

25-743

No. 20- ____

IN THE

Supreme Court of the United States

GARY PISNER,

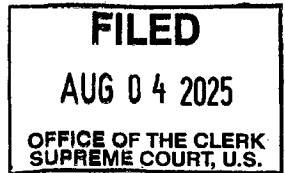
Petitioner,

v

ATTORNEY GRIEVANCE COMMISSION OF MARYLAND

Respondent.

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



PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether the court that has jurisdiction over lawyer disciplinary matters can issue orders disbarring an attorney without first addressing cited, unaddressed constitutionally mandated due process deficiencies.
2. Whether in multi-stage lawyer disciplinary proceeding, as in this instance, any rule or statute that prohibits a judge who is the finder of facts from ameliorating constitutional due process issues as they arise is unconstitutional.

I. PARTIES TO THE PROCEEDINGS

Petitioner:

Gary Pisner (hereinafter “Pisner”) was the respondent in the Maryland Supreme Court district court and is the petitioner in this Court.

Respondent:

Attorney Grievance Commission of Maryland (hereinafter “Bar Counsel”) was the Petitioner in the Maryland Supreme Court respondents in this Court:

II. CORPORATE DISCLOSURE STATEMENT

Pursuant to Rule 29.6 of this Court’s Rules, petitioner Gary Pisner states it has no parent company, and no publicly held corporation owns 10% or more of its stock.

III. RELATED PROCEEDINGS

There are three ongoing proceedings related to this matter:

- Fourth Federal Circuit case No.25-1262, where the court is now addressing the district court’s remand back to the Maryland Supreme Court, which was based on Bar Counsel’s arguments that in lawyer disciplinary proceedings lawyers are not constitutionally protected by due process; constitutional issues are not Federal Questions; therefore, the federal courts have no jurisdiction; the third argument is that the matter is moot because of the March 5, 2025 order;

therefore the federal courts lack jurisdiction over the constitutional matters, which the state court, as in this instance, refused to hear.

- In the District of Columbia Court of Appeals, there is a disbarment proceeding DDN: 2025-D036, which is a proceeding that is based on a reciprocity agreement between the District of Columbia Bar and the Maryland Bar.
- The Maryland Supreme Court issued an order in case AG-0023-2023 disbaring Pisner, but the opinion that is tied to the March 5, 2025 order was not issued until July 14, 2025; the opinion issued on July 14, has many factual and legal errors; therefore, Pisner will file a Motion for Reconsideration, within the thirty-day period to respond, to correct those errors and omissions.

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IV. PETITION FOR A WRIT OF CERTIORARI

Petitioner respectfully petitions for a writ of certiorari to review the appropriateness of the Maryland Supreme Court's order disbarring Pisner, where the Maryland Supreme Court refused to hear any constitutional due process deficiencies before issuing its order, as explained further below,

V. OPINIONS BELOW

The March 5, 2025, order in case for which review is sought is Attorney Grievance Commission of Maryland v. Gary Pisner SCM-AG-0023-2023.

VI. JURISDICTION

Petitioner was disbarred pursuant to an order issued by the Maryland Supreme Court on March 5th, 2025. Petitioner filed application with this court for a ninety day extension to file his Petition, which was granted. With the court granted by The Chief Justice, a sixty-day extension (Application 24A1072); the statutory filing date, with extension, is on Saturday August 2, 2025; the first business day for this Court is Monday August 4, 2025. The Clerk required 60 days to make corrections; The Petition was refiled on October 7, 2025.

VII. CONSTITUTIONAL PROVISIONS

A. Constitutional Provisions.

United States Constitution, Amendment V.

No person shall ... be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

United States Constitution, Amendment XIV

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the law.

VIII. STATEMENT OF THE CASE

A. Background

1. Where did the money go?

This matter relates to one trust: the Marion E. Pisner Trust, and two estates: the Marion E. Pisner Estate and the Norman A. Pisner Estate.

In 2008, the grantor Marion Pisner created a will and a trust shortly before her death a few weeks later in January 2009.

The will named two administrators, Pisner and Marla Rubinstein (hereinafter “Rubinstein”).

The will required the administrators to pay the debts of the estate and thereafter to transfer the assets of the estate to the trust.

An accounting firm oversaw the estate. The Trust document named two CoTrustees, i.e., Pisner and Rubinstein. The Trust document named two beneficiaries, i.e. Pisner and Rubinstein.

Six real properties were divided equally, with three properties for each beneficiary.

The remaining cash from accountants, approximately \$138,000, which remained after the estate settlement, were in two accounts, one containing \$36, 000 and the other containing \$128000 were split equally with the rest of the \$28,00 going into a new bank

account managed by Rubinstein.

Rubenstein inherited the Granter's house, so she had the documents, including the stocks and bonds, so she managed stock, which was distributed equally. Rubinstein distributed bonds equally, and Rubinstein distributed the bonds, which were in the Granter's house equally.

Bank statements and other documents were in the Granter's house. Mail continued to be sent to Granter's house, which Rubinstein now owned.

