

SUPREME COURT OF WISCONSIN

No. 06-05

In the matter of the Petition For Adoption
of a Procedure to Suspend or Deny the
License to Practice Law of a Person Certified
as Delinquent in Payment of Wisconsin State
Taxes

FILED

NOV 21, 2006

Cornelia G. Clark
Clerk of Supreme Court
Madison, WI

On July 18, 2006, the Wisconsin Department of Revenue filed a petition proposing the amendment or creation of Supreme Court Rules by which the Court would suspend an attorney's license to practice law or refuse to grant bar admission to an applicant if the attorney or applicant is certified to be liable for delinquent taxes, as provided by statute.¹

A public hearing was conducted on October 24, 2006, at which the State Bar of Wisconsin and certain individuals

¹ Wisconsin Stat. ch. 73 establishes procedures and requirements for major state agencies to deny, suspend or revoke certain state licenses if the Department of Revenue certifies that an applicant or license holder is liable for delinquent taxes. On July 25, 2005, the legislature enacted 2005 Wis. Act 25, which, inter alia, amended Wis. Stat. §§ 73.0301 (5) (b) (intro.), 73.0301 (2) (b) 1. a., 73.0301 (2) (b) 1. b., 73.0301 (2) (b) 2, 73.0301 (2) (c) 2, 73.0301 (5) (a), and created Wis. Stat. § 73.0301 (5) (am) and § 73.0301 (2) (b) 2m, such that the legislative directive now encompasses licenses to practice law in Wisconsin. See generally, 2005 Wis. Act 25 at 274-75; see also s. 73.0301 (1) (d) 11.

appeared in opposition to the petition. At the ensuing open administrative conference the Court discussed various aspects of the matter. The Court noted that an attorney's failure to file income taxes may constitute professional misconduct under the current Rules of Professional Conduct for Attorneys, see SCR 20:8.4 (f) cmt. ("Many kinds of illegal conduct reflect adversely on fitness to practice law, such as offenses involving fraud and the offense of willful failure to file an income tax return."), but that it is arguably less clear that an attorney's willful failure to pay taxes is deemed professional misconduct under the same rule. Noting that the Rules of Professional Conduct for Attorneys are currently under review, the Court discussed whether the objective of this petition might be accomplished within the Court's current disciplinary structure through an amendment or comment to (proposed) SCR 20:8.4 (Misconduct).

The Court then directed its staff to work with members of the Office of Lawyer Regulation, the Board of Bar Examiners, the Department of Revenue, and the State Bar of Wisconsin to formulate such an amendment or comment for the Court's consideration. Therefore,

IT IS ORDERED that the petition for adoption of a procedure to suspend or deny the license to practice law of a person certified as delinquent in payment of Wisconsin state taxes is held in abeyance until further order of this Court.

IT IS FURTHER ORDERED that the Department of Revenue, in consultation with the Office of Lawyer Regulation, Board of Bar

Examiners, State Bar Leadership and Supreme Court staff, shall submit proposed amendments or comments to SCR 20:8.4 and other rules, as needed, for this Court's consideration and review in advance of the Court's December 11, 2006 open administrative conference, at which the Court anticipates finalizing the amendments to SCR ch. 20, the Rules of Professional Conduct for Attorneys.

Dated at Madison, Wisconsin, this 21st day of November, 2006.

BY THE COURT:

Cornelia G. Clark
Clerk of Supreme Court