

13-845

Federal Grievance Committee v. Williams

**UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT**

August Term, 2013  
(Decided: February 13, 2014)

Docket No. 13-845

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Federal Grievance Committee,

*Petitioner-Appellee,*

v.

Stephen John Williams,

*Respondent-Appellant.*

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Before: Cabranes, Sack, and Wesley, *Circuit Judges.*

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FOR APPELLANT: Stephen John Williams, *pro se*, Storrs, CT

FOR APPELLEE: Wick R. Chambers, of Winnick Ruben Hoffnung  
Peabody & Mendel, LLC, New Haven, CT<sup>1</sup>

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<sup>1</sup> In lieu of a standard brief, the Appellee filed a statement adopting the district court's findings and conclusions, which is a permissible substitute for a brief under this Court's Local Rule 46.3(b).

**PER CURIAM:**

1           Stephen John Williams appeals from an order of the United States District  
2           Court for the District of Connecticut (Chatigny, J.) reciprocally suspending him  
3           from the practice of law before that court, based on an order of the Connecticut  
4           Superior Court. For the following reasons, the district court’s reciprocal  
5           suspension order is AFFIRMED.

6           The district court’s reciprocal suspension was based on a 2005 order of the  
7           Connecticut Superior Court, which suspended Williams for six months, with  
8           readmission contingent on completing courses on ethics and Connecticut practice,  
9           due to his pursuit of a meritless mandamus motion in that court and his  
10          intimidation of a state court deputy chief clerk “with improper unsolicited  
11          advice.” The state judge essentially found that Williams had pursued a  
12          disruptive course when he sought to reopen a state court proceeding to challenge  
13          a speeding ticket.

14          **I. Standards of Review**

15          The district court's reciprocal suspension is reviewed for an abuse of  
16          discretion. *In re Edelstein*, 214 F.3d 127, 130-31 (2d Cir. 2000). When a district  
17          court is considering reciprocal discipline, the attorney bears the burden of

1 demonstrating, by clear and convincing evidence, that a different disposition  
2 would be appropriate, due to: (1) “absence of due process” in the prior  
3 disciplinary proceeding, (2) “substantial infirmity in the proof of lack of private  
4 and professional character,” or (3) “some other grave reason” that reciprocal  
5 discipline would be inconsistent with “principles of right and justice.” *In re*  
6 *Roman*, 601 F.3d 189, 193 (2d Cir. 2010) (quoting *Selling v. Radford*, 243 U.S. 46, 51  
7 (1917))(additional quotation marks and citation omitted). These standards  
8 require significant deference to both the district court and the state court. In the  
9 present appeal, Williams has not met his burden under this difficult “double  
10 deference” set of standards: he has not shown that the district court abused its  
11 discretion in imposing reciprocal discipline after it found that Williams had not  
12 shown by clear and convincing evidence that reciprocal discipline based on the  
13 state’s suspension was unwarranted.

14 As a preliminary matter, we reject Williams’s contention that the “clear  
15 and convincing evidence” standard does not apply because *Selling* does not  
16 explicitly use that phrase. Prior panels of this Court have held that the clear and  
17 convincing evidence standard applies to reciprocal discipline determinations, *see*  
18 *Roman*, 601 F.3d at 193; *In re Friedman*, 51 F.3d 20, 22 (2d Cir. 1995), and we are not

1 free to revisit those holdings, *see In re Zarnel*, 619 F.3d 156, 168 (2d Cir. 2010)  
2 (holding that panels of this Court are “bound by the decisions of prior panels  
3 until such time as they are overruled either by an *en banc* panel of our Court or by  
4 the Supreme Court” (internal quotation marks omitted)). We also reject the  
5 suggestion that the “clear and convincing evidence” standard discussed in *Roman*  
6 and *Friedman* applies only to reciprocal discipline imposed under the local rules  
7 used in those cases. That standard applies to all reciprocal disciplinary  
8 proceedings in the federal courts of this circuit.

## 9 **II. Allegations that the State Courts Violated Due Process**

10 We reject Williams’s argument that he lacked adequate advance notice of  
11 the charges against him. The state court’s order requiring Williams to show  
12 cause why he should not be disciplined did not detail the factual basis for the  
13 charges; it simply stated that his “pleadings” may have violated certain practice  
14 rules. However, after Williams requested a bill of particulars, the state court  
15 judge orally described the factual basis for the charges. While that description  
16 was brief, it gave Williams adequate notice of the charges, which were not  
17 complicated. *See In re Peters*, 642 F.3d 381, 386-87 (2d Cir. 2011) (“an attorney may  
18 receive adequate notice of a misconduct charge by means other than a sanctions

1 motion served prior to the sanctions hearing”). He also had adequate time to  
2 defend himself, as the suspension order was issued approximately three months  
3 after issuance of the order to show cause and nearly six weeks after the state court  
4 judge orally explained the charges.

