

SUPREME COURT OF OKLAHOMA

STATE *ex rel.* OKLAHOMA BAR ASSOCIATION v. DARLEY

2019 OK 42 (Okla. 2019) · No. SCBD-6802 · Decided June 10, 2019

SUMMARY

The Supreme Court of Oklahoma approved Lon Jackson Darley III's resignation from the Oklahoma Bar Association while disciplinary proceedings were pending. The order requires compliance with client-protection and file-transfer obligations, prohibits reinstatement applications for five years, and assesses \$1,317.26 in costs.

CASE DETAILS

COURT	Supreme Court of Oklahoma
WRITING FOR THE COURT	Gurich, C.J.; Darby, V.C.J.; Kauger, J.; Winchester, J.; Edmondson, J.; Colbert, J.; Combs, J.
JURISDICTION	Oklahoma
DECIDED	June 10, 2019
DOCKET	SCBD-6802
DISPOSITION	approved
PROCEDURAL POSTURE	Attorney disciplinary proceeding in which the respondent sought approval of his resignation from the Oklahoma Bar Association while disciplinary proceedings were pending.
PRECEDENTIAL VALUE	Unpublished disciplinary order; the opinion states that it had not been released for publication and was subject to revision or withdrawal.
PARTIES	Oklahoma Bar Association v. Lon Jackson Darley III

TOPICS

appellate procedure

remedies

PRACTICE AREAS

legal ethics

attorney discipline

professional responsibility

QUESTIONS PRESENTED

1. Whether the Supreme Court of Oklahoma should approve respondent's resignation from the Oklahoma Bar Association during pending disciplinary proceedings under Rule 8.1 of the Rules Governing Disciplinary Proceedings.
2. Whether the Oklahoma Bar Association was entitled to reimbursement of its investigation and prosecution costs.

HOLDINGS

1. A respondent's resignation from the Oklahoma Bar Association during pending disciplinary proceedings may be approved when the resignation complies with Rule 8.1 of the Rules Governing Disciplinary Proceedings, including a voluntary affidavit acknowledging the allegations and their legal consequences. Darley's resignation complied with Rule 8.1 and was approved.
2. Upon approval of the resignation, respondent's name must be stricken from the Roll of Attorneys, he may not seek reinstatement for five years from the effective date, and future reinstatement is conditioned on compliance with the applicable disciplinary rules and payment of assessed costs.

FACTUAL BACKGROUND

During pending disciplinary proceedings, Lon Jackson Darley III offered to surrender his Oklahoma law license and resign from the Oklahoma Bar Association. His affidavit stated that the resignation was voluntary, free of coercion or duress, and made with knowledge of its legal consequences. The underlying grievances alleged mishandling and commingling of approximately \$75,611.55 in client funds and failure to competently and diligently represent a client in a foreclosure case that ended in summary judgment.

PROCEDURAL HISTORY

The Oklahoma Bar Association investigated grievances concerning respondent's handling of client funds and representation of a client in a foreclosure action. During the pendency of disciplinary proceedings, respondent submitted an affidavit and offered to resign from the Bar; the Bar applied for an order approving the resignation and reimbursement of investigative and prosecution costs.

DISPOSITION

approved

OPINION

PER CURIAM.

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OKLAHOMA BAR ASSOCIATION v. DARLEY2019 OK 42Case Number: SCBD-6802Decided: 06/10/2019IN THE SUPREME COURT OF THE STATE OF OKLAHOMA Cite as: 2019 OK 42, __ P.3d __ NOTICE: THIS OPINION HAS NOT BEEN RELEASED FOR PUBLICATION. UNTIL RELEASED, IT IS SUBJECT TO REVISION OR WITHDRAWAL. ORDER APPROVING RESIGNATION FROM OKLAHOMA BAR ASSOCIATIONPENDING DISCIPLINARY PROCEEDINGS ¶1 Upon consideration of (1) Respondent's Affidavit, prepared in compliance with Rule 8.1, Rules Governing Disciplinary Proceedings, (RGDP), 5 Ohio St. 2011, Ch. 1, App.

1-A, in which Respondent, Lon Jackson Darley III, requests that he be allowed to relinquish his license to practice law and to resign from membership in the Oklahoma Bar Association, and (2) Complainant's Application for Order Approving Resignation, ¶2 THE COURT FINDS AND HOLDS: ¶3 During the pendency of disciplinary proceedings against him, Lon Jackson Darley III offered, on May 21, 2019, to surrender his license to practice law and to resign from Bar membership. ¶4 Respondent's affidavit of resignation reflects that: (a) his resignation was freely and voluntarily made; (b) he was not subject to coercion or duress; and (c) he is fully aware of the legal consequences of submitting his resignation. ¶5 The affidavit of resignation states Respondent's awareness that the Oklahoma Bar Association has investigated the following grievances, which suffice as a basis for discipline: ¶6 Grievance by Lant Gallup: The grievance alleges that the Respondent was entrusted with funds belonging to a client, Lant Gallup.

