

rel: March 27, 2020

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SUPREME COURT OF ALABAMA

OCTOBER TERM, 2019-2020

1180203

Gatewood A. Walden

v.

Alabama State Bar Association et al.

Appeal from Montgomery Circuit Court
(CV-18-900378)

MITCHELL, Justice.

Disbarred attorney Gatewood A. Walden appeals the order of the Montgomery Circuit Court dismissing the claims he asserted against the Alabama State Bar Association ("the State Bar"), State Bar officials, and members of Panel III of the

1180203

State Bar Disciplinary Board ("the Disciplinary Board"). We affirm.

Facts and Procedural History

Walden was admitted to the State Bar in 1966. In approximately 1995, Walden began representing his mother in litigation to determine the rightful owner of the Danya Park Apartments in Autauga County. It is sufficient to note for purposes of this appeal that this litigation ultimately resulted in a final judgment against Walden's mother. Nevertheless, Walden continued to pursue litigation in both state and federal court in an attempt to overturn that judgment. See, e.g., Walden v. ES Capital, LLC, 89 So. 3d 90, 92 (Ala. 2011) (describing the history of the underlying litigation). Eventually, Charles Edmondson, an attorney representing the parties on the other side of the apartment-complex dispute, filed a complaint with the State Bar alleging that Walden had violated the Alabama Rules of Professional Conduct by using the litigation process to harass opposing parties and counsel.

In April 2011, the State Bar's Disciplinary Commission placed Walden on interim suspension while it investigated the

1180203

allegations against him. One month later, the State Bar filed formal charges against Walden alleging that he had violated Rules 3.1(a), 8.4(a), 8.4(d), and 8.4(g), Ala. R. Prof. Cond. On July 27, 2011, Walden petitioned the Montgomery Circuit Court to dissolve his interim suspension. The State Bar thereafter moved the trial court to dismiss Walden's petition, which the trial court did, explaining:

"The inherent authority of the Supreme Court of Alabama to admit attorneys to the practice of law and to approve or disapprove any rule governing the conduct of attorneys, to inquire into the merits of any disciplinary proceeding and to take any action it sees fit in such matters is well established. Ex parte Thompson, 228 Ala. 113, 152 So. 2d 229 (1933); Simpson v. Alabama State Bar, 294 Ala. 52, 311 So. 2d 307 (1975); Bd. of Comm'rs of the Alabama State Bar v. Baxley, 295 Ala. 100, 324 So. 2d 256 (1975).

"The Alabama Rules of Disciplinary Procedure, adopted by the Supreme Court of Alabama on January 1, 1991, and as amended by further orders of the Court through May 15, 2011, in Rule 1 states:

"(a) Jurisdiction

"'Lawyers admitted to practice law in this state ... are subject to the exclusive disciplinary jurisdiction of the [Disciplinary Commission and the] Disciplinary Board of the Alabama State Bar, with review by the Supreme Court of Alabama. ...'

"(Emphasis added.)

"The inherent authority exercised by the Supreme Court of Alabama is not unique in that almost all state supreme courts today refuse to permit lower trial or intermediate appellate courts to exercise the inherent power to admit or discipline lawyers. Esch v. Superior Court, 577 P.2d 1039 (Alaska 1978); Burns v. Huffstetler, 433 So. 2d 964 (Fla. 1983); In re Hague, 315 N.W.2d 524 (Mich. 1982); In re LiVolsi, 428 A.2d 1268 (N.J. 1981); Brown v. Oregon State Bar, 648 P.2d 1289 (Ore. 1982); Laffey v. Court of Common Pleas, 468 A.2d 1048 (Pa. 1983); State ex rel. Askin v. Dostert, 295 S.E.2d 271 (W. Va. 1982)."

On March 15, 2012, the Disciplinary Board conducted a hearing to consider the charges against Walden. Walden appeared at the hearing, presented evidence, and cross-examined witnesses. On June 14, 2012, the Disciplinary Board issued an order finding Walden guilty of: (1) violating Rule 3.1(a) by filing a suit, asserting a position, conducting a defense, or taking other action on behalf of a client when he knew or should have known that such action would serve merely to harass or maliciously injure others; (2) violating Rule 8.4(a) by violating or attempting to violate the Alabama Rules of Professional Conduct or by assisting or inducing others to do the same; and (3) violating Rule 8.4(d) by engaging in conduct prejudicial to the administration of justice. As punishment, the Disciplinary Board ordered that Walden be

1180203

disbarred. Walden subsequently appealed his disbarment to this Court, but, on December 14, 2012, this Court affirmed the judgment entered by the Disciplinary Board, without an opinion. Walden's subsequent application for a rehearing was overruled.

