

Supreme Court of Florida

No. SC96531

THE FLORIDA BAR,
Complainant,

vs.

ALAN JOHN KARAHALIS,
Respondent.

[February 22, 2001]

PER CURIAM.

Respondent Alan John Karahalís petitions this Court to review a referee's report recommending that he be disbarred. We have jurisdiction. See art. V, § 15, Fla. Const.

FACTS

On March 4, 1999, in In re Karahalís, 706 N.E. 2d 655 (Mass. 1999), the Supreme Judicial Court of the Commonwealth of Massachusetts vacated an order imposing a two-year suspension on Karahalís and entered a judgment suspending

Karahalis from the practice of law for four years, retroactive to October 24, 1997.

Karahalis's disciplinary proceeding in Massachusetts arose as a result of Karahalis's unlawful payment of \$12,000 to a congressman for the purpose of arranging a transfer of Karahalis's uncle from one federal prison to another.¹

On September 16, 1999, The Florida Bar filed a complaint against Karahalis and attached a copy of the Massachusetts judgment to the complaint. In his response to the complaint, Karahalis admitted that he had been suspended in Massachusetts and that the order attached to the Bar's complaint setting forth the facts leading to his suspension was genuine and admissible as evidence. The Bar filed a motion for summary judgment. Karahalis did not appear for the hearing on the motion. Instead, he filed a pleading entitled "Respondent's Objection to Complainant's Motion for Summary Judgment" in which Karahalis alleged that he had been denied due process in the Massachusetts proceeding. Following the hearing, the referee granted the Bar's motion. On February 1, 2000, a final hearing was held.

In her report, the referee found that Karahalis did not demonstrate that he had been denied due process in the Massachusetts disciplinary proceeding. The referee further determined that the Massachusetts adjudication of misconduct constituted

¹ Karahalis was never charged with a criminal offense.

conclusive proof of Karahalis's misconduct in the instant disciplinary proceeding pursuant to Rule Regulating the Florida Bar 3-4.6.²

The referee recommended that Karahalis be disbarred and that he be required to pay the Bar's costs. In reaching this conclusion, the referee found as aggravating factors Karahalis's prior disciplinary history (a 1985 private reprimand from the Supreme Judicial Court for Suffolk County, Massachusetts; a 1991 public censure from the Supreme Judicial Court for Suffolk County, Massachusetts; and a 1992 public reprimand in Florida based upon the discipline in Massachusetts, see Florida Bar v. Karahalis, 604 So. 2d 488 (Fla. 1992)), along with substantial experience in the practice of law. The referee found that the absence of a dishonest or selfish motive and a cooperative attitude during the proceedings were mitigating factors. Nevertheless, the referee found that the aggravating factors outweighed the mitigating factors and noted that "[t]he amount of money involved in this case and the circumstances are egregious."

In recommending disbarment, the referee further relied on Florida Standard for Imposing Lawyer Sanctions 5.11, which provides that disbarment is appropriate

² Rule Regulating the Florida Bar 3-4.6 provides: "A final adjudication in a disciplinary proceeding by a court . . . of another jurisdiction, state or federal, that an attorney licensed to practice in that jurisdiction is guilty of misconduct justifying disciplinary action shall be considered as conclusive proof of such misconduct in a disciplinary proceeding under this rule."

when “(b) a lawyer engages in serious criminal conduct, a necessary element of which includes intentional interference with the administration of justice, false swearing, misrepresentation, fraud, extortion, misappropriation, or theft; or . . . (f) a lawyer engages in any other intentional conduct involving dishonesty, fraud, deceit, or misrepresentation that seriously adversely reflects on the lawyer’s fitness to practice.”

Neither Karahalis nor the Bar has challenged the validity of the order attached to the Bar’s complaint, which sets forth the facts leading to Karahalis’s suspension in Massachusetts. Therefore, pursuant to Rule 3-4.6, we find Karahalis guilty of the misconduct which served as the basis for the Massachusetts discipline; that is, the payment of \$12,000 to a congressman for the purpose of obtaining a transfer of Karahalis’s uncle from one federal prison to another.

