

SUPREME COURT OF WISCONSIN

In the Matter of Disciplinary Proceedings Against Michael F. Swensen

754 N.W.2d 499 (2008) · No. 2008AP553-D · Decided July 31, 2008

SUMMARY

The Supreme Court of Wisconsin imposed reciprocal discipline on Michael F. Swensen after the Minnesota Supreme Court disbarred him for misconduct involving client funds, false documents and statements, and improper business transactions with a client. The court approved the parties' stipulation and revoked Swensen's Wisconsin law license, effective July 31, 2008.

CASE DETAILS

COURT	Supreme Court of Wisconsin
WRITING FOR THE COURT	Per curiam
JURISDICTION	Wisconsin
DECIDED	July 31, 2008
DOCKET	2008AP553-D
DISPOSITION	other
PROCEDURAL POSTURE	Reciprocal attorney-discipline proceeding initiated by the Office of Lawyer Regulation under SCR 22.22 after the Minnesota Supreme Court disbarred Swensen. The parties stipulated to revocation of his Wisconsin law license.
PRECEDENTIAL VALUE	Published Wisconsin Supreme Court opinion
PARTIES	Office of Lawyer Regulation v. Michael F. Swensen

TOPICS

administrative law

appellate procedure

PRACTICE AREAS

attorney discipline

professional responsibility

reciprocal discipline

QUESTIONS PRESENTED

1. Whether Wisconsin should impose reciprocal discipline identical to the discipline imposed by the Minnesota Supreme Court.
2. Whether any exception under SCR 22.22(3) warranted imposing discipline different from Minnesota's disbarment.

HOLDINGS

1. The Wisconsin Supreme Court must impose identical reciprocal discipline under SCR 22.22 unless one of the specified exceptions is established; because Swensen stipulated that he did not claim any exception, revocation of his Wisconsin law license was warranted.
2. Failure to notify the Office of Lawyer Regulation within 20 days of the effective date of public discipline imposed by another jurisdiction constitutes misconduct.

KEY QUOTATIONS

“Under SCR 22.22(3), in reciprocal discipline cases, this court shall impose the identical discipline unless three exceptions are shown.” (at 500)

“This court approves the stipulation and imposes the stipulated discipline of revocation of Attorney Swensen's license to practice law in Wisconsin.” (at 501)

FACTUAL BACKGROUND

Swensen was licensed to practice law in Wisconsin and Minnesota. The Minnesota Supreme Court disbarred him for misconduct including converting client funds, inducing a client to transfer property interests to his spouse, making false statements, falsifying documents, and entering unreasonable and undisclosed business transactions with a client. He did not timely notify the Wisconsin Office of Lawyer Regulation of the Minnesota discipline, and he stipulated to the facts, misconduct, and reciprocal revocation.

PROCEDURAL HISTORY

The Minnesota Supreme Court disbarred Swensen on November 15, 2007. The Office of Lawyer Regulation filed a Wisconsin complaint and motion for identical reciprocal discipline on March 5, 2008. After the Wisconsin Supreme Court issued a show-cause order, Swensen and the OLR filed a joint stipulation requesting revocation, which the court approved.

DISPOSITION

other

OPINION

PER CURIAM.

754 N.W.2d 499 (2008) 2008 WI 113 In the Matter of DISCIPLINARY PROCEEDINGS AGAINST Michael F. SWENSEN, Attorney at Law. Office of Lawyer Regulation, Complainant,

v. Michael F. Swensen, Respondent. No. 2008AP553-D. Supreme Court of Wisconsin. Decided July 31, 2008. ¶ 1 PER CURIAM. ATTORNEY disciplinary proceeding. Attorney's license revoked. This is a reciprocal discipline matter.

On March 5, 2008, the Office of Lawyer *500 Regulation (OLR) filed a complaint and motion pursuant to SCR 22.22 requesting that this court revoke the license of Attorney Michael F. Swensen as reciprocal discipline identical to that imposed by the Minnesota Supreme Court. That court disbarred Attorney Swensen from the practice of law on November 15, 2007.

The OLR's complaint notes that Attorney Swensen failed to notify the OLR of the Minnesota disciplinary action within 20 days of the effective date of that order in violation of SCR 22.22(1). [1] The OLR first learned of Attorney Swensen's Minnesota disbarment on January 8, 2008, by letter from Attorney Swensen. ¶ 2 On March 6, 2008, this court issued an order directing Attorney Swensen to show cause in writing by March 20, 2008, why the imposition of the identical discipline imposed by the Minnesota Supreme Court would be unwarranted.

Attorney Swensen and the OLR have filed a stipulation that jointly requests this court revoke Attorney Swensen's license to practice law in Wisconsin. This court approves the stipulation and revokes Attorney Swensen's Wisconsin law license. ¶ 3 Attorney Swensen was admitted to practice law in Wisconsin in 1994 and became licensed to practice law in Minnesota in 1991.

Attorney Swensen's Wisconsin law license is currently under suspension for failure to comply with mandatory continuing legal education requirements and failure to pay State Bar of Wisconsin dues. ¶ 4 Attorney Swensen's Minnesota disbarment resulted from conduct which included the conversion of rental payments and sale proceeds due to a client; inducing his client to transfer the client's property interests to the attorney's spouse; making false statements to the client and a third party; falsely drafting, notarizing, and signing documents; and engaging in business transactions with a client on unreasonable and undisclosed terms without advising the client in writing to seek independent counsel and without obtaining the client's written consent to the transactions. ¶ 5 Under SCR 22.22(3),[2] in reciprocal discipline cases, this court shall impose the identical discipline unless three exceptions are shown.

Attorney Swensen has stipulated that he does not claim any of the exceptions articulated in SCR 22.22(3). Attorney Swensen further stipulates that he admits to the facts and misconduct alleged by the OLR. He verifies that he fully understands the ramifications should the court impose the stipulated level of discipline, and fully understands his right to counsel along with his right to contest the matter.

He states his stipulation is knowingly and voluntarily made and did not result from plea bargaining. Attorney Swensen and the OLR jointly request this *501 court revoke Attorney Swensen's Wisconsin law license. This court approves the stipulation and imposes the stipulated

discipline of revocation of Attorney Swensen's license to practice law in Wisconsin.[3] ¶ 6 IT IS ORDERED that the license of Michael F. Swensen to practice law in Wisconsin is revoked, effective the date of this order. ¶ 7 IT IS FURTHER ORDERED that Attorney Swensen shall comply, if he has not already done so, with the requirements of SCR 22.26 pertaining to the duties of a person whose license to practice law in Wisconsin has been revoked.

NOTES [1] SCR 22.22(1) states: An attorney on whom public discipline for misconduct or a license suspension for medical incapacity has been imposed by another jurisdiction shall promptly notify the director of the matter. Failure to furnish the notice within 20 days of the effective date of the order or judgment of the other jurisdiction constitutes misconduct.

[2] SCR 22.22(3) states as follows: The supreme court shall impose the identical discipline or license suspension unless one or more of the following is present: (a) The procedure in the other jurisdiction was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process. (b) There was such an infirmity of proof establishing the misconduct or medical incapacity that the supreme court could not accept as final the conclusion in respect to the misconduct or medical incapacity. (c) The misconduct justifies substantially different discipline in this state.

[3] The OLR states that it does not seek costs due to Attorney Swensen's cooperation in the litigation process. No costs are imposed.