



**BEFORE THE BOARD OF DISCIPLINARY APPEALS
APPOINTED BY THE
SUPREME COURT OF TEXAS**

IN THE MATTER OF

**ALEXANDER LOUIS BEDNAR
STATE BAR CARD NO. 24044456**

§
§
§
§
§

CAUSE NO. 62368

ORDER

On this day, the Board of Disciplinary Appeals considered the Answer and Request for Clarification and for Good Faith Extension of Time filed by the Respondent, Alexander Louis Bednar, in the above-captioned reciprocal discipline case. Taking into account the parties' representations and arguments made at the January 7, 2021 pretrial conference before a panel of the Board, the Board **ORDERS** as follows.

1. Respondent requests that he be able to present his answer, filed January 7, 2021, and that he later be allowed to supplement that answer. On September 15, 2020, the Board issued an order for Respondent to show cause within thirty days from the date of service why the imposition of identical discipline in Texas would be unwarranted. Texas Rule of Disciplinary Procedure 9.02 and the Board's Internal Procedural Rule 7.03 likewise give a Respondent thirty days to file an answer. By order issued October 20, 2020, the Board reset the hearing from October 23, 2020 to January 29, 2021, allowing Respondent an extension of time to seek counsel and prepare his case, but that order did not extend the answer deadline. Respondent's answer, filed January 7, 2021, was untimely under any formulation of the applicable deadline. At the pretrial hearing,

Respondent stated that he was unaware he had to file an answer within thirty days and asked that he be allowed to file an untimely answer as a matter of equity. However, Respondent was provided with the Board's internal procedural rules and is charged with reading all rules applicable to this proceeding. Respondent's request for leave to have the Board consider an untimely answer is **DENIED**.

2. Respondent requests that the hearing set for 9:00 am on January 29, 2021 be reset again and that he be given a new hearing date. Respondent submits that he makes this request in good faith and that he needs additional time to continue his search for counsel and to prepare his case. The Board's order of October 20, 2020 noted that further continuance requests shall be disfavored. As discussed below with regard to Respondent's request for a discovery plan, Respondent failed to establish that he used due diligence to prepare his case in the time extended to him in response to his first request for continuance and failed to establish that the discovery he seeks is warranted. The Board finds that Respondent failed to establish that a further continuance is justified. Respondent's request to reset the January 29, 2021 hearing is **DENIED**.

3. Respondent requests that the Board clarify the litigation available. Respondent's request is **GRANTED** to the extent that the Board clarifies its expectations for hearing this reciprocal discipline case, as follows:

a. Because Respondent failed to file a timely answer, Respondent's participation in the hearing is subject to the Chair's discretion. Under Rule 7.03, the Chair has discretion to allow only "testimony from Respondent relating to the merits of the petition." BODA INTERNAL PROCEDURAL RULES R. 7.03. The Board chair, in his discretion, will allow Respondent to provide such testimony at the hearing. *See* BODA INTERNAL PROCEDURAL RULES R. 7.03.

b. At the pretrial conference, Petitioner, Chief Disciplinary Counsel of the State Bar of Texas, stated that Petitioner has no objection to Respondent offering a transcript of the Oklahoma trial that led to the disciplinary order giving rise to the petition for reciprocal discipline in this case. Accordingly, the Board will allow Respondent to offer a transcript and record of that proceeding, provided that Respondent complies with the Board's exhibit submission instructions and deadline.

c. The parties are expected to comply with the deadline previously set by the Board for submission of exhibits. As conveyed to the parties by letter December 31, 2020, all proposed exhibits must be sent to all other parties and to the Board by 5:00 pm on January 20, 2021. In accordance with the Board's Instructions and Admonishments for Zoom Hearings, sent to the parties on October 16, 2020 and again on December 31, 2020, "the Board instructs each party to submit potential documentary exhibits in digital form, and "[t]he files should be in PDF format for documents."

d. The Board will give each party two hours to present its case at the hearing on January 29, 2021.

4. Respondent requests that the Board craft a discovery plan that would allow Respondent to procure and present exculpatory evidence.

a. As ordered above, the Chair will permit Respondent to provide testimony relating to the merits of the petition, and Respondent will be permitted to offer the transcript and record of the underlying disciplinary matter to support his testimony. In light of the limitations the applicable rules place on the scope of the hearing, the Board finds that Respondent has not demonstrated that discovery is necessary under these circumstances.

b. At the pretrial conference, Respondent represented that he seeks to subpoena numerous out-of-state witnesses to testify at the hearing. However, Respondent admitted that since being served notice of this case in September 2020, he has taken no action to obtain the evidence he believes he would need to present to the Board. Respondent discussed at length evidence relating to a 2013 Oklahoma disciplinary proceeding, which the Oklahoma Bar Association relied on as a basis for seeking an enhancement of the disciplinary sanction in the underlying disciplinary proceeding. But Respondent previously had an opportunity to raise any potential issues as to that 2013 proceeding when a reciprocal discipline case was brought before this Board based on that 2013 Oklahoma order. That reciprocal discipline case was resolved by agreed judgment of suspension issued August 28, 2013. *See In the Matter of Alexander Louis Bednar*, BODA Case No. 52882. In that judgment, signed by Respondent, the Board concluded that identical reciprocal discipline was warranted. Respondent's proposal for discovery, including proposing subpoenas to compel testimony, indicates an attempt to relitigate both the underlying disciplinary matter and the 2013 disciplinary matter. The Board finds that Respondent has not demonstrated that under the circumstances of this case and the applicable rules he is entitled to compel or present witness testimony.

c. Accordingly, Respondent's request for a discovery plan is **DENIED**.

5. The Board's October 20, 2020 order remains in effect insofar as it requires Respondent to notify the Board immediately if he becomes authorized to practice law in Texas.

SIGNED this 8th day of January 2021.

A handwritten signature in blue ink, appearing to read "Tom G. Gleason".

CHAIR PRESIDING