

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



F I L E D
Oct. 26, 2021

**IN THE MATTER OF
JASON MARIO BRUNO,
STATE BAR CARD NO. 24073334**

§
§
§

CAUSE NO. 65864

THE BOARD of DISCIPLINARY APPEALS
Appointed by the Supreme Court of Texas

PETITIONER’S RESPONSE TO RESPONDENT’S MOTION TO DISMISS

Petitioner, the Commission for Lawyer Discipline, requests the Board of Disciplinary Appeals (“the Board”) to deny Respondent’s Motion to Dismiss, filed on October 21, 2021. The Board should not dismiss this case because the general four-year statute of limitations is not applicable to reciprocal disciplinary petitions. Petitioner brought this action within four years of the date of Respondent’s judgment in the foreign jurisdiction (i.e., less than one year after the date Respondent received his “Final Judgment and Order of Suspension” in the State of Arizona on October 15, 2020).

INTRODUCTION

1. Petitioner filed the instant Petition for Reciprocal Discipline on September 8, 2021, against Respondent, Jason Mario Bruno, based on Respondent’s 6-month active suspension and 2-year probated suspension in the State of Arizona.
2. Respondent was personally served with a copy of the Petition and notice of hearing on September 21, 2021, and Respondent filed his Response to Order to Show Cause on October 21, 2021.
3. Also on October 21, 2021, Respondent filed a “Motion to Dismiss,” requesting the Board to “dismiss this disciplinary proceeding because the statute of limitations has expired and Texas law prohibits the imposition of discipline for the conduct alleged, which all occurred on or before July 25, 2014.”

ARGUMENT AND AUTHORITIES

The Compulsory Petition was filed within the four-year statute of limitations.

Relying on Rule 17.06(A) of the Texas Rules of Disciplinary Procedure, Respondent claims that this reciprocal disciplinary action is barred by the statute of limitations. Tex. R. Disciplinary P. 17.06(A). Respondent argues that the latest date that misconduct could have occurred in Arizona was on July 24, 2014, and that this action should have been brought within four years of that date, or by July 24, 2018. Respondent misreads the rules.

Rule 17.06(A) states: “No attorney may be disciplined for Professional Misconduct that occurred more than four years before the date on which a Grievance alleging the Professional Misconduct is received by the Chief Disciplinary Counsel” (emphasis added). Tex. R. Disciplinary P. R. 17.06(A). This rule applies to “Professional Misconduct” as defined by Rule 1.06(CC)(1) (“[a]cts or omissions by an attorney, individually or in concert with another person or persons, that violate one or more of the Texas Disciplinary Rules of Professional Conduct,”) that might be subject to a “Grievance” defined by Rule 1.06(R) as “a written statement, from whatever source, apparently intended to allege Professional Misconduct by a lawyer, or lawyer Disability, or both, received by the Office of the Chief Disciplinary Counsel.” Tex. R. Disciplinary P. 1.06(CC)(1) and 1.06(R).

A reciprocal discipline case is not premised on a grievance but rather on a finding of professional misconduct in another jurisdiction. The applicable definition of professional misconduct for reciprocal discipline is: “[a]ttorney conduct that occurs in another state or in the District of Columbia *and* results in the disciplining of an attorney in that other jurisdiction, if the conduct is Professional Misconduct under the Texas Disciplinary Rules of Professional Conduct” (emphasis added). Tex. R. Disciplinary P. 1.06(CC)(2). This form of professional misconduct is not predicated on a mere act of misconduct, but on *a finding or judgment of misconduct* product of a prior act or omission performed by the attorney in a foreign jurisdiction. Therefore, reciprocal

disciplinary actions like the one that gave rise to the instant petition are premised on a judgment or finding of professional misconduct issued by another jurisdiction.

Pursuant to Rule 9.01, the Chief Disciplinary Counsel is required to initiate reciprocal disciplinary procedures when it receives “information indicating that an attorney licensed to practice law in Texas has been disciplined in another jurisdiction.” Tex. R. Disciplinary P. 9.01. Hence, the “misconduct” punishable in Texas occurs when Respondent is disciplined in a foreign jurisdiction, not when the acts constituting the rule violations in the foreign jurisdiction occurred.

Respondent argues that procedural rules provide an exemption for compulsory discipline proceedings but remain silent regarding any limitations period for reciprocal disciplinary actions. Nonetheless, the limitations period in Rule 17.06(a) as applied to reciprocal discipline runs from the time Respondent was sanctioned in Arizona. In the instant case, Respondent received his “Final Judgment and Order of Suspension” in the State of Arizona on October 15, 2020. Respondent’s “Professional Misconduct” occurred on the date that he was disciplined in Arizona. Petitioner initiated this reciprocal disciplinary action on September 8, 2021, which is less than a year after the date Respondent received his final judgment and is within the four-year statute of limitations.

CONCLUSION

The general statute of limitations rule contained in Rule 17.06(A) of the Texas Rules of Disciplinary Procedure does not apply to reciprocal disciplinary proceedings because this kind of proceeding is not initiated by a Grievance received by the Office of the Chief Disciplinary Counsel, as defined by 1.06(R). If the statute of limitations applies, the Board should apply the definition of professional misconduct that includes: “[a]ttorney conduct that occurs in another state or in the District of Columbia *and* results in the disciplining of an attorney” (emphasis added). Rule

1.06(CC)(2). Thus, the Petition in this matter was timely filed after Respondent was disciplined in Arizona and this case is not barred by the statute of limitations.

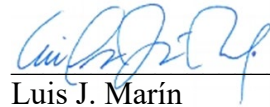
PRAYER

Petitioner prays that this Board denies the Motion to Dismiss filed by Respondent and enters a judgment imposing discipline identical with that imposed by the Supreme Court of Arizona and that Petitioner have such other and further relief to which Petitioner may be entitled.

Respectfully submitted,

Seana Willing
Chief Disciplinary Counsel

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ATTORNEYS FOR PETITIONER

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been sent by email to Jason Mario Bruno jbruno@sherrets.com on the 26th day of October, 2021.



Luis J. Marín