

FILE NO. CX-00-138

STATE OF MINNESOTA

IN SUPREME COURT

RECEIVED
MAY 09 2000
LAWYERS PROF. RESP. OFFICE

In Re Petition for Disciplinary Action
against BRENT VISCOUNT BIDJOU,
an Attorney at Law of the
State of Minnesota.

**FINDINGS OF FACT
CONCLUSIONS OF LAW,
AND RECOMMENDATION
FOR DISCIPLINE**

PREFACE

This matter came on for trial before the Court on the 3rd day of May, 2000, at the Judicial Center in St. Paul, Minnesota.

Craig D. Klausning, Senior Assistant Director, appeared on behalf of the Director of the Office of Lawyers Professional Responsibility (Director). Caroline Durham appeared on behalf of Brent V. Bidjou (respondent), who also appeared personally.

Based upon the evidence presented at the hearing, and upon the additional submissions of the parties and the contents of the file, the Court makes the following:

FINDINGS OF FACT

1. On December 11, 1997, respondent signed his sixth application for admission to the bar of Minnesota. On five earlier occasions, ranging from March 1991 through December 1993, he had submitted similar applications but had failed to pass the bar examination every single time.

2. In the application he signed in December 1997, he was required to answer question 4.05, which asked respondent whether, "As an individual, have you ever been a party to or a witness in any legal proceeding? This includes any civil, criminal,

administrative, family law or domestic abuse proceeding."

3. Respondent answered the question with a "no." In fact, he should have answered it with a "yes."

4. In August 1996, respondent had filed a complaint with the Department of Commerce concerning Deborah Ho-Beckstrom. In October 1996, respondent had filed a discrimination complaint with the Minnesota Department of Human Rights. In December 1996, John Quinn had sued respondent for defamation.

5. Rule 8.1(a)(1) of the Minnesota Rules of Professional Conduct provides that "An applicant for admission to the bar...shall not knowingly make a false statement of material fact." I explicitly find that the respondent did, in fact, knowingly make a false statement of material fact when he answered "no" to question 4.05. He was explicitly aware of the status of the civil and administrative litigation. Factual accuracy is what is required, not fraudulent intent.

6. Respondent claims in his defense that he rather thoughtlessly and mechanically copied the answers of an earlier application when filling out the application he signed in December 1997. As an aid to filling out the December 1997 application to take the bar exam, respondent utilized for reference the application that he had submitted to take the February 1994 exam. At that time, answering "no" to question 4.05 was appropriate. Moreover, he claims that he was distracted and under intense distress by events that had occurred during 1997. These events

included the death of his grandfather, the death of his father, the need for his wife to therapeutically abort her dead fetus, and the health concerns raised concerning his wife over the potential for melanoma.

7. While I find that respondent did knowingly make a false statement of material fact, I also explicitly find that he was not motivated with an intent to mislead the Board of Law Examiners. One can readily envision the respondent sitting in front of his typewriter into which he had inserted his sixth application to take the bar examination in Minnesota. He is motivated to try once again by the news that his wife was again pregnant. One can imagine the emotions that must have coursed through him, including the personal shame from his five previous failures. There also must have been a certain degree of futility in his effort, given that the other five times he had filed an application had ended in failure. However, it is my determination that while respondent's mental status cannot be the basis upon which to excuse his conduct, nonetheless it constitutes a significant factor for consideration in regard to determination of the appropriate sanction.

8. I explicitly find that even if respondent had accurately answered the question and had submitted all of the necessary documentation as required by the rule, that it would have made no difference in the outcome of his application to take the bar exam. In other words, while the Board may have examined into the civil cases involving the respondent, there is no basis upon which to

suggest that respondent would have been prevented from sitting for the bar exam. In addition, there has been no harm to the public. In this context, I am reminded of the unofficial rule by which my friends and I were guided in our youth while playing trash basketball, which was "no harm, no foul." In other words, if respondent's false answer made no difference, then so what? In response, I raise the laudable precept that those who submit an application to take the bar examination in Minnesota be held to the highest standards regarding the accuracy of their respective submissions. Therefore, I strongly believe that respondent must be held accountable and sanctioned in order to deter misconduct of this type by other would-be lawyers. Moreover, it is extremely important that the sanction imposed upon respondent be of such a nature that the Director can disseminate the details of this case to the public, particularly to those who are applying to take a Minnesota bar examination.

CONCLUSIONS OF LAW

1. On his application to take the February 1998 bar examination, respondent knowingly made a false statement in denying that he had ever been a party to any legal proceeding.

2. The fact that respondent had been a party to legal proceedings was a material fact for purposes of his bar application.

3. Respondent's conduct was in violation of Rule 8.1(a)(1), Minnesota Rules of Professional Conduct.

4. Notwithstanding the fact that respondent was under emotional stress when he prepared, signed, and submitted his application, he has failed to prove that his violation of Rule 8.1(a)(1) was the result of a psychological condition that should excuse the violation. However, his mental state as well as the lack of public harm constitutes a strong basis for mitigation in regard to the imposition of a sanction.

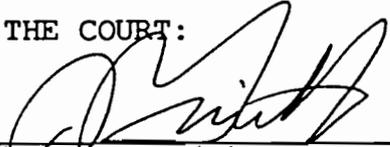
RECOMMENDATION

Pursuant to Rule 15 of the Rules on Lawyers Professional Responsibility, the undersigned recommends the following:

1. Respondent Brent V. Bidjou should be reprimanded.
2. Such reprimand should be disseminated in such a manner that applicants to take the Minnesota bar examination are reinforced in their duty to be factually accurate in answering the questions on the application.
3. Respondent should comply with the requirements of Rule 24 in regards to costs and disbursements.

Dated: May 5, 2000

BY THE COURT:



Norbert P. Smith
Supreme Court Referee

DISTRIBUTION:
Orig - Court Administrator
Copies - Craig Klausing
- Caroline Durham