

The Supreme Court of Ohio

Disciplinary Counsel, :
Relator :
 :
v. : Case No. 2012-1107
 :
Joel David Joseph :
Respondent :

Motion to Reconsider Order of July 13, 2015

Respondent moves this court pursuant to Rule 18.02 to reconsider the order entered in this matter on July 13, 2015.

The court inaccurately states that the Board of Grievances and Discipline recommended that respondent be denied reinstatement.

The Board stated at paragraph 13 of its findings:

Based on the evidence presented, the panel unanimously finds that *Petitioner has satisfied all of the requirements of reinstatement* to the practice of law in Ohio, except one. Petitioner has still not been reinstated to the practice of law in Maryland. (emphasis added).

The Board found that Respondent possessed all of the mental, educational, and moral qualifications that are required for reinstatement.

The requirement of being readmitted to Maryland was imposed by this court and can only be relaxed by this court, not the Board. By claiming that it was upholding the decision of the Board is disingenuous and circular. The Board was merely following the order of this court.

Respondent Has Been Denied Due Process of Law

Due process requires that this court issue a written opinion including the reasons for its ruling. *Goldberg v. Kelly*, 397 U.S. 254 (1970). The opinion of July 13, 2015 does not do this. Further, due process requires that respondent be reinstated as he has demonstrated that he meets *all* of the qualifications for reinstatement and that the decision of the Maryland Court of Appeals was contrary to the facts found by the Ohio Board of Grievances and Discipline.

This court should not require reinstatement in Maryland for several reasons. First and foremost is that the decision of the Maryland Court of Appeals was erroneous factually and legally. The Maryland Court of Appeals relied on a decision of the Circuit Court for Montgomery County, Maryland that adopted verbatim the proposed findings of bar counsel. The U.S. Supreme Court called a judge who adopted a party's findings of facts verbatim "not the product of the workings of the district judge's mind" and noted the findings of fact had been "mechanically adopted" by the district court. *United States v. El Paso Natural Gas Company*, 376 U.S. 651, 656 (1964). Secondly, the findings were erroneous, as was confirmed by the Ohio Board of Grievances and Discipline.

The findings of the Ohio Board of Grievances and Discipline at paragraph 7 were: "Petitioner presented evidence at the hearing in this matter *that demonstrated* that he held a Maryland driver's license and that he filed income tax returns in the state of Maryland during the time period in which the Maryland Court of Appeals determined that he was a resident of the state of California." (emphasis added). At a minimum, this finding demonstrates that Respondent had a reasonable basis for his decision to state that

he was a Maryland resident at the time in question, and therefore any misstatement that Respondent made was not intentional.

Respondent was disbarred by Maryland for intentionally making a false statement concerning his residency in Maryland. However, the Ohio Board of Grievances and Discipline determined that Respondent did not falsely state his residency since he actually was a Maryland resident at the time in question.

Conclusion

Because Respondent has demonstrated that he meets all requirements for reinstatement, and that the Maryland Court of Appeals wrongfully disbarred him, this court should reconsider its order of July 13, 2015 and reinstate Respondent to the Bar of the State of Ohio.

Respectfully submitted,

/Joel D. Joseph/

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Certificate of Service

I certify that I have mailed a copy of this motion to Joseph M. Caligiuri, Senior Assistant Disciplinary Counsel, OFFICE OF DISCIPLINARY COUNSEL, 250 Civic Center Drive, Suite 325 Columbus, OH 43215-7411 on July 22, 2015.

/Joel D. Joseph/

JOEL D. JOSEPH