Over time, multiple houses in Baltimore, Maryland, were sold, and the proceeds were distributed at a loss and disbursed to each beneficiary equally. To accomplish these sales, Pisner had to lend \$18,000 to the trust to pay of parties in tax sales. Another property was sold in the District of Columbia, and the proceeds were distributed equally.

The grantor's personal property was taken to Rubinstein. There were three properties in the District of Columbia. There was a judgment for \$70,000 and a capital loss, to be used at the closing of the trust.

In 2017, in a declaration of rights proceeding, Rubinstein demanded that a new trustee be named. This triggered a term in the trust document removing her as a beneficiary.

2. The Gorman Street problem.

There were three properties remaining, plus a judgment for around \$70,000 and a capital loss once the trust was closed. There was \$35.00 in the bank. Rubinstein had demanded that the Gorman Street property be sold. Immediately, the tenant was paid to move out, but Rubinstein decided she wanted the property for herself at a discounted price. To get the house, Rubinstein asked the Maryland Circuit Court to transfer the Gorman property to her. The judge appointed a substitute trustee. That triggered a clause in the trust document, and Rubinstein was no longer a beneficiary.

Apparently, Rubinstein entered an arrangement with the substitute trustee, and the remaining assets disappeared.

Apparently, two of the properties were sold and the proceeds of the sales were divided between the substitute trustee and Rubinstein.

3. The assets disappear Beneficiary of the Trust opposed Robert McCarthy's appointment, because substitution of Trustees was prohibited by the Trust document, because of the language in the trust document Pisner had a fiduciary duty to protect the trust, so Pisner opposed Robert McCarthy's appointment and after a time Pisner became aware that the approximately one million in assets being held in trust for Pisner had vanished, so the substitute

trustee was sued along with his two appointees. In addition, ethics complaints were filed against McCarthy, his son, who had refused to disclose the whereabouts of nearly one million dollars and who had made false statements to a judge in the estate case of Norman Pisner.

B. Procedural History

Pisner, after discovering that the assets of the trust had disappeared and after both the substitute trustee, who had stated to the court in writing to the court that neither the trust , nor the estates has any assets and Rubinstein refused to disclose where happened to the assets, and neither Rubinstein , nor the substitute trustee would talk, Pisner sued Rubinstein and sued in the federal court against the substitute trustee and his accountant. Pisner also filed ethics complaints against the substitute trustee and his accountant.

Rubinstein, upon being sued, filed an ethics complaint against Pisner.

Apparently, Bar Counsel, relying on the Substitute trustee statements and his accountant's false numbers successfully convinced bar counsel he was justified in taking the assets of the trust and the trustee's accountant used fabricated ledgers that supported that and the Substitute Trustee was tasked with

preparing a petition against Posner using the accounting of the substitute trustee's numbers.

In fact, Bar Counsel was so reliant on the Substitute trustee, the irrefutable evidence that the Substitute Trustee's accountant had committed extensive perjury, the same person who had prepared the numbers that Bar Counsel had included in the petition, was the same person who had committed perjury: The substitute trustee was very much aware of this.

This is how the ethics against Posner began and because of the substitute trustee's participation , and because of his participation,, there were due process problems, including lack of notice because of the haphazard language that the substitute trustee had included in the petition, the numbers cited in the petition were impossible and the source of the numbers were hidden, language allegedly quoted did not exist, exculpatory information was not disclosed because bar counsel had not reviewed to record adequately, the discovery responses of Bar Counsel made no sense because what they did was simply cite to the cherry-picked documents that the substitute trustee had supplied to them, finally, neither Rubinstein , the substitute had complied with Subpoena Duces Tecum, so there was no information. The mixing of a complaint of the substitute trustee's

grievances with that of Rubinstein.

In Circuit Court, Pisner attempted to get the court to deal with the mounting due process issues, but the court showed that it lacked the jurisdiction to rule on those due process issues and that was something for the Maryland Supreme Court.

In the hearing in the circuit court, we learned how a trust, whose assets were almost entirely real property, became a half-million offset to cover for the disappearance of the trust assets.

The substitute trustee, when asked where the numbers came from he testified he did not know, but he signs things anyway because he trusts his accountant.

The accountant contradicted the substitute trustee by testifying she had been instructed to treat anything that was no specifically associated with Rubinstein as a distribution to Pisner. This included things like the \$135,000 estate taxes, the stocks and bonds, which Pisner never controlled; the personal property, which Pisner had never seen; the final expenses; the money that went into Rubinstein's trust account; the payment for lawyers, and the accountant.

Once the case was transferred to the Maryland Supreme Court, Pisner petitioned the court to address the due process issues in the case, but it refused. And Pisner remanded to the Maryland

Federal District court for it to hear the due process issues.

Bar counsel moved for remand back to the Maryland Supreme Court. And while the matter was before the Federal court, Bar Counsel quickly scheduled a hearing with the Maryland Supreme court, while the matter was still under review by the Federal Court and the March 5, 2025, order Disbarring Pisner was issued: The due process matter is before the Federal 4th circuit court.

