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Supreme Court of Wisconsin

110 EAST MAIN STREET, SUITE 215

P.O. Box 1688

MADISON, WI 53701-1688

TELEPHONE (608) 266-1880

FACSIMILE (608) 267-0640

Web Site: www.wicourts.gov

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SUPREME COURT

November 6, 2025

To:

Kim M. Kluck
Francis X. Sullivan
Krissi Lee
Office of Lawyer Regulation
110 E. Main Street, Ste. 315
Madison, WI 53703

Stacie H. Rosenzweig
Halling & Cayo SC
320 E. Buffalo, Suite 700
Milwaukee, WI 53202

Michael B. Padden
Padden Law Firm PLLC
P.O. Box 106
Hudson, WI 54016-0106

You are hereby notified that the Court has entered the following order:

No. 2024AP2110-D

Office of Lawyer Regulation v. Michael B. Padden

Just over a year ago, on October 17, 2024, the OLR filed its complaint in this reciprocal disciplinary matter. The complaint sought revocation of Attorney Michael B. Padden's Wisconsin law license as discipline reciprocal to the disbarment ordered by the Minnesota Supreme Court in August 2024. Over the course of the past year, the court has carefully considered the pleadings and numerous rounds of briefs; the parties filed their final briefs with the court on September 15, 2025. Throughout, Attorney Padden has maintained two positions. First, he asserted that two of the three defenses to reciprocal discipline provided by our rules apply here. *See* SCR 22.22(3)(a) and (c).¹ Second, he asserted that he is entitled to a hearing before a referee to present evidence related to these defenses. In its filings, the OLR has asserted

¹ SCR 22.22(3) states: "The supreme court shall impose the identical discipline or license suspension unless one or more of the following is present:

- (a) The procedure in the other jurisdiction was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process.
- (b) There was such an infirmity of proof establishing the misconduct or medical incapacity that the supreme court could not accept as final the conclusion in respect to the misconduct or medical incapacity.
- (c) The misconduct justifies substantially different discipline in this state."

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that none of the defenses to reciprocal discipline apply. The OLR has not taken a firm position on whether a hearing is necessary, at one point submitting that it “could” be appropriate for the court to order a hearing regarding the defense provided by in SCR 22.22(3)(c), but then hedging: “[a]rguably, even that issue is one that is more appropriately addressed through briefing.” Similarly, the OLR’s stance on the appropriate reciprocal discipline to impose on Attorney Padden has shifted considerably. It originally asserted that revocation of Attorney Padden’s Wisconsin license was appropriate reciprocal discipline, but later advanced the following position: “The range of discipline for Padden’s misconduct would potentially be from a suspension of six months to revocation in Wisconsin. However, in the context of a reciprocal disciplinary proceeding, the reinstatement procedures in both jurisdictions render six-month suspension in Wisconsin as the closest equivalent to the Minnesota disbarment.” In a September 15, 2025 brief to this court, Attorney Padden wrote that he “agree[d]” with the “OLR’s argument that a six-month suspension in Wisconsin is the closest thing we have to Minnesota’s disbarment.”

On October 22, 2025, over five weeks after the close of court-ordered briefing in this court, the parties filed two documents: (1) an “SCR 22.12 Stipulation”; and (2) “OLR’s Memorandum in Support of SCR 22.12 Stipulation.” The stipulation states that Attorney Padden no longer “claim[s] any of the defenses found in SCR 22.22(3),” and that he “agrees that it would be appropriate for [this court] to impose the level of discipline sought by OLR’s Director, specifically, a suspension of Padden’s license to practice law in Wisconsin for six months, as discipline reciprocal to that imposed upon him in Minnesota.” (Footnote omitted). The parties ask the court to “approve the Stipulation, and issue a final order consistent therewith,” “without appointing a referee.” In its memorandum supporting the stipulation, the OLR explains that a six-month suspension is an appropriate level of reciprocal discipline in light of the fact that “Minnesota’s rules do not provide for a certain period of time that must pass before an attorney can petition for reinstatement.”

We reject the stipulation. Preliminarily, we address a point of nomenclature. The stipulation is erroneously titled an “SCR 22.12 Stipulation.” By rule, stipulations under SCR 22.12 and a required supporting memorandum from the OLR must be filed at the very beginning of the case—“with the complaint.” *See* SCR 22.12(1). The respondent may file a response to the OLR’s memorandum within 14 days of the filing of the stipulation. *Id.* The stipulation is then considered by this court without the appointment of a referee, and the court may approve, reject, or direct the parties to consider specific modifications to the stipulation. *Id.* That is not the situation here. The OLR filed its complaint over a year ago, and the parties’ stipulation arrived well after the court had issued a series of orders to move this case along, and well after court-ordered briefing was complete. Far from an SCR 22.12 stipulation, the stipulation before us is a last-minute agreement that arrived as the court was preparing its final decision.

More fundamentally, the stipulation shows a misunderstanding of our role in this reciprocal disciplinary proceeding, and of the parties’ ability to affect its outcome by agreement. Pursuant to SCR 22.22(3), we “shall impose the identical discipline” imposed in Minnesota unless any of the three defenses listed in SCR 22.22(3)(a)-(c) applies. In the stipulation,

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Attorney Padden states that he no longer asserts any of these defenses. This purported waiver triggers the mandatory provision in SCR 22.22(3): we “shall impose the identical discipline” imposed in Minnesota. Because the form of discipline imposed in Minnesota—disbarment—is not an available sanction in Wisconsin, *see* SCR 21.16(1m), we must impose discipline “identical” to disbarment as far as is possible. Doing so requires us to answer a legal question: What is the functional equivalent under our rules to Minnesota’s disbarment? Whether disbarment in Minnesota is functionally equivalent to a six-month suspension in Wisconsin, or something else entirely, is a pure question of law, answerable only by this court. The parties’ stipulation on this legal issue is no more informative or binding on this court than the parties’ earlier agreement on this point in their briefing.

In short, the parties’ stipulation on a question of law adds nothing to our analysis. Thus, to the extent that Attorney Padden purports to waive his SCR 22.22(3) defenses and his request for an evidentiary hearing in reliance on obtaining a benefit from the stipulation, his reliance is misplaced. We therefore reject the stipulation and return the parties to the positions they occupied before filing it, as set forth in their pleadings and briefs in this proceeding.

IT IS ORDERED that the stipulation filed in this case on October 22, 2025 is rejected, and the parties are returned to the positions they occupied before filing the stipulation. The court will issue its decision based on the record developed in this case promptly.

Samuel A. Christensen
Clerk of Supreme Court