

U.S. S.Ct. Case No:

Alaska S.Ct. Case No: S-16813

Alaska Bar Assn. Case No: 2017 D 068

IN THE SUPREME COURT OF THE UNITED STATES

ALAN M. BRETLETT

Appellant - Petitioner

vs.

ALASKA BAR ASSOCIATION

MOLLY C. BROWN

LOUISE E. DEISCOLL

Appellee - Respondent

On Petition For Writ of Certiorari To The
Supreme Court of Alaska

PETITION FOR WRIT OF CERTIORARI

Alan M. Barlett #T42560

3250 West Lower Buckeye Road

Phoenix, Arizona 85009

Appellant/Petitioner - As de

QUESTION PRESENTED

Whether Alaska Bar Association, Bar Counsel abused discretion arbitrarily and capriciously closing Alan M. Borgetti's grievance, considering clear and convincing evidence of material fact supported by the court record of ethical misconduct against attorney Keith Rae Randall?

LIST OF PARTIES

All parties appear in the caption on the cover page.

Appellant - Petitioner:

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Appellee - Respondent:

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TABLE OF CONTENTS

I. QUESTIONS PRESENTED	1
II. OPINIONS BELOW	2
III. JURISDICTION	3
IV. CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	3
V. STATEMENT OF THE CASE	10
VI. REASONS FOR GRANTING THE WRIT	28
VII. CONCLUSION	31
APPENDICES A-G	33-88
CERTIFICATE OF COMPLIANCE	89
PROPOSED ORDER	91
PROOF OF SERVICE	94

INDEX OF APPENDICES

APPENDIX A:

Ruling of the Supreme Court
of Alaska, Denying Bartlett's
Original Application Appeal

APPENDIX B:

Alaska Bar Association
Administrative Review
from Molly C. Brown concurring
with Louise Driscoll decision
not to open investigation

APPENDIX C:

Alaska Bar Association
Preliminary Decision not
to open investigation into
Bartlett's allegations of
ethical misconduct against
attorney Retha Rae Rasmussen

INDEX OF APPENDICES

APPENDIX D:

Alan M. Bartlett original/
application attorney grievance
to Alaska Bar Association
against attorney Retha Roe
Rendall

APPENDIX E:

Rule 42, Supreme Court
Rules of Professional
Conduct

Rule 41, Duties and Obligations
of Members

Rule 60, Disciplinary Sanctions

APPENDIX F:

Rule 404, Rules of Appellate Procedure,
Original Applications

INDEX OF APPENDICES

APPENDIX G:

Rule 22, Alaska Bar Rules

Rules of Disciplinary
Enforcement

APPENDIX H:

Attorney Petta Rae Randall
response to Alan M. Bartlett
attorney grievance complaint

TABLE OF AUTHORITIES CITED

CASES

*Daley v. Attorney Registration and
Disciplinary Committee of the
Supreme Court of Illinois*
434 US 829 (1977) 24

*Dunne v. Commonwealth of
Virginia*
66 Va. App. 24 (2016) 19

In re Boroni
152 A.D.3d 35 (2017) 25

In re O'Dwyer
221 So.3d 1 (2017) 22

In re Peasley
208 Ariz 27 (2004) 25, 26

*Maryland State Bar
Association, Inc. v. Sugarman*
273 Md 306 (1974) 18

TABLE OF AUTHORITIES CITED

CASES

McBee v. Alaska Bar Association
353 P.3d 350 (2015) 28

Matter of Levine
174 Ariz 146 (1993) 23

Matter of Nullie
127 Ariz 299 (1980) 18

Matter of Shannon
179 Ariz 52 (1994) 22

Matter of Struthers
179 Ariz 216 (1994) 23

People v. Love
(2016) WL 2984845 22, 25

Segretti v. California State
Bar Association
15 Cal.3d 878 (1976) 24

TABLE OF AUTHORITIES CITED

Upjohn Co. v. United States
449 US 383 (1981) 16

United States v. Corona
660 F.3d 360 (2011) 19, 25

United States v. Christianson
(2015) WL 11120665 15

United States v. Gwaltney
790 F.2d 1378 (1986) 18, 25

United States v. Khatami
280 F.3d 907 (2002) 22, 25

United States v. Working
224 F.3d 1093 (2000) 15

United States v. Zolin
491 US 554 (1989) 16

TABLE OF AUTHORITIES CITED

STATUTES AND RULES

18 USC 242

Deprivation of Rights 18, 25

18 USC 1512

Obstruction of Justice
Witness Tampering 18, 25

18 USC 1621

Perjury 18, 25

Rule 22

Alaska Bar Rules 28, 29

Rule 404

Alaska Rules of
Appellate Procedure 28, 29

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PETITION FOR WRIT OF CERTIORARI

