

DISTRICT OF COLUMBIA COURT OF APPEALS

In re Richard J. Dobbyn

943 A.2d 1165 (D.C. 2008) · No. 06-BG-1390 · Decided March 13, 2008

SUMMARY

The District of Columbia Court of Appeals imposed identical reciprocal discipline on Richard J. Dobbyn following his disbarment by a Texas Grievance Committee for multiple ethical violations, including misappropriation and neglect of client matters. The court ordered that Dobbyn be disbarred from practicing law in the District of Columbia and that his name be stricken from the roll of authorized attorneys.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	Per Curiam; Washington, Chief Judge; Fisher, Associate Judge; Blackburne-Rigsby, Associate Judge
JURISDICTION	District of Columbia
DECIDED	March 13, 2008
DOCKET	06-BG-1390
DISPOSITION	other
PROCEDURAL POSTURE	Reciprocal attorney-discipline proceeding arising from respondent's Texas disbarment by default. The District of Columbia Board on Professional Responsibility recommended identical reciprocal discipline, and the court reviewed the uncontested recommendation.
STANDARD OF REVIEW	In an uncontested reciprocal-discipline proceeding, the court's scope of review is extremely limited. The principal inquiry is whether the sanction imposed by the other jurisdiction falls within the range of discipline that could have been imposed in the District of Columbia for comparable misconduct, and whether imposing identical discipline would result in an obvious miscarriage of justice.
PRECEDENTIAL VALUE	Published opinion; precedential District of Columbia Court of Appeals decision.

TOPICS

- appellate procedure
- standard of review
- administrative law
- judicial review of agency action

PRACTICE AREAS

attorney discipline

professional responsibility

reciprocal discipline

administrative law

QUESTIONS PRESENTED

1. Whether the Texas disbarment was subject to reciprocal discipline in the District of Columbia.
2. Whether disbarment was within the range of discipline that could have been imposed in the District of Columbia for Dobbyn's misconduct.
3. Whether the fact that the Texas disbarment was entered by default prevented imposition of identical reciprocal discipline.

HOLDINGS

1. The court imposed identical reciprocal discipline and disbarred Dobbyn from practicing law in the District of Columbia.
2. The court was not troubled by the fact that Dobbyn's Texas disbarment was entered by default because Dobbyn failed to participate in either the Texas proceeding or the reciprocal proceeding.

KEY QUOTATIONS

“we conclude that respondent had sufficient notice of this proceeding for the purposes of imposing reciprocal discipline.” (1166)

“The principal question is whether the sanction imposed by Texas is within the range of discipline that might have been imposed in this jurisdiction if the misconduct had occurred here.” (1166)

“And as misappropriation alone would have been sufficient to justify the sanction of disbarment in the District of Columbia,” (1166)

FACTUAL BACKGROUND

Dobbyn, a member of the District of Columbia Bar, was disbarred by default in Texas for numerous ethical violations, including misappropriation, neglect of client matters, unauthorized settlement of a client matter, failure to communicate, failure to appear, failure to deliver client files, and repeated misrepresentations. He did not report the Texas discipline to the District of Columbia Bar and did not participate in the resulting reciprocal-discipline proceeding, despite repeated notice efforts by Bar Counsel. The Board on Professional Responsibility recommended that he receive identical discipline in the District of Columbia.

PROCEDURAL HISTORY

A Texas Grievance Committee disbarred Dobbyn by default on April 12, 2005, after finding numerous ethical violations, including misappropriation and neglect of client matters. Dobbyn failed to report the discipline to the District of Columbia Bar. After learning of the Texas disbarment, the District of Columbia Court of Appeals imposed an interim suspension and referred the matter to the Board on Professional Responsibility. The Board recommended identical reciprocal discipline, Bar Counsel took no exception, and Dobbyn did not participate.

DISPOSITION

other

CASES CITED

- In re Powell, 860 A.2d 836, 837 (D.C. 2004)
- In re Sumner, 762 A.2d 528, 529 (D.C. 2000)
- In re Hitselberger, 761 A.2d 27, 27-28 (D.C. 2000)
- In re Addams, 579 A.2d 190, 191 (D.C. 1990) (en banc)
- In re Weisbard, 912 A.2d 1178, 1180-81 (D.C. 2006)
- In re Childress, 811 A.2d 805, 807 (D.C. 2002)

OPINION

PER CURIAM.

943 A.2d 1165 (2008) In re Richard J. DOBBYN, Respondent. A Member of the Bar of the District of Columbia Court of Appeals (Bar Registration No. 432609). No. 06-BG-1390. District of Columbia Court of Appeals. Submitted February 20, 2008. Decided March 13, 2008.