Specifically \$75,611.55 was supposed to be held in the Respondent's attorney trust account (IOLTA) on behalf of the client. The money was to be disbursed to the client by installments. The grievance alleges that the Respondent did not account for approximately \$28,000.00 belonging to the client.

The Respondent improperly transferred some of the funds to his operating account and comingled it with other funds. The client alleges the Respondent owes him \$28,441.00. ¶7 Grievance by Lee Loggins: The allegations are that the Respondent was retained to represent Lee Loggins in various matters, some of which were criminal cases, and also a foreclosure action.

The Respondent entered an appearance in October 2018 in the Oklahoma County foreclosure case, CJ-2018-3276. It is further alleged that he did not file any pleadings and made no further court appearances in the case.

The case was concluded by summary judgment entered February 2019 against Lee Loggins, et al. ¶8 Respondent is aware that, if proven, these grievances would constitute violations of Rules 1.1 (Competence), 1.15 (Safekeeping Property), 1.3 (Diligence), 1.4 (Communication), 8.4 (a) and (c), (Misconduct, Dishonesty, Fraud, Deceit or Misrepresentation), Oklahoma Rules of Professional Conduct, 5 Ohio St. 2011, Ch. 1, App.

3-A and Rules 1.3 (Discipline for Acts Contrary to Prescribed Standards of Conduct) and 5.2 (Investigations -- Failure to Timely Answer), RGDP; and Respondent's oath as a licensed Oklahoma lawyer. ¶9 Respondent waives any and all right to contest the allegations in a bar disciplinary proceeding. ¶10 Respondent states his awareness that a Rule 8.2 RGDP, resignation pending disciplinary proceedings may be either approved or disapproved by the Supreme Court of Oklahoma. ¶11 Respondent agrees to comply with RGDP Rule 9.1 within twenty days following the date his resignation was filed with this Court, May 28, 2019. ¶12 Respondent acknowledges and agrees that he may not apply for reinstatement of his legal license (and of his membership in the Bar) before the expiration of five years from the effective date of this order.

The Respondent also acknowledges that he may be reinstated to the practice of law only upon full compliance with the conditions and procedures prescribed by Rule 11, RGDP. ¶13 Respondent acknowledges that his actions may result in claims against the Client Security Fund and agrees to reimburse the Fund for any disbursements made or to be made because of his actions, with applicable statutory interest, prior to the filing of any application for reinstatement. ¶14 Respondent must surrender his Oklahoma Bar Association membership card to the Office of the General Counsel, if he has not already done so. ¶15 Respondent must cooperate with the Office of the General Counsel in the task of identifying any active client cases wherein documents and files need to be returned or forwarded to new counsel, and in any client case where fees or refunds are owed by Respondent. ¶16 Respondent acknowledges the Oklahoma Bar Association has incurred costs in the investigation and prosecution of this matter.

The Bar Association has applied to this Court to assess costs in the amount of \$1,317.26. The Respondent has agreed he is responsible for reimbursement of these costs. ¶17 Respondent's resignation during the pendency of disciplinary proceedings is in compliance with RGDP Rule 8.1. ¶18 Respondent's name and address appear on the official Bar roster as: Lon Jackson Darley III, O.B.A.

No. 15415, 4528 N. Classen Blvd., Oklahoma City, OK 73118. ¶19 IT IS THEREFORE ORDERED THAT the resignation of Lon Jackson Darley III, tendered during the pendency of disciplinary proceedings be approved, and the resignation is deemed effective on the date it was executed and filed in this Court, May 28, 2019. ¶20 IT IS FURTHER ORDERED that Respondent's name be stricken from the Roll of Attorneys and he may not apply for reinstatement of his license to practice law (and of his membership in the Bar) before the lapse of five years from the effective date of this order (May 28, 2019).

Respondent shall comply with RGDP Rule 9.1. ¶21 IT IS FURTHER ORDERED that Complainant's request for reimbursement of costs is sustained. Respondent shall pay costs in the amount of \$1,317.26 within thirty (30) days from the date of this order. Any consideration of any future Rule 11 petitions is conditioned upon such payment. DONE BY ORDER OF THE

SUPREME COURT THIS 10th DAY of JUNE, 2019. /S/CHIEF JUSTICE Concur -- Gurich, C.J., Darby, V.C.J., Kauger, Winchester, Edmondson, Colbert, Combs, JJ. Citationizer© Summary of Documents Citing This Document Cite Name Level None Found.

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