I. QUESTION PRESENTED

Whether the Alaska Bar

Association, Bar Counsel abused

discretion arbitrarily and capriciously closing Alan M. Borgetti's grievance, considering clear and convincing evidence of material fact supported by the court record of ethical misconduct against attorney Letto Rae Randall?

II. OPINIONS BELOW

The opinion of the Supreme Court of Alaska appears at Appendix A and is unpublished.

III. JURISDICTION

The Supreme Court of Alaska issued an opinion on October 10, 2017, and a copy of that decision appears at Appendix A. This petition is timely under Rule 13.

The Supreme Court of the United States has jurisdiction under 28 USC 1257 (2) State Courts, and 28 USC 1051 All White Act,

IV. CONSTITUTIONAL AND STATUTORY PROVISIONS

The Rules of the Supreme Court

of Alaska, Rules of Professional Code of Conduct, regulation for law practice and lawyer obligations. (Appendix E).

- Rule 1.6, Alaska Rules of Professional Conduct

Confidentiality of Information

- a) a lawyer shall not reveal information relating to the representation of a client or defendant unless he gives informed consent...

- Rule 3.3, Alaska Rules of Professional Conduct

Candor Toward the Tribunal

- a) a lawyer shall not knowingly:

1) make a false statement...

2) fail to disclose...

3) offer evidence he knows to be false...

• Rule 3.4, Alaska Rules of Professional Conduct

Fairness to Opposing Party and Counsel

A lawyer shall not:

a) unlawfully obstruct...

b) falsify evidence...

c) knowingly disobey rules of tribunal.

d) make frivolous discovery

e) knowingly suppress exculpatory

and impeachment evidence...

- Rule 3.8, Alaska Rules of Professional Conduct

Special Responsibilities of Prosecutor

The prosecutor in a criminal case shall:

- a) refrain from prosecuting charge he knows is "not" supported by probable cause...
- b) make reasonable efforts to assure the accused has been advised of rights and procedures...
- f) refrain from making extrajudicial comments that have the likelihood

of heightened public condemnation
of accused...

g) promptly disclose evidence
creating the reasonable
likelihood that an accused/
convicted defendant did not
commit the offense for which
he is accused/convicted...

• Rule 8.4, Alaska Rules of Professional Conduct

Misconduct

It is professional misconduct
for a lawyer to:

2) violate Rules of Professional Conduct

b) commit criminal acts

c) engage in conduct involving dishonesty, fraud, deceit and misrepresentation.

- 18 USC 242, United States Code

Deprobation of Rights

- 18 USC 1512, United States Code

Obstruction of Justice and Witness Tampering

- 18 USC 1621, United States Code

Perjury by false statements under oath

- Rule 404, Alaska Rules of Appellate Procedure

Original Applications

Rule contained in Appendix F of Petition. This rule governs procedure for filing bar grievance appeals.

- Rule 22, Alaska Rules of Disciplinary Enforcement

Rule booklet contained in Appendix G of Petition. This rule governs procedure for bar grievances and disciplinary hearings.

V. STATEMENT OF THE CASE

a. Introduction

On July 15, 2015, appellant-petitioner Bartlett was convicted in the District of Alaska, case no: 3:13-cr-00044-RRB and attorney Letta Rae Randall was the prosecutor for the government.

On April 4, 2017, appellant-petitioner Bartlett filed an Original Application attorney quonone against prosecutor

Retta Rae Randall for ethical conduct and moral fitness violations. (Appendix D).

On May 23, 2017, Alaska Bar Association, Bar Counsel Louise R. Driscoll made an arbitrary decision to close out Bartlett's grievance. (Appendix C)

On May 24, 2017, Bartlett appealed Alaska Bar Association, Bar Counsel Louise R. Driscoll's capricious decision to close his attorney grievance for ethical

misconduct against prosecutor
Retta Roe Randall.