Karahalis does, however, challenge the referee’s recommendation of disbarment. Karahalis argues that a four-year suspension like that imposed by the Massachusetts court is appropriate.

ANALYSIS

In reviewing a referee’s recommendation of discipline, this Court’s “scope of review is somewhat broader than that afforded to findings of facts because, ultimately, it is [the Court’s] responsibility to order an appropriate punishment.”

Florida Bar v. Anderson, 538 So. 2d 852, 854 (Fla. 1989). However, generally speaking this Court "will not second-guess a referee's recommended discipline as long as that discipline has a reasonable basis in existing caselaw." Florida Bar v. Temmer, 753 So. 2d 555, 558 (Fla. 1999). Further, when the disciplinary proceeding is premised upon an adjudication of guilt in another state, this Court is not bound by the discipline imposed by the sister state. See Florida Bar v. Wilkes, 179 So. 2d 193, 197 (Fla. 1965) ("Florida, although accepting the foreign determination of guilt, is left free to determine for itself the fitness of the accused attorney as affected by the acts of misconduct involved."). We conclude that Karahalis has not sustained his burden of demonstrating that the referee's recommendation of disbarment is inappropriate.

As to attorney misconduct involving bribery, this Court has found:

[B]ribery is a particularly noxious ethical failure under the Code of Professional Responsibility, because it not only involves a breach of the individual attorney's public trust as a member of the legal profession, but also represents an attempt by the offending lawyer to induce a third party to engage in fraudulent and corrupt practices. Such conduct strikes at the very heart of the attorney's responsibility to the public and profession. We are, therefore, not inclined to leniency in bribery matters, absent mitigating factors in the individual case.

Florida Bar v. Riccardi, 264 So. 2d 5, 6 (Fla. 1972). In cases involving bribery, this Court has favored disbarment as a form of discipline. See, e.g., Florida Bar v.

Lechtner, 666 So. 2d 892 (Fla. 1996); Florida Bar v. Davis, 657 So. 2d 1135 (Fla. 1995); Florida Bar v. Rendina, 583 So. 2d 314 (Fla. 1991); Florida Bar v. Rambo, 530 So. 2d 926 (Fla. 1988); Riccardi, 264 So. 2d at 6.

In the instant case, Karahalis committed serious misconduct in paying a United States Congressman a large sum of money for special treatment of a family member. While Karahalis argues that the fact he was trying to help his family warrants less severe discipline, we do not agree. Karahalis did not seek transfer of his uncle to another prison because his uncle's life was in danger. Rather, he paid the bribe because it was "inconvenient" for his family to visit the uncle who was incarcerated in Florida. Making life more convenient for family members is simply not adequate justification for such egregious misconduct. Our honored profession is soiled by the conduct which has brought Karahalis to this day. If we do not act to cleanse the stain from our profession, we would depart from our oath and give the citizens of this state cause for concern.

Accordingly, Alan John Karahalis is hereby disbarred. The disbarment shall be effective thirty days from the filing of this opinion to provide Karahalis sufficient time to close out his practice and protect the interests of existing clients. If Karahalis notifies this Court in writing that he is no longer practicing and does not need the thirty days to protect existing clients, this Court will enter an order making

the disbarment effective immediately. Karahalis shall accept no new business from the date this opinion is filed. Judgment is entered in favor of The Florida Bar, 650 Apalachee Parkway, Tallahassee, FL 32399, for costs from Alan John Karahalis in the amount of \$830.00, for which sum let execution issue.

It is so ordered.

WELLS, C.J., and SHAW, HARDING, ANSTEAD and LEWIS, JJ., concur.
PARIENTE, J., dissents with an opinion, in which QUINCE, J., concurs.

THE FILING OF A MOTION FOR REHEARING SHALL NOT ALTER THE EFFECTIVE DATE OF THIS DISBARMENT.

PARIENTE, J. dissenting.

