

Supreme Court of Kentucky

2022-SC-0072-KB

KYLIE PARKER HOFMANN

MOVANT

V.

IN THE SUPREME COURT

KENTUCKY BAR ASSOCIATION

RESPONDENT

OPINION AND ORDER

Kylie Parker Hofmann, under Supreme Court Rule (SCR) 3.675(6), appeals her suspension from the practice of law for non-compliance with the minimum continuing legal education (“CLE”) requirements for the 2019-2020 and 2020-2021 combined educational years. Because Hofmann has not demonstrated good cause sufficient to revoke her suspension, we deny her appeal.

I. BACKGROUND

Under SCR 3.645(1), “every person licensed to practice law in this Commonwealth, . . . shall complete and certify a minimum of 12 credit hours in continuing legal education activities . . . including a minimum of 2 credit hours devoted to ‘ethics, professional responsibility and professionalism’” during “[e]ach educational year.” Those CLE credits must be completed “by June 30 of each educational year.”¹ To provide more flexibility to attorneys

¹ SCR 3.645(1).

during the COVID-19 pandemic, this Court moved the 2019-2020 CLE deadline to June 30, 2021, at which time all attorneys were required to complete and certify 24 CLE credits, 4 of which were to have been ethics credits.² The reporting deadline for the combined 2019-2020 and 2020-2021 educational years was August 10, 2021.³

Under SCR 3.675, if, by the first day of November, a member has failed to certify completion of the required CLE credits, the Kentucky Bar Association (KBA) shall send to the member's bar address a "notice of delinquency," requiring the member to show cause within 30 days why the attorney's license should not be suspended for failure to meet the mandatory minimum CLE requirements.⁴ Unless good cause is shown, the member will be suspended from the practice of law or otherwise sanctioned as deemed appropriate by the KBA.⁵

A member suspended under SCR 3.675 may appeal to this Court "within 30 days of the date the suspension notice is recorded in the membership records. Such appeal shall include an affidavit showing good cause why the suspension should be revoked."⁶ Otherwise, a member suspended under this

² See Kentucky Supreme Court Amended Order 2020-31 ("[T]he Supreme Court hereby ORDERS . . . that the 2019-2020 CLE deadline under SCR 3.645(1) is moved to June 30, 2021, at which time every person licensed to practice law in the Commonwealth must complete and certify 24 CLE credits, 4 of which must be ethics.").

³ *Id.*

⁴ SCR 3.675(1)-(3).

⁵ SCR 3.675(4).

⁶ SCR 3.675(6).

rule must apply for restoration under SCR 3.504.⁷ Under SCR 3.504, suspended members must show, among other things, that they have paid all applicable unpaid Bar Association dues, have no pending disciplinary matters, and have completed the minimum annual CLE requirement for each year during which they were suspended.⁸

Hofmann was suspended for failing to comply with the minimum CLE requirements for the combined 2019-2020 and 2020-2021 educational years. She filed a “motion to appeal” in this Court on February 21, 2022, requesting that the Court revoke her suspension. As grounds for her request, Hofmann asserted that she had not practiced law since 2019 due to a series of personal health issues and a family crisis. She stated that, due to these issues, she failed to update her bar roster address. She also suggested that she failed to meet the minimum CLE requirement because she misunderstood the rules concerning non-practice and CLE-requirement exemptions. Hofmann stated that she has attempted to cure her deficiency by providing to the KBA an updated address and an unofficial CLE record purporting to show that she completed 18 CLE credits, including 6 ethics credits, in December of 2021. Along with her motion, Hofmann submitted a copy of the 2021 Kentucky Law Update with handwritten notations indicating she completed the 18 CLE

⁷ SCR 3.675(5). Although SCR 3.675 states that the suspended member shall apply for restoration under SCR 3.500, the Court recently replaced that rule with SCR 3.504. *See* Kentucky Supreme Court Order 2022-11 at 22, 30–32 (replacing SCR 3.500 with SCR 3.504, effective April 1, 2022).

⁸ SCR 3.504(2)(a)-(c).

credits, including 6 ethics credits, and a copy of a request for certification of CLE compliance.

The KBA responded to Hofmann's motion on March 4, 2022. It stated that Hofmann was suspended from the practice of law in the Commonwealth for failing to comply with the combined 2019-2020 and 2020-2021 CLE educational-year requirements. The KBA explained that it sent Hofmann numerous notices concerning her CLE-requirement deficiency, including a notice requiring Hofmann to show cause why her license should not be suspended for failure to meet the mandatory CLE requirements, but Hofmann did not respond.

