

2020 WI 79

SUPREME COURT OF WISCONSIN

CASE No. : 2020AP152-D

COMPLETE TITLE: In the Matter of Disciplinary Proceedings
Against Leroi John Andrews, Attorney at Law:

Office of Lawyer Regulation,
Complainant,

v.

Leroi John Andrews,
Respondent.

DISCIPLINARY PROCEEDINGS AGAINST ANDREWS

OPINION FILED: October 6, 2020

SUBMITTED ON BRIEFS:

ORAL ARGUMENT:

SOURCE OF APPEAL:

COURT:

COUNTY:

JUDGE:

JUSTICES:

Per Curiam.

NOT PARTICIPATING:

ATTORNEYS:

2020 WI 79

NOTICE

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STATE OF WISCONSIN

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IN SUPREME COURT

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FILED**OCT 6, 2020**

Sheila T. Reiff
Clerk of Supreme Court

ATTORNEY disciplinary proceeding. *Attorney's license suspended.*

¶1 PER CURIAM. This is a reciprocal discipline matter. On January 24, 2020, the Office of Lawyer Regulation (OLR) filed a complaint and motion pursuant to Supreme Court Rule (SCR) 22.22,¹

¹ SCR 22.22 provides:

(1) An attorney on whom public discipline for misconduct or a license suspension for medical incapacity has been imposed by another jurisdiction shall promptly notify the director of the matter. Failure to furnish the notice within 20 days of the effective date of the order or judgment of the other jurisdiction constitutes misconduct.

(2) Upon the receipt of a certified copy of a judgment or order of another jurisdiction imposing discipline for misconduct or a license suspension for medical incapacity of an attorney admitted to the practice of law or engaged in the practice of law in this state, the director may file a complaint in the supreme court containing all of the following:

(a) A certified copy of the judgment or order from the other jurisdiction.

(b) A motion requesting an order directing the attorney to inform the supreme court in writing within 20 days of any claim of the attorney predicated on the grounds set forth in sub. (3) that the unwarranted and the factual basis for the claim.

(3) 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.

(4) Except as provided in sub. (3), a final adjudication in another jurisdiction that an attorney has engaged in misconduct or has a medical incapacity shall be conclusive evidence of the attorney's misconduct or medical incapacity for purposes of a proceeding under this rule.

(5) The supreme court may refer a complaint filed under sub. (2) to a referee for a hearing and a report and recommendation pursuant to SCR 22.16. At the hearing, the burden is on the party seeking the imposition of discipline or license suspension different from that imposed in the other jurisdiction to

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asking this court to suspend Attorney Leroi John Andrews' license to practice law in Wisconsin for a period of three months, as reciprocal discipline identical to that imposed by the Supreme Court of the State of New York, Appellate Division, First Judicial Department. Upon our review, we agree that it is appropriate to impose the same three-month suspension imposed by the Supreme Court of the State of New York, Appellate Division, First Judicial Department. We also order Attorney Andrews to comply with the conditions of the New York disciplinary order, as explained more fully below. We do not impose costs.

¶2 Attorney Andrews was admitted to practice law in Wisconsin in 1988. His Wisconsin license was suspended in November 1992 for failure to pay bar dues and in June 1995 for failure to comply with mandatory continuing legal education reporting requirements. His Wisconsin license remains administratively suspended at the present time.

¶3 In February 1990, Attorney Andrews was admitted to practice law in the State of New York. The most recent address furnished by Attorney Andrews to the State Bar of Wisconsin is in Bronx, New York.

demonstrate that the imposition of identical discipline or license suspension by the supreme court is unwarranted.

(6) If the discipline or license suspension imposed in the other jurisdiction has been stayed, any reciprocal discipline or license suspension imposed by the supreme court shall be held in abeyance until the stay expires.