Walden thereafter continued to initiate proceedings in both the state and federal courts complaining about the alleged unfairness of his disbarment. None of those proceedings has been resolved in Walden's favor. Undeterred, Walden initiated this, his most recent challenge, on March 1, 2018, by filing a complaint in the Montgomery Circuit Court asserting various contract, tort, and statutory claims against the State Bar; State Bar officials Keith Norman, Douglas McElvy, and Mark Moody; disciplinary-hearing officer James Ward; and members of the Disciplinary Board Greg Burge, Robert L. Davis, Richard Raleigh, Jr., and Robert Moorer (hereinafter referred to collectively as "the State Bar defendants"). Walden's complaint specifically sought declaratory, injunctive, and monetary relief, including: (1) an order declaring that the State Bar's revocation of his law license was void; (2) an order directing the State Bar to return his

1180203

law license and to reinstate him as a member of the Bar in good standing; and (3) \$750,000 in compensatory damages and \$5,000,000 in punitive damages.

On July 24, 2018, the State Bar defendants moved the trial court to dismiss Walden's complaint, arguing, among other things, that the trial court lacked jurisdiction over Walden's claims and that the State Bar defendants were protected by (1) State immunity, (2) qualified or State-agent immunity,¹ and (3) absolute judicial or quasi-judicial immunity. Walden filed a response opposing the motion to dismiss, but, on September 17, 2018, the trial court entered an order of dismissal explaining that it did not "have the jurisdiction to review nor the ability to grant the relief [Walden] is requesting." After the trial court denied Walden's postjudgment motion asking it to alter, amend, or vacate its order of dismissal, Walden filed a timely notice of appeal to this Court.

¹Qualified immunity is the term used to describe State-agent immunity prior to this Court's decision in Ex parte Cranman, 792 So. 2d 392 (Ala. 2000). Ex parte Gilland, 274 So. 3d 976, 986 (Ala. 2018).

Standard of Review

"The appropriate standard of review of a trial court's [ruling on] a motion to dismiss is whether 'when the allegations of the complaint are viewed most strongly in the pleader's favor, it appears that the pleader could prove any set of circumstances that would entitle [the pleader] to relief.' Nance v. Matthews, 622 So. 2d 297, 299 (Ala. 1993); Raley v. Citibanc of Alabama/Andalusia, 474 So. 2d 640, 641 (Ala. 1985). This Court does not consider whether the plaintiff will ultimately prevail, but only whether the plaintiff may possibly prevail. Nance, 622 So. 2d at 299. A 'dismissal is proper only when it appears beyond doubt that the plaintiff can prove no set of facts in support of the claim that would entitle the plaintiff to relief.' Nance, 622 So. 2d at 299; Garrett v. Hadden, 495 So. 2d 616, 617 (Ala. 1986); Hill v. Kraft, Inc., 496 So. 2d 768, 769 (Ala. 1986)."

Lyons v. River Road Constr., Inc., 858 So. 2d 257, 260 (Ala. 2003).

Analysis

The trial court correctly concluded that it did not have the power to grant Walden the relief he seeks. As detailed above, while Walden's disciplinary proceeding was pending in 2011, he initiated an action in the Montgomery Circuit Court asking the court to insert itself into the disciplinary proceeding and to dissolve his interim suspension. The trial court declined to do so and dismissed his action, explaining to Walden in a reasoned order that matters involving the

1180203

discipline of members of the State Bar were within the exclusive jurisdiction of the State Bar "with review by the Supreme Court of Alabama." Rule 1(a)(1), Ala. R. Disc. P. This governing principle has not changed since then; to the contrary, it has only been reinforced. See, e.g., Nichols v. Alabama State Bar, 815 F.3d 726, 732 (11th Cir. 2016) (recognizing that "Alabama law delegates to the State Bar, with supervision by the Supreme Court of Alabama, the power to investigate and discipline attorney misconduct").