However, because the KBA's response lacked key information relevant to considering Hofmann's motion, this Court directed the KBA to show cause why Hofmann's appeal should not be granted. In the same order, we also directed the KBA to inform the Court of the date on which Hofmann's suspension was recorded in the membership records and whether Hofmann is now compliant with the minimum CLE requirements for the 2019-2020 and 2020-2021 combined educational years.

The KBA filed its response to the show cause order on May 17, 2022, arguing that Hofmann failed to demonstrate good cause sufficient to revoke her suspension. Specifically, the KBA asserted that there was no procedural error in imposing the suspension, and it posited that Hofmann was aware that she could have requested a time extension to comply with the CLE requirement because she was granted such an extension for the 2018-2019 reporting

period. The KBA also asserts that it made nine written attempts and one phone call to inform Hofmann of her CLE deficiency, but Hofmann did not respond until after she was suspended.

The KBA also stated that, after being suspended, Hofmann reported 18 CLE credit hours, including 6 ethics credit hours, for the 2021-2022 educational year. Had those credits been applied to the combined 2019-2020 and 2020-2021 period, Hofmann still would have failed to comply with the 24-credit-hour requirement. The KBA noted, however, that Hofmann requested and received a non-practice exemption for the non-compliant period after being suspended. So, because no CLE credits would have been required during the 2019-2020 and 2020-2021 periods, the KBA states that Hofmann's reported hours will be applied to the 2021-2022 educational period, making her compliant with the CLE requirement for that period. As such, the KBA states that it would not oppose Hofmann's restoration under SCR 3.500—now, SCR 3.504—on the basis of CLE noncompliance, should Hofmann apply.

Finally, the KBA asserted that Hofmann filed a timely appeal of her suspension.⁹

⁹ We note that the KBA again failed to inform the Court of the date on which Hofmann's suspension notice was recorded in the membership records, even as required by the Court's show cause order. Instead, the KBA simply stated that Hofmann "filed a timely appeal with the Court[.]" As such, we accept the KBA's statement at face value and treat Hofmann's appeal as timely.

II. ANALYSIS

Hofmann has not demonstrated good cause sufficient to revoke her suspension for failing to meet the CLE requirements for the combined 2019-2020 and 2020-2021 educational years.

It is undisputed that Hofmann failed to satisfy the CLE requirements for the educational years in question, and we agree with the KBA that she has not provided a sufficient excuse for that deficiency. Hofmann simply offers that she failed to satisfy the CLE requirements because she misunderstood the non-practice exemption rules and inadvertently failed to update her official membership address because of personal health issues and a family crisis. She also argues that she should be excused from suspension because she remedied her deficiency by updating her address and belatedly submitting 18 CLE credit hours, which she completed in December of 2021. But, as the KBA notes, even if the KBA had accepted and applied Hofmann's 18 credit hours to the combined 2019-2020 and 2020-2021 period, Hofmann still would have failed to satisfy the 24-credit-hour requirement for the combined period. Furthermore, the KBA provided more than sufficient notice to Hofmann before her suspension, and Hofmann's failure to update her official membership address is not a viable excuse for ignoring the notices.¹⁰ In short, Hofmann's

¹⁰ See SCR 3.035(1)(a) ("Each attorney licensed by the Supreme Court to practice law in this Commonwealth shall: . . . [m]aintain with the Director one official address at which he or she may be communicated with by mail and shall upon change of that address notify the Director within ten (10) days of the new official address.").

efforts are not sufficient to relieve her from having to comply with the restoration requirements of SCR 3.504.

Turner v. Commonwealth,¹¹ the only other reported case in which this Court considered an appeal under SCR 3.675(6), supports this result. In that case, Turner was suspended for failing to meet the CLE requirements for both the 2014-2015 and 2015-2016 educational years.¹² Turner appealed her suspension to this Court, arguing that it should be revoked because she inadvertently failed to realize that she was deficient for each reporting period until December of 2016 and because she later submitted enough credit hours to make her compliant for both periods.¹³ This Court found Turner's excuse without merit, noting that the KBA provided more than sufficient notice to Turner of her deficiency, which she ignored.¹⁴ As such, the Court left Turner's suspension in place until such time as she complied with the requirements for restoration to membership.¹⁵ Similarly, Hofmann's basis for setting aside her suspension lacks merit and is insufficient to relieve her of the restoration requirements of SCR 3.504.

Accordingly, it is hereby ORDERED that:

Kylie Parker Hofmann's appeal requesting that her suspension be set aside under SCR 3.675(6) is denied, and she shall remain suspended until

¹¹ 518 S.W.3d 151 (Ky. 2017).

¹² *Id.* at 152.

¹³ *Id.*

¹⁴ *Id.* at 153.

¹⁵ *Id.*

such time as she complies with the appropriate restoration provisions of SCR 3.504.

All sitting. All concur.

ENTERED: June 16, 2022


CHIEF JUSTICE MINTON