

No. 17-1240

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 2017

ROBERT P. TUERK,
Petitioner

v.

THE FLORIDA BAR,
Respondent

On Petition for a Writ of Certiorari
to the Supreme Court of Florida

PETITION FOR REHEARING

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Petitioner

FACTUAL & PROCEDURAL BACKGROUND

A. Proceedings Below

Petitioner timely informed Respondent of his one (1) year and one (1) day attorney license suspension effective November 15, 2015 in his law practice jurisdiction of Pennsylvania. On November 17, 2015, Petitioner had filed an affidavit with Pennsylvania confirming that he informed all clients of said suspension, which included non-existent Florida clients.

Petitioner consented to a one (1) year Florida reciprocal suspension on March 3, 2016 (Florida SC15-2253). Respondent's Certificate of Service in that matter clearly indicates that the proper email address for Petitioner is bobtuerk@comcast.net, thereafter Respondent failed to use this primary email address in the supplemental proceedings to the extreme detriment of Petitioner. During the Florida reciprocal process, Respondent's representatives, the Referee, and the Referee's representatives communicated with Petitioner via

his primary: 1) email, 2) phone, and 3) postal mail home address as indicated on the front cover hereto. Even the Referee's Case Management Order and his Report indicated Petitioner's primary email: bobtuerk@comcast.net. Several months later Respondent stopped communicating with Petitioner as indicated in 1) through 3) above. Instead, Respondent, without notice, attempted to communicate with Petitioner via Petitioner's mostly abandoned and problematic law office postal box and his abandoned former law practice email address (attorneytuerk@comcast.net). Respondent's unannounced withdrawal from the lines of communication with Petitioner, coupled with Petitioner's despondency, resulted in a communication breakdown between Petitioner and Respondent.

After Petitioner's stipulated reciprocal suspension in Florida in March 2016, unbeknownst to Petitioner, and a few months later (July 2016), Respondent allegedly requested from Petitioner the same type of affidavit as the

Pennsylvania affidavit that was already submitted in November 2015. Respondent made no attempts to contact Petitioner via his proper and primary email, phone (voice or text), postal home address, or fax, to inform Petitioner of Respondent's alleged request. Respondent instead filed for supplemental discipline that, of course, was unbeknownst to Petitioner.

It wasn't until January 31, 2016 that Petitioner became noticed (knowledgeable) of Respondent's redundant affidavit request and the Florida supplemental proceedings ((SC16-983 (supplemental three (3) year suspension) and SC17-62 (supplemental disbarment)). On January 31, 2016, Petitioner quickly filed a Reply to the disbarment Rule and submitted the outstanding one (1) page Florida checkbox form affidavit to once again indicate that there were no clients to inform.

On February 7, 2017, Respondent Replied to Petitioner's Response to the Rule, and indicated a certified mail receipt addressed to Petitioner's former postal box

dated July 11, 2016. Respondent did not produce any correspondence that was receipted in the preserved unopened envelope. Petitioner filed a Reply on February 21, 2017 with further relevant explanation to Respondent's Response, but the Florida Supreme Court struck it on February 27, 2017 as "unauthorized."

Respondent then filed a notice of Petitioner's Compliance on March 7, 2017, but astonishingly, the Court issued another Rule for disbarment. This Rule was replied to by Petitioner's counsel on June 2, 2017. Thereafter, the Florida Supreme Court ordered disbarment on July 20, 2017, and issued its final order on October 12, 2017.

B. Proceedings Before This Court

Petitioner's Writ of Certiorari was filed on January 10, 2018, in which it was delineated how Petitioner's disbarment was unconstitutional (denial of due process and equal protection, and excessive punishment) pursuant to U.S. Const. amend. V, VII, and XIV §1, in that Petitioner was supplementally disbarred in a reciprocal matter that

included: a) mischaracterizations of corroborated facts in a Kafkaesque manner, b) no notice (knowledge) of the Florida outstanding affidavit, the supplemental proceedings, or any orders after Petitioner had stipulated to reciprocal discipline on March 3, 2016; c) misconstrued conjecture; d) no hearing and none of the accompanying rights thereto; e) denial of an opportunity to present material and relevant probative and mitigating testimony and real evidence; f) treating Petitioner differently than other disciplined attorneys without justification; g) alleged contempt of unbeknownst orders was purged upon notice (knowledge); h) no harm was suffered by Respondent; i) mitigating factors delineated by the Honorable Referee were ignored; and j) how the denial of due process conflicts with this Honorable Court's decisions.

Petitioner's Writ of Certiorari was denied on April 16, 2018 even though there was no lower court opinion, no responses to counter Petitioner's lower court rehearing pleading, and no response to Petitioner's Writ, therefore,

there are no counter arguments or reasons whatsoever to validate or uphold the lower court's arbitrary, unconstitutional, supplemental, reciprocal order of disbarment.

REASONS FOR GRANTING THE PETITION

On February 12, 2018, two (2) days before Petitioner's Reinstatement Hearing scheduled for February 14, 2018, The Pennsylvania Supreme Court assessed reciprocal disbarment against Petitioner upon Florida's supplemental reciprocal disbarment emanating from Pennsylvania's 2015 discipline of Petitioner.

If the decision below is permitted to stand, it will also have a chilling effect upon the Right to Travel (U.S. Const. Article IV, § 2; amend. XIV §1), and result in additional vocationally or professionally licensed people in Florida and other states to summarily lose their liberty and property rights to practice their professions and vocations, and could cause these licensed Americans to hesitate to travel to and/or be licensed in other states.

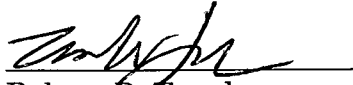
This matter wrongfully and unconstitutionally sets a precedent that one can lose one's vocational or professional license without notice (knowledge), if one delays the submission of a previously submitted redundant single-paged check mark form. Attorneys who fail to complete CLE's don't even get disbarred, so accordingly disbarment in this matter is disproportionate and excessive punishment.

Petitioner has received accolades from judges, colleagues, and clients, and society would be losing a valuable legal mind, and a champion of the oppressed and down-trodden. Disbarment should not be the punishment for a clerical delay in the submission of a single page checkbox form due to a concomitance of a communication breakdown and despair.

CONCLUSION

Petitioner respectfully requests that this Honorable Court grant the petition for rehearing and order full briefing and argument on the merits of this case.

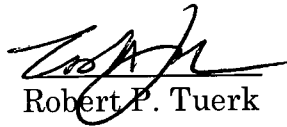
Respectfully submitted,



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CERTIFICATE OF COUNSEL

I hereby certify that this petition for rehearing is presented in good faith and not for delay, and that it is restricted to intervening circumstances of a substantial effect, and also includes substantial grounds not previously presented.



Robert P. Tuerk