

SEP 04 2018

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

JEFFREY P. COLWELL
CLERK

IN THE MATTER OF
ROBERT HENRY COPIER

Disciplinary Action No. 18-DP-7

ORDER DENYING PETITION FOR POST-DEPRIVATION DUE PROCESS HEARING IN
THE MATTER OF THE RECIPROCAL DISCIPLINE OF ROBERT HENRY COPIER

Before the Disciplinary Panel is the “Petition for Post-Deprivation Due Process Hearing in the Matter of the Reciprocal Discipline of Robert Henry Copier” (“Petition for Post-Deprivation Hearing”). On March 26, 2018, the United States Court of Appeals for the Tenth Circuit issued an order disbaring Mr. Copier after he failed to show sufficient cause why identical, reciprocal discipline should not be imposed based on his disbarment in the state of Utah. Upon notice of the Tenth Circuit's reciprocal disbarment, the Clerk of Court for the District Court pursuant to D.C.COLO.LAttyR 3(c) downgraded Mr. Copier's bar status to "not in good standing" and revoked his privilege to practice before the District Court.

Mr. Copier filed his Petition for Post-Deprivation Hearing on June 1, 2018. By letter dated August 17, 2018, the Committee on Conduct recommended that his petition be denied without prejudice to refile under D.C.COLO.LAttyR 3(d) as an application or petition for relief from the Rule of Good Standing. The Committee also noted that Mr. Copier’s Petition for Post-Deprivation Hearing offered nothing more than a “one-page, conclusory statement bereft of any documentary evidence,” which was insufficient to rebut the presumption under D.C.COLO.LAttyR 3(d)(2) “that discipline imposed by another court is appropriate.” The

Disciplinary Panel concurs that Mr. Copier's petition is procedurally defective and substantively unsupported.

To prevail in seeking relief from the Rule of Good Standing, Mr. Collier has the burden under D.C.COLO.LAttyR 3(d)(2) to establish by clear and convincing evidence one of the following three factors:

1. That the procedure resulting in the discipline by the court was so lacking in notice or opportunity to be heard as to deny due process;
2. That the application of the rule of good standing would result in grave injustice; or
3. That the kind of misconduct resulting in the original discipline warrants substantially less severe discipline.

D.C.COLO.LAttyR 3(d)(2) embodies the factors set forth in *Selling v. Radford*, 243 U.S. 46, 51(1917), which requires that this Court need only conduct an intrinsic review of the underlying records of the disciplining court in light of the factors listed above. *Id.*, (federal district court can rely on a state court's judgment unless an intrinsic consideration of the record shows: (1) that due process was lacking in the state procedure because the attorney was denied notice and a fair opportunity to be heard; (2) that there was insufficient proof to support the judgement; or (3) that another grave reason makes reciprocal discipline inconsistent with the principles of justice.). Such review is a narrow inquiry and places a heavy burden on Mr. Copier, particularly in light of the Tenth Circuit's imposition of reciprocal discipline, which arguably may control the outcome of any forthcoming petition for relief from the Rule of Good Standing.

Any hearing by the Disciplinary Panel, therefore, will be conducted based on the

submission of documentary evidence, if any, by Mr. Copier. *In Re Harper*, 725 F.3d 1253, 1261 (10th Cir. 2013)(Court of Appeals would not second-guess district court's interpretation of its own disciplinary rules, as not requiring an evidentiary hearing.). The Disciplinary Panel, therefore, rejects the request of Mr. Copier that a hearing “be preceded by Federal Rules of Civil Procedure discovery” as unnecessary under Tenth Circuit precedent. *Id.* The Panel also rejects Mr. Copier’s request that all communications from the Court be to his email address, as not in conformity with the service requirements under the disciplinary rules of the Court and the customs of the Committee on Conduct and the Office of the Clerk.

It is therefore

ORDERED that, Mr. Copier’s Petition for Post-Deprivation Hearing is DENIED without prejudice to refiling as an application or petition for relief from the Rule of Good Standing under D.C.COLO.LAttyR 3(d).

It is further

ORDERED that, Mr. Copier provide sufficient documentary evidence and briefing to rebut the presumption under D.C.COLO.LAttyR 3(d)(2) that discipline imposed by state of Utah was appropriate.

It is further

ORDERED that, in the event Mr. Copier files such an application or petition, he must provide any documentation he offered in support of his petition to avoid the imposition of reciprocal discipline by the Tenth Circuit and offer argument as to why the Tenth Circuit’s denial of relief should not control any forthcoming decision by the Disciplinary Panel.

It is further

ORDERED that Mr. Copier's request that a hearing be preceded by discovery under the Federal Rules of Civil Procedure is DENIED.

It is further

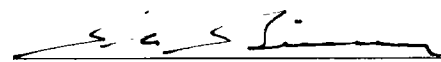
ORDERED that Mr. Copier's request that all communications from the Court be by email is DENIED.

Dated at Denver, Colorado this 4th day of ^{Mr} ~~August~~ ^{September}, 2018.

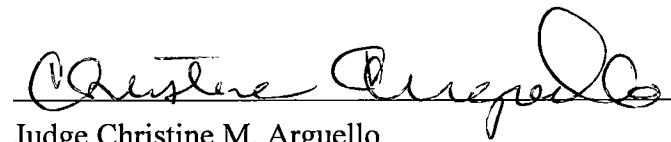
BY THE DISCIPLINARY PANEL OF THE COURT:



Chief Judge Marcia S. Krieger



Judge Philip A. Brimmer



Judge Christine M. Arguello