I respectfully dissent from the decision to disbar Alan John Karahalis. The actions for which this Court now disbars Karahalis occurred in Massachusetts in 1985. The disciplinary proceedings in Massachusetts that arose from this same misconduct resulted not in disbarment, but in a four-year suspension from the practice of law retroactive to October 24, 1997.³ See In re Karahalis, 706 N.E. 2d

³The facts of this case, as determined by the Massachusetts hearing committee, are that Karahalis was approached in 1985 by Andrew and Deborah Gerakaris. See In re Karahalis, 706 N.E.2d at 656. Deborah Gerakaris is Congressman Mavroules's daughter. See id. at 656 n.3. The Gerakarises suggested that Karahalis's uncle, who was in the federal prison system, could be moved to a more convenient location if several thousand dollars were paid to Congressman Mavroules. See id. at 656. Karahalis's uncle, who resided in Florida, had been convicted of felony drug charges and was assigned to a federal prison in Danbury, Connecticut. See id. at 656 n.3. "This assignment was inconvenient because it was difficult for the family, who lived in Florida, to visit him." Id.

Karahalis raised money from his family and personally delivered \$7000 to Congressman Mavroules in August of 1985. See id. at 656. As a result of a conversation with Mavroules,

655 (Mass. 1999).

Although the Massachusetts Supreme Judicial Court considered an indefinite suspension, that Court distinguished the facts of this case from other cases of bribery. See id. at 657. In so doing, the Court was especially "cognizant of mitigating factors in this case" including the fact that Karahalis "fully cooperated with the office of the United States Attorney in the prosecution of [U.S. Congressman Nicholas] Mavroules" and that Karahalis's "illegal actions were motivated by his desire to help a family member, rather than for his own pecuniary interests." Id. at 658. Justice Lynch elaborated on these mitigating factors in a concurring opinion in which he found that a two-year suspension, as recommended by the Board of Bar Overseers, was even more appropriate than the four-year suspension:

The two-year suspension takes into consideration the deference due the board, the recommendation of the United States Attorney, the fact that no criminal sanctions were imposed on the respondent, that this was more a case of extortion than bribery, that the respondent was motivated by family loyalty rather than pecuniary gain, that ten years elapsed from the events to the time of prosecution, and that the impetus behind the fraudulent scheme came from Congressman Mavroules and his family.

Karahalis delivered an additional \$5000 to Andrew Gerakaris in September of 1985. See id. Ultimately, Karahalis's uncle was transferred to a minimum security facility in Florida but not because of the bribe. See id.

Id. at 658. In addition, it appears from a review of the opinion that the Massachusetts judiciary looks to factors similar to those employed by this Court in evaluating the appropriateness of discipline. See generally id. at 657-58.

I certainly recognize that this Court is not bound to follow the discipline imposed by the Massachusetts Supreme Judicial Court. However, in contrast to the proceedings in Massachusetts in which testimony was taken and evaluated, the referee in this case made a recommendation of disbarment based solely on a cold record. I do not state this as a criticism, but merely as an indication of the superior vantage point of those in Massachusetts who evaluated this case and did not recommend disbarment.

Consequently, I am persuaded that in this case we should follow the lead of the Massachusetts Supreme Judicial Court and impose a four-year suspension rather than disbarment, especially given the facts that the misconduct occurred over fifteen years ago in Massachusetts; that the misconduct did not result in criminal charges; that the respondent fully cooperated with the United States Attorney in the prosecution of Congressman Mavroules; and that the respondent was motivated by family loyalty and not by financial gain.

Additionally, although I fully agree that the conduct in which Karahalis participated was reprehensible, in my opinion we should discount as an aggravating

factor Karahalis's substantial experience in the practice of law. At the time that these events occurred, Karahalis had been a member of The Florida Bar for only three years.

Accordingly, for all these reasons and given the circumstances of this case, I find that disbarment is too harsh a punishment. Instead, I would follow the lead of the Massachusetts Supreme Judicial Court and suspend Karahalis from the practice of law for four years, which is a significant and severe sanction.

QUINCE, J., concurs.

Original Proceeding - The Florida Bar

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