On August 4, 2017, Alaska
Bar Association, Assistant Bar
Counsel, Molly C. Brown and
Board Discipline Liaison made
an arbitrary decision not to
accept appellant-petitioner
Borthett's attorney grievance.
(Appendix B).

On August 5, 2017, Borthett
filed an appeal to the Supreme
Court of Alaska in protest of

the Alaska State Bar decision
not to accept his attorney
grievance - original application
for ethical misconduct and
moral fitness violations.

On October 10, 2017 on
consideration of Bartlett's
original application and the
Alaska Bar Association's response
the Supreme Court of Alaska denied
his original application,
(Appendix A).

Accordingly appellant-petitioner

Bartlett files this Petition
for writ of Certiorari.

b. After Preliminary Review,
Bar Counsel Incorrectly
Determined That Grievance
Allegations Do Not Warrant
Investigation

We review for clear error
Alaska Bar Association's finding
of fact. A finding of fact is
clearly erroneous only where it
is "(1) illogical, (2) implausible,
or (3) without support in
inferences that may be drawn
from the facts of record."

United States v. Christensen, (2015)

WL 11120665. Clear error review is differential, and "where there are two permissible views of the evidence, the factfinder's choice between them cannot be clearly erroneous." United States v. Working, 224 F.3d 1093 (2000).

In Bartlett's Original Application he alleges the following ethical conduct violations:

Rule 1.4, Alaska Rules of Professional Conduct

Confidentiality of Information

Bartlett proceeding pro se
in an unrelated state matter
and on his federal appeal argues
that attorney Retta Rae Randall
"duped" off privileged and
confidential medical records
and discovery in violation of
United States v. Zolin, 491 US 554
(1989), Upjohn Co. v. United States,
449 US 383 (1981). At no time
does Bartlett authorize or give
implied consent to attorney
Retta Rae Randall to redistribute

or give copies of those records to anybody. Attorney Randall released those privileged and confidential records to Arizona over Bartlett's objection and absent waiver of authorization causing more fraud and financial injury. Attorney Randall relies on Bartlett's convictions as justification for the breach of records in violation of Rule 1.6, Alaska Rules of Professional Conduct, Matter of Nulle, 127 Ariz 299 (1980),

Maryland State Bar Association, Inc. v.
Pugerman, 273 Md. 306 (1974).

Rule 3.3, Alaska Rules of
Professional Conduct

Conduct Toward the Tribunal

Barlett argues that attorney
Petta Rae Randall, on the record
(trial transcript), acting under
color of law and clothed in
authority, deprived him of
his rights (18 USC 242), *US v. Gwaltney*,
790 F.2d 1378 (1986), when she
intentionally tampered with
witness Kelly Beby (18 USC 1512).

US v. Corona, 660 F.3d 360 (2011),
Dunne v. Commonwealth of Virginia,
66 Va. App. 24 (2016), presenting
false evidence and testimony
to the jury, In re Persley, 208 Ariz 27
(2004), Matter of Spear, 160 Ariz 545 (1989).

In the 2015 trial of the
District of Alaska, USA vs. Bartlett,
case number: 3:13-cr-00044-RRB, two
violations occurred;

- 1) Attorney Letts Roe Randall
knowingly and intelligently
tampered with trial witnesses
Kelly Corby and presented
false evidence and testimony
to the jury

2) attorney Retta Roe Randall knowingly and intelligently introduced false testimony of witnesses to jury;

- Barb Chun of Federal Trade Commission was introduced to jury as Sonya Hacker of the U.S. Postal Inspection Service.
- John Hannah of Maricopa County Superior Court was introduced to jury as E-Trade Financial account representative who alleged "fake" frauds.
- Capital One account representative who was also false person and testimony
- and any other witnesses introduced who were later determined to be fraud

Attorney Petta Roe Randall

knowingly and intelligently breached
candor and is guilty of ethical
misconduct that cost Bartlett his
life.

Rule 3.4. Alaska Rules of
Professional Conduct

Fairness to Opposing Party

Bartlett argues that under
this rule attorney Petta Roe Randall
breach the duty of candor and
violated Rule 3.4, presenting
fabricated evidence and
testimony of material fact

on law to a tribunal, *In re O'Dwyer*,
221 So.3d 1 (2017), *People v. Love*,
(2016) WL 2984845, *US v. Khotami*,
280 F.3d 907 (2002), *Matter of Shannon*,
179 Ariz 52 (1994). This presentation
of false evidence and testimony
knowingly and intelligently convicted
Bartlett of crimes more likely
than not attorney Randall knew
he was not committing and actually
innocent of any criminal indictment.

