

DISTRICT OF COLUMBIA COURT OF APPEALS

In re Christopher D. Libertelli

In re Christopher D. Libertelli · No. 23-BG-0243 · Decided June 8, 2023

SUMMARY

The District of Columbia Court of Appeals adopted the Board on Professional Responsibility’s recommendation and disbarred Christopher D. Libertelli for flagrant dishonesty. The court concluded that Libertelli had not established the requirements for mitigation under In re Kersey and had filed no exceptions to the Board’s report.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	Per Curiam; Beckwith, Associate Judge; Easterly, Associate Judge; McLeese, Associate Judge
JURISDICTION	District of Columbia
DECIDED	June 8, 2023
DOCKET	23-BG-0243
DISPOSITION	other
PROCEDURAL POSTURE	Attorney-discipline proceeding on the Board on Professional Responsibility’s report and recommendation that respondent be disbarred.
STANDARD OF REVIEW	The court applies a deferential standard of review to the Board’s report and recommendation, with the deference becoming even greater when no exceptions are filed.
PRECEDENTIAL VALUE	Published opinion; precedential value is not otherwise specified in the source.
PARTIES	Christopher D. Libertelli

TOPICS

- appellate procedure
- standard of review
- remedies

PRACTICE AREAS

- legal ethics
- attorney discipline
- professional responsibility
- appellate procedure

QUESTIONS PRESENTED

1. Whether disbarment was the appropriate sanction for respondent's flagrant dishonesty.
2. Whether respondent established the requirements for mitigation under the Kersey doctrine.
3. Whether the court should accept the Board on Professional Responsibility's report and recommendation when respondent filed no exceptions.

HOLDINGS

1. Disbarment is the appropriate sanction for an attorney's flagrant dishonesty.
2. Respondent was not entitled to a reduced sanction under the Kersey doctrine because he failed to establish two of the three required factors.
3. When no exceptions are filed to the Board's report and recommendation, the court will impose the recommended discipline after the time for filing exceptions expires, subject to the court's deferential review.

KEY QUOTATIONS

“Because no exceptions have been filed, disbarment is the appropriate sanction for flagrant dishonesty, and respondent did not carry his burden to establish the requirements for Kersey mitigation, we accept the recommendation that respondent be disbarred.”

FACTUAL BACKGROUND

The disciplinary matter involved respondent's flagrant dishonesty as an attorney. Respondent sought mitigation under the Kersey doctrine, but the Board concluded that he failed to establish two of the three required mitigation factors. Respondent filed no exceptions to the Board's recommendation.

PROCEDURAL HISTORY

The Board on Professional Responsibility recommended disbarment for flagrant dishonesty. Respondent filed no exceptions to the Board's report and recommendation and did not file the required affidavit after the court imposed an interim suspension. The District of Columbia Court of Appeals accepted the recommendation and ordered respondent disbarred.

DISPOSITION

other

CASES CITED

- In re White, 11 A.3d 1226, 1233 (D.C. 2011)
- In re Howes, 52 A.3d 1, 15 (D.C. 2012)
- In re Corizzi, 803 A.2d 438, 443 (D.C. 2002)
- In re Goffe, 641 A.2d 458, 464 (D.C. 1994)

- In re Kersey, 520 A.2d 321 (D.C. 1987)
- In re Schuman, 251 A.3d 1044, 1055 (D.C. 2021)
- In re Viehe, 762 A.2d 542, 543 (D.C. 2000)

OPINION

In re Libertelli

PER CURIAM.

Notice: This opinion is subject to formal revision before publication in the Atlantic and Maryland Reporters. Users are requested to notify the Clerk of the Court of any formal errors so that corrections may be made before the bound volumes go to press.

DISTRICT OF COLUMBIA COURT OF APPEALS

No. 23-BG-0243 IN RE CHRISTOPHER D. LIBERTELLI, RESPONDENT. A Suspended Member of the Bar of the District of Columbia Court of Appeals (Bar Registration No. 451341) On Report and Recommendation of the Board on Professional Responsibility (BDN: 20-BD-050; DDN: 2019-D072)

(Decided June 8, 2023) Before BECKWITH, EASTERLY, and MCLEESE, Associate Judges. PER CURIAM: The Board on Professional Responsibility recommends that Christopher D. Libertelli be disbarred from the practice of law for flagrant dishonesty. This court has previously concluded that disbarment is the appropriate sanction for flagrant dishonesty. 1 Before the Board, respondent argued that his 1 In re White, 11 A.3d 1226, 1233 (D.C. 2011) (“Where this court has concluded that the attorney’s conduct falls into a category of dishonesty of a flagrant kind it has held disbarment to be the appropriate sanction.”); see also In re Howes, 52 A.3d 1, 15 (D.C. 2012) (“[W]here such dishonesty is aggravated and prolonged, disbarment is the appropriate sanction.”); In re Corizzi, 803 A.2d 438, 443 (D.C. 2002) (imposing disbarment for dishonesty after attorney suborned perjury from two of his clients and observing that the attorney need not financially benefit from the 2 sanction should be mitigated based on In re Kersey, 520 A.2d 321 (D.C. 1987). The Board concluded that he failed to establish two of the three factors required for Kersey mitigation. 2 Respondent has not filed any exceptions to the Board’s Report and Recommendation nor has he filed the required D.C. Bar R. XI, § 14(g), affidavit after the court imposed an interim suspension on May 17, 2023. Under D.C. Bar R. XI, § 9(h)(2), “if no exceptions are filed to the Board’s report, the [c]ourt will enter an order imposing the discipline recommended by the Board upon the expiration of the time permitted for filing exceptions.” See also In re Viehe, 762 A.2d 542, 543 (D.C. 2000) (“When . . . there are no exceptions to the Board’s report and recommendation, our deferential standard of review becomes even more deferential.”). Because no exceptions have been filed, disbarment is the appropriate sanction for flagrant dishonesty, and respondent did not carry his burden dishonesty in order to be disbarred); In re Goffe, 641 A.2d 458, 464 (D.C. 1994) (imposing disbarment after attorney “repeated[ly] resort[ed] not only to false testimony but to the actual manufacture and use of false documentary evidence in official

matters”). 2 See *In re Schuman*, 251 A.3d 1044, 1055 (D.C. 2021) (“In order to qualify for a reduced sanction under the Kersey doctrine, an attorney must demonstrate (1) by clear and convincing evidence that he had a disability; (2) by a preponderance of the evidence that the disability substantially affected his misconduct; and (3) by clear and convincing evidence that he has been substantially rehabilitated.” (internal quotation marks omitted)). 3 to establish the requirements for Kersey mitigation, we accept the recommendation that respondent be disbarred. Accordingly, it is ORDERED that respondent Christopher D. Libertelli is hereby disbarred from the practice of law in this jurisdiction. Respondent’s attention is directed to the requirements of D.C. Bar R. IX, § 14, and their effect on eligibility for reinstatement. See D.C. Bar R. IX, § 16(c). So ordered.