Before WASHINGTON, Chief Judge, and FISHER and BLACKBURNE-RIGSBY, Associate Judges. PER CURIAM: The respondent, Richard J. Dobbyn, is a member of the bar of this court[1] and the bar of Arizona. He was also a member of the Texas bar, but on April 12, 2005, a Texas Grievance Committee disbarred respondent by default after finding that he had violated numerous ethical rules, including: misappropriation, neglect of client matters, failing to inform his client of deposition and court dates, failing to appear, entering into a settlement without client authorization and without informing the client, failing to deliver client files, misrepresenting the status of a case on multiple occasions, failing to inform a client of the dismissal of her case, and having taken many of these actions while serving a previously imposed disciplinary probation.

As noted, this disbarment was entered by default after respondent failed to contest the charges which were served on him by certified mail pursuant to Rule 2.15 of the Texas Rules of Disciplinary Procedure. Respondent did not report his Texas discipline as required by D.C. Bar R. XI, § 11(b), but Bar Counsel was subsequently notified of his disbarment by the ABA National Lawyer Regulatory Data Bank and reported it to this court on November 21, 2006.

We then issued an order suspending respondent on an interim basis, directing him to show cause why identical discipline should not be imposed, and instructing *1166 Bar Counsel to advise the Board on Professional Responsibility ("Board") of his position regarding reciprocal discipline.

We further directed the Board to recommend whether identical, greater, or lesser discipline should be imposed as reciprocal discipline or whether it would proceed de novo. See D.C. Bar R. XI, §

11. The Board now recommends that respondent be disbarred as identical reciprocal discipline. Bar Counsel has informed the court that he takes no exception to the Board's report and recommendation, and respondent has not filed a response or participated in this reciprocal discipline proceeding.

But this failing is wholly the respondent's since it is abundantly clear from the record that Bar Counsel made repeated attempts to notify respondent of these proceedings. In light of Bar Counsel's diligent efforts, and respondent's failure to inform the Bar of any changes to his address, see D.C. Bar R. II, § 2(a), "we conclude that respondent had sufficient notice of this proceeding for the purposes of imposing reciprocal discipline."

In re Powell, 860 A.2d 836, 837 (D.C.2004). Indeed, we agree with the Board that respondent's decision not to contest this proceeding is consistent with his lengthy administrative suspension and demonstrates his lack of interest in maintaining his eligibility to practice law in the District of Columbia. Since no exceptions have been taken, the scope of our review is extremely limited.

D.C. Bar R. XI, § 11(f). The principal question is whether the sanction imposed by Texas is within the range of discipline that might have been imposed in this jurisdiction if the misconduct had occurred here. See In re Sumner, 762 A.2d 528, 529 (D.C.2000); In re Hitselberger, 761 A.2d 27, 27-28 (D.C.2000). And as misappropriation alone would have been sufficient to justify the sanction of disbarment in the District of Columbia, see In re Addams, 579 A.2d 190, 191 (D.C.1990) (en banc), we have no difficulty accepting the Board's recommended sanction.

Nor, since respondent failed to participate in either the Texas proceeding or this reciprocal proceeding, are we troubled by the fact that his disbarment was by default. See In re Sumner, 762 A.2d at 529.[2] Accordingly, it is ORDERED that Richard J. Dobbyn is hereby disbarred from the practice of law in the District of Columbia, and his name shall be stricken from the roll of attorneys authorized to practice before this court.

For the purposes of reinstatement, respondent's disbarment will run from the date that he files an affidavit which conforms to *1167 the requirements of D.C. Bar. R. XI, § 14(g). So ordered. NOTES [1] Respondent has, however, been administratively suspended for nonpayment of his bar dues since November 1993.

[2] We note that respondent's disbarment occurred before the issuance of our Order No. M-228-07 (effective Aug. 31, 2007) (amending D.C. Bar R. XI, § 11(a) to provide that any agency, commission, or tribunal authorized to impose discipline effective throughout a state is a "disciplining court" for the purpose of reciprocal discipline). But we are reluctant to reach any potential issue of retroactivity in this uncontested reciprocal matter.

Cf. In re Weisbard, 912 A.2d 1178, 1180-81 (D.C.2006). Moreover, under the circumstances of this case, it appears the Texas Grievance Committee had full authority to disbar the respondent and

thus fit within our old definition of "disciplining court," which included an "agency... with authority to disbar or suspend an attorney from the practice of law in any state...."

Id. at 1180. In any event, we apply a very limited standard of review in uncontested cases like this, and we are satisfied "that no obvious miscarriage of justice would result [from] the imposition of identical discipline...."

In re Childress, 811 A.2d 805, 807 (D.C.2002) (internal quotation marks and citation omitted).