IX. REASONS FOR GRANTING THE WRIT

Constitutional due process is an issue in any lawyer disciplinary case. Legal scholars and courts have recognized that the practice of law is a right that, once acquired, deserves due process protection. In *Ex Parte Burr* 22 U.S. 529 (1824), for example, Chief Justice Marshall noted that: “[T]he profession of an attorney is of great importance to an individual, and the prosperity of his whole life may depend on its exercise. The right to exercise it ought not to be lightly or capriciously taken from him. “Justice Field, writing for the court, echoed this fundamental notion in *Ex Parte Garland* (71 U.S. 333 (1866): The attorney and counselor being, by the solemn judicial act of the court, clothed with his office, does not hold it as a matter of grace and favor. The right that it confers upon him to appear for suitors, and to argue causes, is something more than a mere. Indulgence, revocable at the pleasure of the court, or at the

command of the legislature. It is a right of which he can only be deprived by the judgment of the court, for moral or professional delinquency.

Due Process challenges in disciplinary proceedings also have a long history

(see *Ex Parte Bradley*, 74 U.S. 364, (1868) involved a defense attorney, Bradley, who was summarily disbarred by the judge presiding over the trial of John Surratt for conspiracy in the Lincoln assassination. During the trial, Bradley and the trial judge, Fisher, engaged in a strenuous exchange of mutual insults.

Shortly after the trial ended with a hung jury, Fisher got the last word in the dueling insults by ordering Bradley disbarred from the Supreme Court of the District of Columbia for “accosting [Fisher] ... in a rude and insulting manner. On review, the U.S. Supreme Court agreed with Bradley and issued a peremptory writ directing that Bradley be reinstated. In doing so, the Supreme Court also noted that the trial court’s sua sponte disbarment violated Bradley’s due process rights to prior notice and the opportunity to be heard.

That same term, the Supreme Court addressed notice and the opportunity to be heard in the disciplinary context directly in *Randall v. Brigham* (74 U.S. 523 (1866)) Randall had been disbarred by the defendant

Massachusetts trial court judge for defrauding a client. In *Randall* the court stated that “[N]otice should be given to the attorney of the charges made and the opportunity afforded him for explanation and defense.”

A century later, the U.S. Supreme Court returned to these twin concepts in *In re Ruffalo* 390 U.S. 544 (1968). *Ruffalo* was a reciprocal discipline case. The lawyer in *Ruffalo* handled personal injury claims against railroads.

The Association of American Railroads filed charges against him with the president of his local bar association in Ohio, who was also local counsel for the Baltimore & Ohio Railroad. The gist of the charges going into the hearing was that *Ruffalo* had improperly solicited clients through a part-

time investigator. After *Ruffalo* and the investigator had testified at the hearing, however, the bar prosecutor amended the charges to include one for “deception,” contending that it was “morally and legally wrong” for *Ruffalo* to use a part-time investigator who also worked as an inspector for the Baltimore & Ohio (although not at the yards involved in *Ruffalo*’s cases). *Ruffalo* objected, but the hearing panel allowed the amendment and *Ruffalo* was later disbarred by the Ohio Supreme Court primarily on the late-added charge. *Ruffalo* was also admitted to the Sixth Circuit, and it likewise disbarred him as matter of reciprocal discipline. *Ruffalo* appealed the Sixth Circuit’s disbarment order to the

U.S. Supreme Court. The U.S. Supreme Court reversed. Noting that accused lawyers are “entitled to procedural due process”; the U.S. Supreme Court cited Randall in finding that Ruffalo had been denied notice and the opportunity to be heard in the original hearing that the Sixth Circuit had then relied on in disbaring him. Notice and the opportunity to be heard remain the dual touchstones for assessing due process in disciplinary proceedings in both state and federal courts.

So, based on centuries of precedence, much of which comes from the U.S. Supreme Court, Federal due process considerations are a necessary element of any disciplinary proceeding.

One can talk about exclusive jurisdiction, but in fact, there is always concurrent jurisdiction in disciplinary proceedings for due process.

So, we have the cause, which is this reflexive behavior of courts and those who are administratively associated with the court to use court appointees as consultants, no matter how irrational it is to those of us outside legal ecosystem.

We can see, in this case, how this kind of behavior can result in criminal, due process, failures, biases, etc.

We can also see that timing is everything. Due process problems must be addressed and mitigated before, not after the fact finding has concluded, not after. If this is not done those facts presented to the court that

disposes of the matter will be relying on alleged facts that may be defective because they were the product of procedure deficiencies.

X. CONCLUSION

The petition for a Writ of Certiorari should be granted because this apparent apparently new tack taken by the state of Maryland is that states, by legislation or rule making, that gives a state on paper, a power, that it reserves exclusively for itself, the state is exempt from any limitations in the states adherence to the U.S. Const.amend.XIV.

Moreover, timing is everything, so any law or rule, that postpones any due process review until after the fact finding merely corrupts the facts and clouds the process.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Gary P. Pissner", written over a horizontal line.

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August 4, 12, 2024