Simply put, circuit courts in this State have no authority to reverse a judgment made by the State Bar in a disciplinary proceeding, to admit an attorney to the State Bar, or to direct the State Bar to reinstate an attorney who has previously been disbarred. A party like Walden who is aggrieved by an adverse decision of the State Bar has the right under Rule 12(f), Ala. R. Disc. P., to seek appellate review of that decision -- from this Court -- not from a circuit court. Walden, in fact, availed himself of Rule 12(f) when he appealed his order of disbarment to this Court, which affirmed the State Bar's decision. The trial court has no jurisdiction to review that order of disbarment again, and it

1180203

therefore properly dismissed Walden's complaint to the extent that complaint sought declaratory and injunctive relief regarding the status of his membership in the State Bar.

Walden has also asserted various contract, tort, and statutory claims against the State Bar defendants for which he seeks compensatory damages of \$750,000 and punitive damages of \$5,000,000. But just as the trial court lacks the jurisdiction to grant Walden the declaratory and injunctive relief he seeks, the trial court similarly lacks the power to grant Walden monetary relief. For the reasons explained below, the trial court properly dismissed Walden's claims seeking monetary relief.

In the State Bar defendants' motion to dismiss, they argued that all of Walden's claims were barred by State immunity, State-agent immunity, or absolute judicial or quasi-judicial immunity. In the brief Walden filed with this Court, however, he has addressed only the State Bar defendants' claim of State-agent immunity. Walden's brief, pp. 32-35. He has wholly failed to address the State Bar defendants' arguments -- which were clearly articulated before the trial court -- that State immunity shields the State Bar from being ordered

1180203

to pay monetary damages² and that quasi-judicial immunity, as codified in Rule 15(b), Ala. R. Disc. P., similarly protects the individual State Bar defendants.³

That omission is fatal to Walden's appeal. In Soutullo v. Mobile County, 58 So. 3d 733, 739 (Ala. 2010), this Court

²See, e.g., Ex parte City of Montgomery, 272 So. 3d 155, 169 (Ala. 2018) (holding that claims against the State for monetary damages are barred by the doctrine of State immunity); Nichols, 815 F.3d at 732 ("[T]he Alabama State Bar is an arm of the state of Alabama.").

³Rule 15(b), Ala. R. Disc. P., provides:

"The following shall be immune from suit for any conduct in the course of their official duties:

"(1) Members of the Executive Committee of the Alabama State Bar;

". . . .

"(3) Members of the Disciplinary Board, including lay members;

"(4) The General Counsel and the staff of the Office of General Counsel;

". . . .

"(7) A Disciplinary Hearing Officer.

". . . ."

Walden's claims against the individual State Bar defendants are all based on actions they allegedly took while serving in these capacities.

1180203

explained that "the failure of the appellant to discuss in the opening brief an issue on which the trial court might have relied as a basis for its judgment[] results in an affirmance of that judgment." See also Devine v. Bank of New York Mellon Corp., [Ms. 1171002, Nov. 22, 2019] ___ So. 3d ___, ___ (Ala. 2019) ("When a trial court has stated that a judgment is warranted on multiple grounds, it is incumbent upon a party that subsequently appeals that judgment to address all of those grounds in the opening appellate brief because any issue not argued at that time is waived."); Fogarty v. Southworth, 953 So. 2d 1225, 1232 (Ala. 2006) ("When an appellant confronts an issue below that the appellee contends warrants a judgment in its favor and the trial court's order does not specify a basis for its ruling, the omission of any argument on appeal as to that issue in the appellant's principal brief constitutes a waiver with respect to the issue."). Because Walden has failed to address the State Bar defendants' arguments that the trial court had no ability to award him monetary damages because of the doctrines of State immunity and quasi-judicial immunity as codified by Rule 15(b), the

1180203

trial court's dismissal of the claims upon which his requests for monetary damages were based must be affirmed.

Conclusion

The trial court dismissed the complaint Walden filed against the State Bar defendants after concluding that it did not "have the jurisdiction to review nor the ability to grant the relief [Walden] is requesting." Having reviewed the applicable law, Walden's complaint, and the other materials in the record, it is evident that Walden can prove no set of facts in support of his claims that would entitle him to the relief he seeks. Accordingly, the trial court's order of dismissal was proper and is hereby affirmed.

AFFIRMED.

Parker, C.J., and Bolin, Shaw, Wise, Bryan, Sellers, and Stewart, JJ., concur.

Mendheim, J., concurs in the result.