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¶4 According to the documents attached to the OLR's complaint relating to the New York disciplinary proceeding, in April 2015, the Supreme Court of the State of New York, Appellate Division, First Judicial Department, suspended Attorney Andrews' license to practice law in that state for a period of three months, based on his misdemeanor conviction for failing to file an income tax return for calendar year 2007, in violation of § 1801(a) of New York State Tax Law. In its disciplinary order, the Supreme Court of the State of New York, Appellate Division, First Judicial Department, also required, as a condition of Attorney Andrews' reinstatement, that he submit documentary proof that he has entered into agreements with the Internal Revenue Service (IRS) and the New York State Tax Authorities to repay his outstanding tax debts.

¶5 The OLR's complaint also alleged that by failing to notify the OLR of his suspension in New York within 20 days of the effective date of its imposition, Attorney Andrews violated SCR 22.22(1).

¶6 On July 9, 2020, this court issued an order directing Attorney Andrews to show cause why the imposition of the identical discipline to that imposed in New York would be unwarranted. This court sent the order to the last address Attorney Andrews had provided to the State Bar of Wisconsin. Attorney Andrews has not responded to the order to show cause.

¶7 Under SCR 22.22(3), in reciprocal discipline matters, this court shall impose the identical discipline unless one of the enumerated exceptions is shown. There is no indication that any of those exceptions apply in this case. We therefore impose an

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identical three-month suspension on Attorney Andrews' Wisconsin law license.

¶8 We further determine that the three-month suspension should be prospective from the date of this opinion and order, despite the amount of time that has passed since Attorney Andrews' suspension in New York in 2015. We note that Attorney Andrews failed to notify the OLR or this court of his suspension in New York in 2015. Thus, there is no unfairness in the fact that Attorney Andrews' suspension from the practice of law in this state is commencing several years after his suspension in New York. See, e.g., In re Disciplinary Proceedings Against Eichhorn-Hicks, 2012 WI 18, ¶12, 338 Wis. 2d 753, 809 N.W.2d 379 (rejecting attorney's request for retroactive suspension where, among other things, attorney had not notified the OLR of Minnesota suspension issued more than a decade earlier); In re Disciplinary Proceedings Against Nickitas, 2006 WI 20, ¶¶4, 6-7, 289 Wis. 2d 18, 710 N.W.2d 464 (rejecting attorney's request that suspension be made retroactive to date of suspension in other state).

¶9 Although the OLR complaint did not address this subject, we note, as we did above, that the Supreme Court of the State of New York, Appellate Division, First Judicial Department, stated in its disciplinary order that, as a condition of Attorney Andrews' reinstatement, he must submit documentary proof that he has entered into agreements with the IRS and the New York State Tax Authorities to repay his outstanding tax debts. To effectuate "identical discipline" under SCR 22.22(3), we order Attorney Andrews to comply with the conditions of the New York disciplinary order.

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¶10 Finally, because Attorney Andrews did not contest this matter and there has been no need for the appointment of a referee or further proceedings, we do not impose the costs of this disciplinary proceeding against Attorney Andrews. See In re Disciplinary Proceedings Against Hooker, 2012 WI 100, ¶26, 343 Wis. 2d 397, 816 N.W.2d 310 (noting that in reciprocal discipline cases where a referee is not appointed, costs are generally not imposed as there are no referee expenses and the proceedings are less involved).

¶11 IT IS ORDERED that the license of Leroi John Andrews to practice law in Wisconsin is suspended for a period of three months, effective the date of this order.

¶12 IT IS FURTHER ORDERED that Leroi John Andrews shall comply with the requirements of SCR 22.26 pertaining to the duties of a person whose license to practice law in Wisconsin has been suspended.

¶13 IT IS FURTHER ORDERED that compliance with all conditions of this order, and compliance with all conditions of the disciplinary order imposed on him by the Supreme Court of the State of New York, Appellate Division, First Judicial Department, are required for reinstatement. See SCR 22.28(2).

¶14 IT IS FURTHER ORDERED that the administrative suspension of Leroi John Andrews' license to practice law in Wisconsin, due to his failure to pay mandatory bar dues and failure to comply with mandatory continuing legal education reporting requirements, will remain in effect until each reason for the administrative suspension has been rectified, pursuant to SCR 22.28(1).

