

SUPREME COURT OF OKLAHOMA

State ex rel. Oklahoma Bar Ass'n v. Moon, 2012 OK 77

295 P.3d 1 (Okla. 2012) · Decided September 18, 2012

SUMMARY

The Oklahoma Supreme Court publicly disciplined Lewis B. Moon for alcohol-related criminal conduct and conduct bringing disrepute on the legal profession. The Court imposed public censure or reprimand, a deferred suspension of two years and one day subject to sobriety and monitoring conditions, and costs of \$1,459.55. A subsequent order referred alleged breaches of the deferred-suspension conditions to the Professional Responsibility Tribunal together with an interim-suspension proceeding.

CASE DETAILS

COURT	Supreme Court of Oklahoma
WRITING FOR THE COURT	Watt, J.; Colbert, V.C.J.; Winchester, J.; Edmondson, J.; Reif, J.; Kauger, J.; Taylor, C.J.; Combs, J.; Gurich, J.
JURISDICTION	Oklahoma
DECIDED	September 18, 2012
DISPOSITION	other
PROCEDURAL POSTURE	The Oklahoma Bar Association brought a lawyer-discipline proceeding against Lewis B. Moon based on three alcohol-related incidents and stipulated violations of professional-conduct and disciplinary rules. The Oklahoma Supreme Court reviewed the Professional Responsibility Tribunal's recommendation de novo.
STANDARD OF REVIEW	De novo review. The Supreme Court independently determines whether misconduct occurred and what discipline is warranted; the trial panel's factual findings, credibility determinations, and recommended discipline are advisory only. Misconduct must be established by clear and convincing evidence.
PRECEDENTIAL VALUE	Published Oklahoma Supreme Court opinion; precedential authority.
PARTIES	State ex rel. Oklahoma Bar Association v. Lewis B. Moon

TOPICS

administrative law

agency adjudication

judicial review of agency action

PRACTICE AREAS

legal ethics and professional responsibility

attorney discipline

administrative law

QUESTIONS PRESENTED

1. Whether clear and convincing evidence established that Moon violated Oklahoma professional-conduct and disciplinary rules through alcohol-related criminal conduct and conduct bringing disrepute upon the legal profession.
2. Whether clear and convincing evidence established that Moon stated or implied an ability to influence improperly a government official in violation of Rule 8.4(e).
3. What discipline was appropriate in light of Moon's misconduct and mitigating circumstances.

HOLDINGS

1. Clear and convincing evidence established that Moon violated Rule 8.4(b), Rule 1.3, and related professional-discipline standards through criminal acts reflecting adversely on his honesty, trustworthiness, and fitness and through acts bringing disrepute upon the legal profession.
2. Clear and convincing evidence established that Moon violated Rule 8.4(e) by stating or implying an ability to influence improperly one or more government officials to obtain favorable treatment.
3. Public censure, a deferred suspension of two years and one day subject to specified sobriety, treatment, monitoring, and confidentiality-waiver conditions, and assessment of \$1,459.55 in costs were appropriate.

KEY QUOTATIONS

“Our determinations are made de novo. We bear the ultimate responsibility for deciding whether misconduct has occurred and, if so, what discipline is warranted.” (¶ 16)

“A conviction for driving a motor vehicle while under the influence of intoxicating liquor does not facially show a lawyer's unfitness to practice law. Nevertheless, a pattern of repeated offenses, even ones of minor significance when considered separately, can indicate indifference to an attorney's legal obligations.” (¶ 35)

FACTUAL BACKGROUND

Moon, an Oklahoma lawyer admitted in 2004, was involved in three alcohol-related incidents over approximately three years. In one incident he drove while intoxicated, represented himself as a law-enforcement officer, resisted arrest, spit on an officer, and attempted to invoke influential contacts; in another he pleaded guilty to driving under the influence in Wyoming; and in a third he left the scene of an intoxicated-driving accident and attempted to obtain favorable treatment from law-enforcement personnel. The parties stipulated that Moon violated professional rules, and the record also showed mitigation, including treatment for alcoholism, participation in recovery programs, remorse, cooperation, and no identified harm to clients.