5 The statement in *In re Ruffalo*, 390 U.S. 544 (1968), that a disciplinary  
6 “charge must be known before the proceedings commence,” *id.* at 551, does not  
7 require a different result. In that case, the Supreme Court was concerned with  
8 disciplinary charges that were “amended on the basis of testimony of the  
9 accused” presented in a hearing on the original disciplinary charges, where he  
10 had “no opportunity to expunge the earlier statements and start afresh.” *Id.*; *see*  
11 *also id.* at 550-51 (“[P]etitioner had no notice that his employment of Orlando  
12 would be considered a disbarment offense until after both he and Orlando had  
13 testified at length on all the material facts pertaining to this phase of the case.”).  
14 In the present case, there was no similar unfair amendment of the charges against  
15 Williams; the state court judge’s oral statement regarding the factual basis for the  
16 charges came early enough to allow Williams to prepare his defense and did not  
17 otherwise prejudice him.

18 In any event, we reject Williams’s suggestion that, under *Ruffalo*, the state  
19 court charges were not “known before the proceedings commence[d]” – *i.e.*, that

1 the charges were not properly presented in the order to show cause, and that the  
2 defect could not be cured by the oral description of the factual basis since the  
3 proceedings had commenced by that point. We do not believe the Supreme Court  
4 intended any such thing. One could argue that disciplinary “proceedings”  
5 commence with the filing or service of the charges, or even earlier with the  
6 opening of an investigation prior to charges being determined; however, either of  
7 these interpretations of the word “proceedings” in *Ruffalo* would render the  
8 Supreme Court’s statement meaningless, as they would require the charges to be  
9 known by the attorney before the charges were filed or served. Instead, the  
10 question of when disciplinary “proceedings” have commenced for purposes of  
11 *Ruffalo* must be given a practical answer informed by the requirements of due  
12 process. In Williams’s case, he was adequately informed of the factual basis for  
13 the charges against him before any response was due or any evidentiary hearing  
14 was held, and he had a fair opportunity to rebut them.

15 We also reject Williams’s argument that the state court failed to warn him  
16 that he could be suspended for a definite time period (*i.e.*, six months). A  
17 reasonable person would have seen the warning he actually received – of an open-  
18 ended suspension pending completion of approved courses – as encompassing a  
19 potential suspension extending beyond six months and, thus, Williams was not

1 prejudiced by the lack of more specific notice.

2 Williams's other due process challenges to the state court proceedings are  
3 either meritless or, at most, concern harmless error.

4 **III. The Evidentiary Basis for the State Court's Disciplinary Order, and Lack of**  
5 **Any "Grave Reason" Why Discipline Should Not Be Imposed**

6  
7 Williams also has not shown, by clear and convincing evidence, that there  
8 was a "substantial infirmity in the proof" supporting the state court disciplinary  
9 order. The central charge was based on a letter that Williams had sent to a state  
10 court deputy chief clerk stating that (a) opposing counsel intended to subpoena  
11 her to testify regarding the mandamus petition and "to defend [her]self and [her]  
12 office"; (b) he believed it would be an "ethical violation" for the "prosecutor" to  
13 represent her; and (c) she should consider obtaining independent counsel. A  
14 reasonable person could have found that letter "intimidating," as found by the  
15 state court. At the very least, a reasonable person in Williams's position would  
16 have known that the letter likely would cause concern and possibly interfere with  
17 the deputy chief clerk's duties (and, in fact, it did interfere with her duties, as it  
18 caused her to, *inter alia*, seek advice from a judge).

19 Williams also has not shown, by clear and convincing evidence, that the  
20 state court incorrectly found that the mandamus motion was unnecessary and  
21 abusive.

1           Finally, the circumstances also do not suggest the presence of any “grave  
2           reason” why discipline should not be imposed, particularly since the imposed  
3           sanction was not draconian.

4           We have considered all of Williams’s other arguments and find that they  
5           lack merit. We therefore affirm the district court’s order.