Rule 3.8, Alaska Rules of
Professional Conduct

Special Responsibility of Prosecutor

Bartlett argues attorney Retta
Roe Randall breached her fiduciary
duty to the Alaska State Bar
Association, United States Attorney
Office, United States Courthouse,
and the people in Alaska with
her frauds and ethical
misconduct that knowingly and
intelligently cause the conviction
of Bartlett who is more likely
than not innocent of any criminal
allegation. Matter of Struthers,
179 Ariz 216 (1994), Matter of Levine,

174 Ariz 146 (1993), Doley v. Attorney
Registration and Disciplinary
Commission of the Supreme Court
of Illinois, 434 US 829 (1977),
Segretti v. California State Bar,
15 Cal. 3d 878 (1976).

Rule 8.4, Alaska Rules of
Professional Conduct

Ethical Misconduct

Borthett argues attorney
Retta Roe Randall violated this
rule when she knowingly and
intentionally committed criminal
acts to secure a criminal

conviction;

- 18 USC 242 Deprivation of Rights

In re O'Dwyer, 221 So. 3d 1 (2017)
US v. Gwaltney, 790 F.2d 1378 (1986)

- 18 USC 1512 Obstruction of Justice - Witnesses Tampering

US v. Carona, 660 F.3d 360 (2011)
US v. Khatami, 280 F.3d 907 (2002)

- 18 USC 1621 Perjury

In re Baroni, 152 A.D. 3d 35 (2017)
In re Peasley, 208 Ariz 27 (2004)

Attorney Fitness Factors Considered

In determining attorney discipline, consideration is

given to the following factors:

(1) the duty violated, (2) the lawyers mental state, (3) the actual or potential injury caused by the misconduct, and (4) the existence of aggravating and mitigating factors.

In re Peasley, 208 Ariz 27 (2004)

Absent relief by board disciplinary action (probation/suspension) the likelihood Retta Roe Rondell will continue knowing and willful acts of fraud and loss of candor are more likely than none. It is the duty of

the Alaska Bar Association to protect the public from attorney ethical misconduct and in the case of Retta Rae Rondell there has been a flagrant breakdown in the system.

An investigation should arise from the facts that raise a genuine concern about a lawyer's fitness and will enable Bar Counsel to show a hearing committee with clear and convincing evidence under

Bar Rule 22(e), that a lawyer committed ethical misconduct.

VI. Reasons For Granting This Petition

The Supreme Court reviews grievance-closing decisions under Rule 404, Alaska Rules of Appellate Procedure (Appendix F), as an Original Application (Appendix D) for relief. *McBee v. Alaska Bar Association*, 353 P.3d 350 (2015).

Granting an application for review is "not a matter of right, but of sound discretion sparingly exercised."

Rule 404(a)(1), Alaska Rules of Appellate Procedure. For its review under Rule 404(c), the court will afford Bar Counsel broad discretion when Bar Counsel's decision is based on facts of record, applicable law and policy, practicality, and professional experience and judgment. Bar Counsel considered none of the above and abused discretion not accepting Bartlett's attorney grievance, knowing the likelihood of proving any ethical violations

by clear and convincing evidence to volunteer area hearing committee members is more likely than none. The Bar Counsel intake and review committee decision was clearly erroneous and an inappropriate exercise of discretion.

Bar Counsel's decision was arbitrary and capricious, and a flagrant breakdown in the process. Bar Counsel's decision not to accept Bortlett's attorney

grievance was handled in disregard with the rules and procedures governing Bar Disciplinary grievances.

VII. Conclusion

Alaska Bar Association Bar Counsel exercised inappropriate discretion and her grievance-closing decision was arbitrary and capricious. Her decision not to open Borthett's complaint for investigation was improperly handled and not reviewed

accordingly by a Discipline
Liaison for the Board of Governors
of the Alaska Bar Association.

Appellant - Petitioner
Bartlett respectfully submits
that investigation is warranted
in this matter.

DATED this 22 day of December, 2017.

Alan M. Bartlett
Appellant/Petitioner Pro Se