PROCEDURAL HISTORY

The Bar Association filed a three-count complaint on February 24, 2012. After the parties stipulated to facts, conclusions of law, and a recommended sanction, the trial panel adopted the recommendation and recommended public censure, one year of probation with conditions, and costs. The Supreme Court independently reviewed the record, found additional misconduct under Rule 8.4(e), and imposed public censure, a deferred suspension of two years and one day subject to conditions, and costs.

DISPOSITION

other

CASES CITED

- State ex rel. Oklahoma Bar Ass'n v. McBride, 2007 OK 91, 175 P.3d 379
- State ex rel. Oklahoma Bar Ass'n v. Townsend, 2012 OK 44, 277 P.3d 1269
- State ex rel. Oklahoma Bar Ass'n v. McCoy, 2010 OK 67, 240 P.3d 675
- State ex rel. Oklahoma Bar Ass'n v. Pacenza, 2006 OK 23, 136 P.3d 616
- State ex rel. Oklahoma Bar Ass'n v. Farrant, 1994 OK 13, 867 P.2d 1279
- Tweedy v. Oklahoma Bar Ass'n, 1981 OK 12, 624 P.2d 1049
- State ex rel. Oklahoma Bar Ass'n v. Combs, 2008 OK 96, 202 P.3d 830
- State ex rel. Oklahoma Bar Ass'n v. Zimmerman, 2012 OK 35, 276 P.3d 1022
- State ex rel. Oklahoma Bar Ass'n v. Besly, 2006 OK 18, 136 P.3d 590
- State ex rel. Oklahoma Bar Ass'n v. McGee, 2002 OK 32, 48 P.3d 787
- State ex rel. Oklahoma Bar Ass'n v. Whitebook, 2010 OK 72, 242 P.3d 517
- State ex rel. Oklahoma Bar Ass'n v. Rogers, 2006 OK 54, 142 P.3d 428
- State ex rel. Oklahoma Bar Ass'n v. Schraeder, 2002 OK 51, 51 P.3d 570
- State ex rel. Oklahoma Bar Ass'n v. Perceful, 1990 OK 72, 796 P.2d 627
- State ex rel. Oklahoma Bar Ass'n v. Badger, 1995 OK 113, 912 P.2d 312
- State ex rel. Oklahoma Bar Ass'n v. Hall, 1977 OK 117, 567 P.2d 975
- State ex rel. Oklahoma Bar Ass'n v. Beasley, 2006 OK 49, 142 P.3d 410
- State ex rel. Oklahoma Bar Ass'n v. Garrett, 2005 OK 91, 127 P.3d 600
- State ex rel. Oklahoma Bar Ass'n v. Giger, 2001 OK 96, 37 P.3d 856
- State ex rel. Oklahoma Bar Ass'n v. Wyatt, 2001 OK 70, 32 P.3d 858
- State ex rel. Oklahoma Bar Ass'n v. Doris, 1999 OK 94, 991 P.2d 1015
- State ex rel. Oklahoma Bar Ass'n v. Hogue, 1995 OK 64, 898 P.2d 153
- State ex rel. Oklahoma Bar Ass'n v. Armstrong, 1992 OK 79, 848 P.2d 538
- State ex rel. Oklahoma Bar Ass'n v. Colston, 1989 OK 74, 777 P.2d 920
- Oklahoma Corrections Professional Ass'n, Inc. v. Jackson, 2012 OK 53, 280 P.3d 959
- Woods v. Prestwick House, Inc., 2011 OK 9, 247 P.3d 1183
- White v. Heng Ly Lim, 2009 OK 79, 224 P.3d 679

- Reinstatement of Moss, 1993 OK 16, 848 P.2d 564

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