

THE SUPREME COURT OF THE VIRGIN ISLANDS

IN RE:)
)
JEFFREY B.C.MOORHEAD, ESQ.)

**THE BOARD OF PROFESSIONAL RESPONSIBILITY’S RESPONSE TO
ORDER DATED FEBRUARY 1, 2022**

COMES NOW, SIMONE R. D. FRANCIS, Chair of the Board of Professional Responsibility, pursuant to this Court’s Order dated February 1, 2022, and pursuant to Rule 207.18(d) of the Rules of the Supreme Court, hereby submits to the Court on behalf of the Board its recommendation concerning imposition of discipline in this court based upon the January 25, 2022 Order of Discipline Imposed by the District Court of the Virgin Islands Against Jeffrey B.C. Moorhead, Esq. (hereinafter the “Respondent” or “Respondent Attorney”). By response dated March 3, 2022, Respondent asserted that this Court should decline to impose identical discipline because “the procedure was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process” and because “imposition of the same discipline by the Court would result in grave injustice.” For the reasons set forth herein, the Board respectfully recommends that this Court should defer a decision to impose identical discipline.

DISCUSSION

As a threshold issue, this matter raises an issue that appears not to have been squarely addressed by this Court previously, namely whether the imposition of discipline by the District Court constitutes the imposition of discipline “in another jurisdiction” within the meaning of Rule 207.18(a). In at least one other jurisdiction, a state’s highest court has held that it does not. *See In re Stubbs*, 285 Ga. 702, 704 (Ga. 2009) (holding that discipline imposed by a federal trial court does not constitute discipline by “another jurisdiction” within the meaning of Georgia Rules of Professional Conduct and stating that “[i]n such cases, . . . the State Bar must independently investigate the facts and follow the established procedure for seeking attorney discipline and may not take advantage of the abbreviated process of reciprocal discipline under Rule 9.4”); *accord In re Cruse*, 295 Ga. 673 (Ga. 2009) (citing and following opinion in *In re Stubbs*). This Court cited *In re Stubbs* approvingly in *In the Matter of Disbarment of Rogers*, 60 V.I. 293, 305 (V.I. 2013) for the proposition that the District Court does not have the authority to discipline or suspend a lawyer from practicing law in the Superior Court when the lawyer was otherwise authorized to do so, but noted that the District Court opinion at issue (as in this case) did not purport to limit the respondent lawyer’s ability to practice in the Superior Court.

In addition to the question of whether the District Court constitutes an “other jurisdiction” within the meaning of Rule 207.18(a), as the filings by Respondent reflect, since the issuance of this Court’s Order dated February 1, 2022 directing the Board to file this response, the Respondent has continued to challenge the District Court’s Order on grounds that include (but do not appear to be limited to) whether the Respondent received adequate notice or an opportunity to be heard before discipline was imposed by the District Court. On March 11, 2022, the Respondent filed a “Petition for Panel Rehearing of Court’s March 4, 2022 Order Denying the Petition for Mandamus” and as of the date of this filing, there is no record that the United States Court of Appeals for the Third Circuit has ruled on that Petition. Although neither the District Court nor the Third Circuit has stayed the underlying ruling, as would be required to trigger application of Rule 207.19(c), the fact of these ongoing proceedings may merit a discretionary stay of any determination whether the imposition of reciprocal discipline by this Court is warranted.

For the foregoing reasons, the Board respectfully provides the foregoing response, recommends that this Court defer a determination about the imposition of reciprocal discipline pending further proceedings in the Third Circuit, and respectfully requests that the Court issue such order as it deems appropriate under the circumstances.

Dated: March 17, 2022

/s/Simone R.D. Francis
Chair, Board of Professional Responsibility

CERTIFICATE OF SERVICE

It is hereby certified that on 17th day of March, 2022, a true and exact copy of the foregoing RESPONSE TO ORDER DATED FEBRUARY 1, 2022 was served via electronic mail on the following:

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/s/Simone R.D. Francis