

SUPREME COURT OF LOUISIANA

ORDER

Acting in accordance with Article V, Sections 1 and 5 of the Louisiana Constitution of 1974, and the inherent power of this Court, and considering the recommendations of the Louisiana State Bar Association,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

Louisiana Supreme Court XIX, §21 be and is hereby amended to read as follows:

Section 21. Reciprocal Discipline and Reciprocal Disability Inactive Status.

A. Disciplinary Counsel Duty to Obtain Order of Discipline or Disability Inactive Status from Other Jurisdiction. Upon being disciplined or transferred to disability inactive status by another state disciplinary authority, a lawyer admitted to practice in Louisiana shall promptly inform disciplinary counsel of the discipline or transfer. Upon notification from any source that a lawyer within the jurisdiction of the agency has been disciplined or transferred to disability inactive status in another jurisdiction, disciplinary counsel shall obtain a certified copy of the disciplinary order and file it with the board and with the court.

B. Notice Served Upon Respondent. Upon receipt of a certified copy of an order demonstrating that a lawyer admitted to practice in Louisiana has been disciplined or transferred to disability inactive status by another state disciplinary authority, the court shall forthwith issue a notice directed to the lawyer and to disciplinary counsel containing:

(1) A copy of the order from the other jurisdiction:

and

(2) An order directing that the lawyer or disciplinary counsel inform the court, within thirty days from service of the notice, of any claim by the lawyer or disciplinary counsel predicated upon the grounds set forth in paragraph D, that the imposition of the identical discipline or disability inactive status in this state would be unwarranted and the reasons for that claim.

C. Effect of Stay in Other Jurisdiction. In the event the discipline or transfer imposed in the other jurisdiction has been stayed there, any reciprocal discipline or transfer imposed in this state shall be deferred until the stay expires.

D. Discipline to be Imposed. Upon the expiration of thirty days from service of the notice pursuant to the provisions of paragraph B, this court shall impose the identical discipline or disability inactive status unless disciplinary counsel or the lawyer demonstrates, or this court finds that it clearly

appears upon the face of the record from which the discipline is predicated, that:

- (1) The procedure was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or
- (2) Based on the record created by the jurisdiction that imposed the discipline, there was such infirmity of proof establishing the misconduct as to give rise to the clear conviction that the court could not, consistent with its duty, accept as final the conclusion on that subject; or
- (3) The imposition of the same discipline by the court would result in grave injustice or be offensive to the public policy of the jurisdiction; or
- (4) The misconduct established warrants substantially different discipline in this state; or
- (5) The reason for the original transfer to disability inactive status no longer exists.

If this court determines that any of those elements exists, this court shall enter such other order as it deems appropriate. The burden is on the party seeking different discipline in this jurisdiction to demonstrate that the imposition of the same discipline is not appropriate.

E. Conclusiveness of Adjudication in Other Jurisdictions. In all other aspects, a final adjudication by another state disciplinary authority that a lawyer, whether or not

admitted in that jurisdiction, has been guilty of misconduct or should be transferred to disability inactive status shall establish conclusively the misconduct or the disability for purposes of a disciplinary or disability proceeding in this state.

This rule change shall become effective on June 1, 2005, and shall remain in full force and effect thereafter until amended or changed through future orders of this Court.

New Orleans, Louisiana, this _____ day of _____, 2005.

FOR THE COURT:

Pascal F. Calogero, Jr., Chief Justice