

SUPREME COURT OF LOUISIANA

In re Bailey

235 So. 3d 1091 (La. 2018) · Decided February 9, 2018

SUMMARY

The Louisiana Supreme Court considered a petition for reciprocal disability inactive status against Erich Webb Bailey, who had been transferred to disability inactive status by the Supreme Court of Tennessee based on medical incapacity. Because Bailey did not respond and the record supported reciprocal treatment, the court transferred him to disability inactive status in Louisiana.

CASE DETAILS

COURT	Supreme Court of Louisiana
JURISDICTION	Louisiana
DECIDED	February 9, 2018
DISPOSITION	other
PROCEDURAL POSTURE	The Office of Disciplinary Counsel petitioned the Louisiana Supreme Court for reciprocal transfer of respondent attorney to disability inactive status after the Supreme Court of Tennessee had transferred him to disability inactive status. Respondent did not respond to the Louisiana court's order to show cause.
STANDARD OF REVIEW	Reciprocal disability inactive status is governed by Supreme Court Rule XIX, § 21(D); disability inactive status is imposed unless the lawyer or disciplinary counsel demonstrates, or the record clearly shows, that a specified exception applies.
PRECEDENTIAL VALUE	Published Louisiana Supreme Court opinion; precedential.
PARTIES	Office of Disciplinary Counsel v. Erich Webb Bailey

TOPICS

administrative law

ada / disability

PRACTICE AREAS

attorney discipline

professional responsibility

reciprocal discipline

disability inactive status

QUESTIONS PRESENTED

1. Whether Louisiana should impose reciprocal disability inactive status on an attorney who had been transferred to disability inactive status by the Supreme Court of Tennessee.
2. Whether the record demonstrated that reciprocal disability inactive status was unwarranted under Supreme Court Rule XIX, § 21(D).

HOLDINGS

1. Louisiana will transfer an attorney to disability inactive status on a reciprocal basis when the attorney has been transferred to disability inactive status in another jurisdiction and the record does not establish that the reason for the original transfer no longer exists or otherwise make the same discipline inappropriate.

KEY QUOTATIONS

“The imposition of reciprocal disability inactive status in Louisiana is clearly appropriate, and there is no suggestion otherwise upon the face of the record.”

FACTUAL BACKGROUND

The Supreme Court of Tennessee determined, based on Bailey's medical records, that he was currently incapacitated from continuing the practice of law and transferred him to disability inactive status for an indefinite period. Bailey was also subject to an interim suspension in Louisiana. After receiving notice of the Tennessee order, Louisiana disciplinary counsel initiated reciprocal disability inactive status proceedings, and Bailey did not oppose the petition.

PROCEDURAL HISTORY

The Supreme Court of Tennessee transferred Bailey to disability inactive status indefinitely based on medical records showing that he was incapacitated from continuing to practice law. The Louisiana Office of Disciplinary Counsel filed a reciprocal disability inactive status proceeding under Supreme Court Rule XIX, § 21, attaching a certified copy of the Tennessee order. After the Louisiana Supreme Court gave Bailey thirty days to show why reciprocal discipline would be unwarranted, he filed no response. The Louisiana Supreme Court ordered his transfer to disability inactive status.

DISPOSITION

other

CASES CITED

- In re: Bailey, 231 So. 3d 606 (La. 2017)

OPINION

PER CURIAM.

ATTORNEY DISCIPLINARY PROCEEDING PER CURIAM | pursuant to Supreme Court Rule XIX, § 21, the Office of Disciplinary Counsel (“ODC”) has filed a petition seeking the imposition of reciprocal disability inactive status against respondent, Erich Webb Bailey,¹ an attorney licensed to practice law in the States of Louisiana and Tennessee, based upon his transfer to disability inactive status by the Supreme Court of Tennessee.

UNDERLYING FACTS AND PROCEDURAL HISTORY On October 27, 2017, the Supreme Court of Tennessee issued an order transferring respondent to disability inactive status because his medical records show he is “currently incapacitated from continuing the practice of law.” This order established that respondent “shall be transferred to disability inactive status for an indefinite period of time and until further orders of the Supreme Court [of Tennessee].” After receiving notice of the order transferring respondent to disability inactive status in Tennessee, the ODC filed a motion to initiate reciprocal disability inactive status proceedings in Louisiana, pursuant to Supreme Court Rule XIX, § 21.

A certified copy of the decision and order of the Supreme Court of Tennessee was attached to the motion. On December 15, 2017, this court rendered an order giving respondent thirty days to demonstrate why transferring him to disability inactive status in this state would be unwarranted. Respondent failed to file any response in this court. DISCUSSION The standard for transferring an attorney to disability inactive status on a reciprocal basis is set forth in Supreme Court Rule XIX, § 21(D).

That rule provides, in pertinent part: Upon the expiration of thirty days from service of the notice pursuant to the provisions of paragraph B, this court shall impose... disability inactive status unless disciplinary counsel or the lawyer demonstrates, or this court finds that it clearly appears upon the face of the record from which the discipline is predicated, that:...

(5) the reason for the original transfer to disability inactive status no longer exists. ■ If this court determines that any of ' those elements exists, this court shall enter such other order as it deems appropriate.

The burden is on the party seeking different discipline in this jurisdiction to demonstrate, that the imposition of the same discipline is not appropriate. According to the record, respondent provided the Supreme Court of Tennessee with medical records indicating he is unable to practice law.

After considering those medical records, the Supreme Court of Tennessee' transferred respondent to disability inactive status. The imposition of reciprocal disability inactive status in Louisiana is clearly appropriate, and there is no suggestion otherwise upon the face of the record.

Accordingly, we will transfer respondent to disability inactive status as was imposed in Tennessee. | «DECREE Considering the Petition for Reciprocal Disability Inactive Status filed by the Office of Disciplinary Counsel and the record filed herein, it is ordered that respondent, Erich Webb

Bailey, Louisiana Bar Roll number 32822, be and he hereby is transferred to disability inactive status..

Respondent is currently On interim suspension in Louisiana pursuant to a petition for reciprocal discipline. In re: Bailey, 17-1693 (La. 12/15/17), 231 So.3d 606.

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/louisiana-supreme-court-of-louisiana/2018/in-re-bailey-zk9qvgrk>