

SUPREME COURT OF OKLAHOMA

State ex rel. Oklahoma Bar Ass'n v. Wagnon

State ex rel. Okla. Bar Ass'n v. Wagnon, 2004 OK 78, 104 P.3d 571 · Decided October 12, 2004

SUMMARY

The Oklahoma Supreme Court reviewed reciprocal disciplinary proceedings based on Jeffrey D. Wagnon's resignation from the Texas Bar, together with allegations of misconduct in Oklahoma. The court found that the Texas misconduct was conclusively established and upheld findings concerning several Oklahoma violations, while exonerating Wagnon on one allegation. Wagnon was disbarred and ordered to pay \$966.02 in costs.

CASE DETAILS

COURT	Supreme Court of Oklahoma
WRITING FOR THE COURT	Taylor, J.
JURISDICTION	Oklahoma
DECIDED	October 12, 2004
DISPOSITION	other
PROCEDURAL POSTURE	The Oklahoma Bar Association initiated a reciprocal disciplinary proceeding under Rule 7.7 based on Respondent's resignation from the State Bar of Texas in lieu of discipline and separately filed a Rule 6 complaint concerning alleged Oklahoma misconduct. The matters were consolidated and referred to a Professional Responsibility Tribunal trial panel. The Supreme Court of Oklahoma conducted de novo review and imposed discipline.
STANDARD OF REVIEW	De novo review
PRECEDENTIAL VALUE	Published Oklahoma Supreme Court opinion; precedential
PARTIES	State ex rel. Oklahoma Bar Association v. Jeffrey D. Wagnon

TOPICS

- appellate procedure
- standard of review
- remedies

PRACTICE AREAS

- legal ethics
- attorney discipline
- professional responsibility

QUESTIONS PRESENTED

1. Whether misconduct underlying Wagon's resignation from the Texas Bar was conclusively established for purposes of reciprocal discipline in Oklahoma.
2. Whether Wagon committed the Oklahoma Rules of Professional Conduct violations found by the trial panel.
3. Whether the evidence established that Wagon's conduct left the client without protection of an emergency or final protective order.
4. What disciplinary sanction was warranted in light of the misconduct and aggravating and mitigating circumstances.
5. Whether Wagon should be assessed the costs of the disciplinary proceedings.

HOLDINGS

1. Misconduct alleged in the Texas disciplinary proceeding was conclusively established because Wagon had a full and fair opportunity to litigate the allegations but resigned rather than challenge them. The Oklahoma Supreme Court therefore could rely on that misconduct as a basis for reciprocal discipline.
2. Wagon's conduct in representing Sonya Wilson violated Oklahoma Rules of Professional Conduct Rules 1.3, 1.4, and 3.2.
3. Wagon violated Rule 1.2 by moving to vacate a final protective order without the client's knowledge or consent and violated Rule 1.4 by failing to explain the matter sufficiently to permit the client to make an informed decision.
4. The allegation that Wagon's conduct left Gosvener without the protection of any order was not proven by clear and convincing evidence, and Wagon was exonerated on that allegation.
5. Disbarment was the appropriate sanction for Wagon's serious, repeated misconduct affecting seven clients in two states, aggravated by his failure to respond adequately to the disciplinary processes.
6. Wagon was required to reimburse the Oklahoma Bar Association \$966.02 for costs incurred in the investigation, preparation of the record, and proceedings, payable within ninety days.

KEY QUOTATIONS

"Based upon this Court's de novo review, Respondent is disbarred." (104 P.3d at 571)

"Thus, those allegations became conclusively established." (104 P.3d at 572)

"Authority to move to vacate the final protective order was the client's." (104 P.3d at 575)

"RESPONDENT DISBARRED AND ORDERED TO PAY COSTS." (104 P.3d at 576)

FACTUAL BACKGROUND

Jeffrey D. Wagon resigned from the State Bar of Texas while disciplinary proceedings were pending after allegations that he neglected matters for five clients, failed to communicate, misrepresented work performed, and failed to respond to disciplinary complaints. After moving to Oklahoma, he neglected client matters, failed

to communicate with clients, failed to return documents and a retainer promptly, and acted without client authority in seeking to vacate a final protective order. The Oklahoma Supreme Court found one additional allegation—that the protective-order conduct left the client unprotected—was not proven by clear and convincing evidence.

PROCEDURAL HISTORY

The trial panel found that the Texas misconduct was conclusively established and found several Oklahoma violations, while concluding that one Oklahoma allegation was not proven by clear and convincing evidence. It recommended disbarment. On de novo review, the Supreme Court agreed with the established Texas misconduct and the proven Oklahoma violations, exonerated Respondent on Count III, imposed disbarment, and assessed \$966.02 in costs.

DISPOSITION

other

CASES CITED

- State of Okla. ex rel. Okla. Bar Ass'n v. Bransgrove, 1998 OK 93, 976 P.2d 540, 541
- State of Okla. ex rel. Okla. Bar Ass'n v. Heinen, 2002 OK 81, 60 P.3d 1018, 1020