

ORIGINAL

IN
THE SUPREME COURT OF OHIO

Geoffrey L. Oglesby
Petitioner/Respondent

CASE NO. 2000-1100

Disciplinary Counsel
Relator

RELATOR'S RESPONSE IN
OPPOSITION TO
RESPONDENT'S MOTION
FOR RECONSIDERATION

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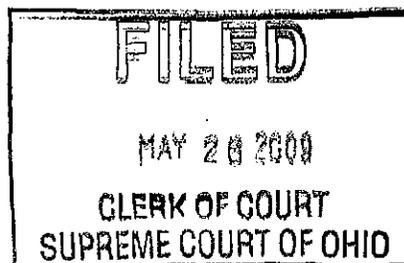
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INTRODUCTION

Petitioner, Geoffrey L. Oglesby, was admitted to the practice of law in the state of Ohio on May 10, 1982. On December 27, 2000, the Supreme Court of Ohio indefinitely suspended petitioner's license to practice law. See *Disciplinary Counsel v. Oglesby* (2000), 90 Ohio St.3d 455.

Petitioner applied for reinstatement the first time on or about August 3, 2003. This court denied petitioner's reinstatement petition on May 10, 2004. *Disciplinary Counsel v. Oglesby*, 102 Ohio St.3d 1219, 2004-Ohio-2541, 808 N.E.2d 882.

The Board of Commissioners on Grievances and Discipline (the board) filed its final report with the Court on February 24, 2009, recommending that petitioner be denied reinstatement to the practice of law in Ohio. Petitioner filed objections to the board report on March 17, 2009, and relator filed an answer on March 30, 2009.

Petitioner applied for reinstatement a second time in September 2008. The Court denied the petition for reinstatement on May 7, 2009, without a published opinion. See *Disciplinary Counsel v. Oglesby* (2009), _____ Ohio St. 3d. _____, 2009-Ohio-2111, _____ N.E.2d _____.

Pursuant to S.Ct.Prac.R. XI(2), petitioner filed a motion for reconsideration of the Court's decision. Now comes relator, Disciplinary Counsel, and pursuant to S.Ct.Prac.R. XI(3) submits this Memorandum in Opposition to Respondent's Motion for Reconsideration.

MEMORANDUM IN OPPOSITION

Petitioner is Using this Motion for Reconsideration as a Means to Reargue His Case

In this case, petitioner, Geoffrey L. Oglesby, is asking this court to reconsider its order denying reinstatement of petitioner to the practice of law after an indefinite suspension.

Pursuant to S.Ct.Prac.R. XI(3)(B), "[a] motion for reconsideration shall be confined strictly to the grounds urged for reconsideration, shall not constitute a reargument of the case, and may be filed only with respect to the following: . . . (4) [a] decision on the merits of a case."

The petitioner's motion for reconsideration presents a reargument of the panel's report which is not in compliance with the strict requirements for a motion for reconsideration. S.Ct.Prac.R. XI(3)(B).

Petitioner's Motion does not address the merits of this court's May 7, 2009 decision. Petitioner is attempting to use his motion for reconsideration to argue the same objections presented to this Court in his brief filed March 17, 2009.

Petitioner fails to reveal any new argument or issue not previously presented. Therefore, Petitioner's fails to meet the requirements set forth in S.Ct. Prac.R. XI(3)(B). Relator urges the court to deny petitioner's request for reconsideration of the court's issued decision.

Petitioner Fails to Set Forth Requisite Grounds for Reconsideration

In petitioner's rationale of his motion for reconsideration, petitioner contends the panel's report is flawed due to lack of standards or objective criteria. However, Petitioner was given a full and complete opportunity to obtain this Court's review of these issues through his brief filed March 17, 2009. Petitioner raises two issues in the motion for reconsideration: 1) the board improperly found that petitioner had serious deficiencies in petitioner's personal tax accounting and reporting methods, and 2) petitioner failed to take CLE or other courses on law office management. Both arguments were raised in petitioner's brief and considered by this Court in issuing its May 7, 2009 opinion.

This Court has, in the past, "invoked the reconsideration procedures set forth in S.Ct.Prac.R. XI to correct decisions which, upon reflection, are deemed to have been made in error." See *State ex rel. Mirlisena v. Hamilton Cty. Bd. of Elections* (1993), 67 Ohio St.3d 597, 622 N.E.2d 329 (reasoning contained in a previous dissenting opinion adopted by a majority of this Court pursuant to a motion for reconsideration); *State ex rel. Eaton Corp. v. Lancaster* (1989), 44 Ohio St.3d 106, 541 N.E.2d 64 (views

contained in a previous concurring opinion adopted by a majority of this Court pursuant to a motion to 'rehearing')." *State ex rel. Huebner v. West Jefferson Village Council* (1996), 75 Ohio St.3d 381, 383. See also *Buckeye Comm. Hope Foundation v. City of Cuyahoga Falls* (1998), 82 Ohio St.3d 539.

In making its decision to reconsider its decision in *Huebner*, this Court looked at its original decision. *Inter alia*, the Court determined that a crucial issue had not been raised by appellees in the Court of Appeals and that the same issue was not fully briefed to the Court prior to the issuance of the first opinion. The Court further noted that the decision in its first opinion "appear[ed] to be contrary to established precedent, and the sole case cited therein appear[ed] to be inapposite." *Id.* at 383.

This Court's decision to indefinitely suspend petitioner from the practice of law is not contrary to established precedent. This Court considered the relevant and decisive factors in making its original decision. In the motion for reconsideration, petitioner presents this Court with a repeated discussion of his tax and law office management issues that have already been presented. The petitioner attempts to further parse these two topics by questioning applied standards and objective criteria; however, the petitioner already raised similar arguments in his earlier brief by arguing that the board was "moving the goalpost" and that the denial of petitioner's reinstatement was arbitrary.

The petitioner's motion fails to address any error made by this Court. Rather, petitioner merely attempts to further his previously raised arguments. The petitioner's motion for reconsideration cites to two passages, "Passage No. 1" and "Passage No. 2." As to "Passage No. 1" petitioner states that "[t]he motion will address just what a 'tax deficiency' is and what 'tax reporting' is based on an objective standard." As to

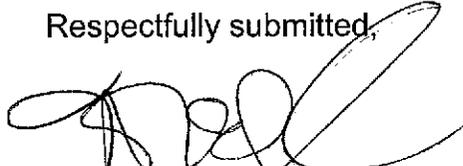
“Passage No. 2” petitioner states that “there is no objective standard as to what is included in a ‘law office management’ continuing legal education seminar.”

Petitioner’s motion is premised upon essentially the same objections raised earlier. The petitioner conveniently ignores the requirements of S. Ct.Prac.R. XI(3)(B), to identify an error in this Court’s opinion and provide a new argument identifying the error.

CONCLUSION

Petitioner’s motion is an attempt to re-argue objections already considered by this Court and should therefore be denied.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that the foregoing Relator's Response In Opposition To Respondent's Motion For Reconsideration was served via U.S. Mail, postage prepaid, this 26th day of May, 2009, upon:

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