

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

FILED

08/08/2023

Clerk of the
Appellate Courts

IN RE: JAY ARTHUR ROSENBERG, BPR NO. 033806

An Attorney Licensed to Practice Law in Tennessee
(Sioux Falls, SD)

No. **M2023-00853-SC-BAR-BP**

BOPR No. 2023-3333-3-AW-25

ORDER OF RECIPROCAL DISCIPLINE

This matter is before the Court pursuant to Tenn. Sup. Ct. R. 9, § 25, upon a Notice of Submission filed by the Board of Professional Responsibility (“Board”) consisting of a certified copy of an Order entered by the District of Columbia Court of Appeals (No. 23-BG-0117) on April 20, 2023, disbaring Jay Arthur Rosenberg.

On June 12, 2023, a Notice of Reciprocal Discipline was entered, requiring Mr. Rosenberg to inform this Court within thirty (30) days of receipt of the Notice why reciprocal discipline should not be imposed in Tennessee pursuant to Tenn. Sup. Ct. R. 9, § 25.4 or, in the absence of a response demonstrating the grounds set forth in Tenn. Sup. Ct. R. 9, § 25.4, the Supreme Court of Tennessee will impose a similar discipline with identical terms and conditions based upon the Order issued by the District of Columbia Court of Appeals disbaring Mr. Rosenberg. The Court received no response from Mr. Rosenberg.

After careful consideration of the record in this matter, the Court finds, based upon the particular facts of this case, that none of the elements in Tenn. Sup. Ct. R. 9, § 25.4 exist. Accordingly, it is appropriate to enter an Order of Reciprocal Discipline disbaring Mr. Rosenberg from the practice of law in Tennessee.

IT IS, THEREFORE, CONSIDERED, ORDERED, ADJUDGED, AND DECREED BY THE COURT THAT:

- (1) Jay Arthur Rosenberg is hereby disbarred from the practice of law in Tennessee.
- (2) Pursuant to Tenn. Sup. Ct. R. 9, § 28.1, this Order shall be effective upon entry.
- (3) The Board of Professional Responsibility shall cause notice of this discipline

to be published as required by Tenn. Sup. Ct. R. 9, § 28.11.

PER CURIAM

Notice: This opinion is subject to formal revision before publication in the Atlantic and Maryland Reporters. Users are requested to notify the Clerk of the Court of any formal errors so that corrections may be made before the bound volumes go to press.

DISTRICT OF COLUMBIA COURT OF APPEALS

FILED 04/20/2023
District of Columbia
Court of Appeals

No. 23-BG-0117

Julio A. Castillo
Julio Castillo
Clerk of Court

IN RE JAY ARTHUR ROSENBERG,

DDN: 2022-D133

A Retired Member of the Bar of the
District of Columbia Court of Appeals

Bar Registration No. 1030354

Exhibit A

BEFORE: Blackburne-Rigsby, Chief Judge, and Easterly and Howard, Associate
Judges.

ORDER

(FILED—April 20, 2023)

On consideration of the certified order from the state of Virginia revoking respondent's authority to practice law after finding that he had been engaging in the unauthorized practice of law in that state and further barring him from seeking admission to practice law in the state, to which respondent consented; this court's February, 24, 2023, order suspending respondent pending final disposition of this proceeding and directing him to show cause why the functionally equivalent discipline of disbarment should not be imposed as reciprocal discipline; and the statement of Disciplinary Counsel including a request for reinstatement to be conditioned upon respondent's reinstatement in Virginia; and it appearing that respondent has not filed a response or his D.C. Bar R. XI § 14(g) affidavit; and it further appearing that respondent has never been licensed in Virginia and is barred from seeking admission, and, thus, is not eligible for reinstatement, it is

ORDERED that Jay Arthur Rosenberg is hereby disbarred from the practice of law in the District of Columbia. *See In re Sibley*, 990 A.2d 483, 487-88 (D.C. 2010) (explaining that there is a rebuttable presumption in favor of imposition of identical discipline and exceptions to this presumption should be rare); *In re Fuller*, 930 A.2d 194, 198 (D.C. 2007) (stating that the rebuttable presumption of identical reciprocal discipline applies to all cases in which the respondent does not participate); *see also In re Laibstain*, 841 A.2d 1259, 1263 (D.C. 2004) (explaining that the equivalent sanction in the District for revocation elsewhere is disbarment).

No. 23-BG-0117

We decline to impose Disciplinary Counsel's requested reinstatement condition, because respondent cannot be "reinstated" to a jurisdiction in which he was never licensed to practice and moreover the certified order from Virginia forever bars him from seeking admission to practice law in that state. Accordingly, requiring respondent to be reinstated in Virginia before seeking reinstatement in the District would effectively cause his disbarment in this jurisdiction to be permanent. Disciplinary Counsel has not established that such substantially different discipline is appropriate in this matter. *See In re Jacoby*, 945 A.2d 1193, 1199-1200 (D.C. 2008) (describing the standard for substantially different discipline). It is

FURTHER ORDERED that, for purposes of reinstatement, respondent's disbarment will not begin to run until such time as he files an affidavit that fully complies with the requirements of D.C. Bar R. XI, § 14(g).

PER CURIAM

A true Copy
Test:

Julio Castillo
Clerk of the District of Columbia Court
of Appeals

BY _____

[Signature]
DEPUTY CLERK
Julio Castillo
Clerk of the District of Columbia
Court of Appeals