Mississippi Rule of Discipline 10.5.
2. Whether the Mississippi Supreme Court should accept the irrevocable resignation and permanently disbar Clark.

HOLDINGS

1. Clark properly filed her Notice of Irrevocable Resignation in compliance with Mississippi Rule of Discipline 10.5.
2. Upon a procedurally compliant irrevocable resignation, the Court may accept the resignation, revoke the attorney's license, permanently bar reinstatement, and treat the resignation as disciplinary action tantamount to proof of guilt on the charged matter.

KEY QUOTATIONS

“Such a resignation and order shall be considered disciplinary action, and the resignation shall be considered tantamount to the proof of guilt on the matter charged.” (¶ 4)

“Tacey June Clark is hereby permanently DISBARRED from the practice of law in the State of Mississippi;” (¶ 6)

FACTUAL BACKGROUND

Tacey June Clark had a disciplinary matter pending before the Committee on Professional Responsibility. On February 26, 2018, she executed a notice of irrevocable resignation, acknowledged the pending matter, stated that she did not wish to defend it, and requested resignation with prejudice from the Mississippi Bar. The Bar petitioned the Mississippi Supreme Court to accept the resignation and order disbarment.

PROCEDURAL HISTORY

Clark executed a Notice of Irrevocable Resignation on February 26, 2018, acknowledging a pending disciplinary matter, stating that she did not desire to defend it, and requesting resignation with prejudice. The Mississippi Bar filed its petition on March 15, 2018. The Supreme Court, sitting en banc, found that the procedural prerequisites were satisfied, accepted the resignation, and permanently disbarred Clark.

DISPOSITION

other

CASES CITED

- Miss. Bar v. Jones, 118 So. 3d 542, 542 (Miss. 2012)

OPINION

KING, J.

LESLIE D. KING, JUSTICE FOR THE COURT ¶ 1. This matter is before the Court en banc on the "Mississippi Bar's Petition for Acceptance of Irrevocable Resignation Pursuant to Rule 10, MRD." In its Petition, the Mississippi Bar requests that this Court accept the irrevocable resignation of Tacey June Clark and enter an order of disbarment. All procedural prerequisites have been met, thus we order the disbarment of Tacey June Clark. ¶ 2.

On February 26, 2018, Tacey June Clark executed a Notice of Irrevocable Resignation. In the notice, Clark acknowledged a disciplinary matter pending against her before the Committee on Professional Responsibility (Docket No. 16-365-2) and averred that said disciplinary matter was the only disciplinary matter pending against her. Further, Clark stated that she did not desire to defend that matter and requested permission to irrevocably resign with prejudice from the Mississippi Bar.

The Bar filed the instant Petition on March 15, 2018, requesting that this Court accept Clark's irrevocable resignation. ¶ 3. Rule 1 of the Mississippi Rules of Discipline provides that this Court "has exclusive and inherent jurisdiction of matters pertaining to attorney discipline[.]" M.R.D. 1(a); *579Miss. Bar v. Jones, 118 So.3d 542, 542 (Miss. 2012).

We apply de novo review to attorney discipline matters. Id. ¶ 4. Pursuant to Rule 10.5 of the Mississippi Rules of Discipline: [a]n attorney may tender an irrevocable resignation to either the Court or the Tribunal. Such a resignation shall acknowledge each and all disciplinary matters then pending, provide the docket number or numbers, state that the attorney does not desire to defend, and request permission to resign with prejudice from the Bar.

Upon receipt of such a resignation, and any response that the Bar may elect to file, the disciplinary proceedings shall terminate and either the Court or the Tribunal shall enter its order accepting the resignation, revoking the attorney's license, and barring forever thereafter the attorney's right to seek reinstatement to the privilege of practicing law in this state.

Such a resignation and order shall be considered disciplinary action, and the resignation shall be considered tantamount to the proof of guilt on the matter charged. M.R.D. 10.5. ¶ 5. After due consideration, we find that Tacey June Clark properly filed her Notice of Irrevocable Resignation in compliance with Mississippi Rule of Discipline 10.5, and that the Mississippi Bar is entitled to the relief it seeks.

Based on the record before us, and consistent with the Rules of Discipline for the Mississippi Bar and our caselaw, this Court finds that Tacey June Clark shall be disbarred permanently. ¶ 6. IT IS, THEREFORE, ORDERED, ADJUDGED, and DECREED as follows: 1. Tacey June Clark is hereby permanently DISBARRED from the practice of law in the State of Mississippi; 2.

This order shall constitute notice of permanent disbarment in this cause; 3. The Clerk of this Court shall forward an attested copy of this order to Tacey June Clark and the Executive Director of the Mississippi Bar; 4. Tacey June Clark shall, within thirty days following entry of this order, notify clients and affected courts of her disbarment, properly disburse all funds she may hold in trust, and comply with all other requirements applicable to disbarred attorneys pursuant to Mississippi Rule of Discipline 11; 5.

Tacey June Clark shall, within forty-five days following entry of this order, file an affidavit with this Court stating that all of her clients have been notified of her disbarment and her consequent inability to practice law in Mississippi, and that she has complied fully with all the requirements set forth in Mississippi Rule of Discipline 11, as well as the requirements of this order; 6.

The Clerk of this Court shall immediately forward an attested copy of this order to the circuit court judges and chancellors in and for Tishomingo County, Mississippi, and the senior judge of each court shall enter this order upon the minutes of his or her respective court; 7.

The Clerk of this Court likewise shall immediately forward an attested copy of this order to the Clerks of the United States District Courts for the Northern and Southern Districts of Mississippi, the Clerk of the United States Court of Appeals for the Fifth Circuit, and the Clerk of the Supreme Court of the United States; 8. All outstanding disciplinary proceedings against Tacey June Clark, including Cause No. 16-365-2, are hereby terminated; and 9.

Costs of this proceeding are hereby assessed against Tacey June Clark. *580¶ 7. SO ORDERED, ADJUDGED, AND DECREED, this the 19th day of June, 2018.