

In re Goddard, 8 ROP Intrm. 267 (2001)
IN THE MATTER OF LARRY GODDARD,
Respondent.

DISCIPLINARY PROCEEDING NO. 00-05

Supreme Court, Disciplinary Tribunal
Republic of Palau

Argued: January 10, 2001
Decided: January 17, 2001

Disciplinary Counsel: Michael Rosenthal

Counsel for Respondent: Jeffrey L. Beattie

BEFORE: ARTHUR NGIRAKLSONG, Chief Justice; LARRY W. MILLER, Associate Justice;
R. BARRIE MICHELSEN, Associate Justice.

MICHELSEN, Justice:

May an attorney accept a position as legal counsel with the Republic of Palau, and thereafter practice law as part of his assigned responsibilities, without being admitted to practice law in the Republic? We answer no.

Respondent Larry Goddard, a member in good standing of the Oregon bar, accepted a position as legal counsel to the Vice President of the Republic of Palau on March 12, 1996. Although Mr. Goddard explains that his position is titled, "legal counsel," his assigned tasks are broader than that, and in fact only a small percentage of his time is spent performing services usually considered the practice of law. However, he agrees that part of his services have included the practice of law. None of his assignments involved court appearances. Nonetheless, we conclude Mr. Goddard is required to be admitted to the bar of this Court.

An attorney who is a salaried government employee in Palau, such as Mr. Goddard, is permitted to practice law in Palau for four years without having to comply with Rule 2(d) of the Rules of Admission. *See* Rules of Admission 3(a). Rule 2(d), however, pertains only to the requirement of taking the Palau bar examination. An attorney is still required to seek admission to the Palau bar to practice law and, in doing so, to comply with parts (a), (b), and (c) of Rule 2. *See In re Kruger*, Discip. Proc. No. 00-04 (Jan. 8, 2001). Mr. Goddard failed, however, to seek admission to the Palau bar until March 2000. Hence, he was therefore in violation of Rule 1 of the Rules of Admission.

In March 2000, the Clerk of Courts notified Mr. Goddard that he was required to be admitted to the Palau bar. Mr. Goddard submitted his application for admission that same month, and took the Palau bar examination in July 2000. He now needs only to pass one of the essay portions of the exam to be eligible to be admitted to the Palau bar.

In re Goddard, 8 ROP Intrm. 267 (2001)

This Court appointed disciplinary counsel in April 2000 to investigate whether Mr. Goddard had violated the Rules of Admission by not applying for admission to the bar in 1996. In the course of that investigation, Mr. Goddard admitted, as noted above, that his services have included acts that constitute the practice of law. By way of explanation rather than excuse, Mr. Goddard states that he believed he was not required to seek admission because his work never required him to appear in court. He notes that Rule 1 of the Rules of Admission for Attorneys and Trial Counselors provides “only those persons admitted to the practice of law before the courts of the Republic of Palau may practice law before the courts of Palau.” Mr. Goddard interpreted the phrase, “before the courts” to mean that only those attorneys who physically appear in court, or prepare L268 pleadings, are required to seek admission to practice law. We disagree.

When the phrase, “before the courts,” or “in the courts,” is used in rules or statutes discussing admission to practice, it means more than physical presence in a court of law. Rather, it is a reference to the full spectrum of law practice, and the performance of those activities that are associated with the practice of law. ¹ Such phrasing is found in the statutes of many states.

¹ A Colorado statute clearly illustrates this proposition:

No person shall be permitted to practice as an attorney- or counselor-at-law or to commence, conduct, or defend any action, suit, or plaint in which he is not a party concerned in any court of record within this state, either by using or subscribing his own name or the name of any other person, without having previously obtained a license for that purpose from the supreme court. *Said license shall constitute the person receiving the same an attorney-and counselor-at-law and shall authorize him to appear in all the courts of record in this state and there to practice as an attorney-and counselor-at-law* according to the laws and customs thereof for and during his good behavior in said practice, and to demand and to receive all such fees as are established for any services which he renders as an attorney-and counselor-at-law in this state. Nothing in this section shall be construed to require membership in a professional organization or bar association as a prerequisite to licensure.

Colo. Rev. Stat. § 12-5-101 (emphasis added); *see also* Cal. Gov’t Code § 27724 (“Any county hearing officer, or any deputy or assistant hearing officer, appointed pursuant to this chapter, shall be an attorney at law having been admitted to practice before the courts of this state for at least five years prior to his or her appointment.”); Me. Rev. Stat. Ann. tit. 4, § 1056 (“Attorneys at law duly admitted and eligible to practice in the courts of the State shall have all of the powers of notaries public and be authorized to do all acts which may be done by notaries public with the same effect thereof and have the same territorial jurisdiction.”); Neb. Rev. Stat. § 7-103 (“Any regularly admitted practicing attorney in the courts of record of another state or territory, having professional business in the courts of record of this state may, on motion, be admitted to practice for the purpose of said business only in any of said courts upon taking the oath”); N.C. Gen. Stat. § 84-4.1 (“Any attorney domiciled in another state, and regularly admitted to practice in the courts of record of that state and in good standing therein . . . may, on motion, be admitted to

In re Goddard, 8 ROP Intrm. 267 (2001)

Thus, the language “admitted to the practice of law before the 1269 courts . . .” is not just a licensure of trial lawyers, but operates as definition of who may engage in the practice of law within a given jurisdiction.²

Therefore, neither the Rules of Admission nor the Disciplinary Rules can reasonably be construed to be limited to apply just to those attorneys physically appearing in Court. Consistent with this interpretation, this Court was already on record when Mr. Goddard accepted his position as legal counsel that the practice of law includes the preparation of legal documents and providing advice to a client, even if no court appearance is to be made by the attorney. *See In re Tarkong*, 4 ROP Intrm. 121 (1994). We therefore conclude, based on the usual interpretation of the language used in our Rule, as well as existing case law in Palau at the time Mr. Goddard took his current assignment, that the expression, “before the courts,” could not have led Mr. Goddard to reasonably believe he could practice law in Palau as long as he made no court appearances.

Mr. Goddard explains that his failure to apply for admission was not an act of willfulness on his part. Rather, he did not know he was required to seek admission. However, a “deeply-rooted common law principle is that ignorance of the law is no defense to its violation.” *United States v. Wilson*, 133 F.3d 251, 261 (4th Cir. 1997). This maxim applies with particular force when the words used in the law at issue have a settled meaning.

When determining an appropriate sanction, this Court considers the “aggravating and mitigating circumstances set forth in the ABA Standards for Imposing Lawyer Discipline (1986).” *In re Tarkong*, 4 ROP Intrm. at 131. We note that Mr. Goddard has fully cooperated with the Court and Disciplinary Counsel. After receiving notice that he was required to be admitted to the Palau bar to practice law in Palau, he applied for admission and has taken affirmative steps to complete that application process. He has averred that he has not engaged in

practice . . . for the sole purpose of appearing for a client in the litigation.”); Wyo. Stat. Ann. § 33-5-110:

Any person who may have been admitted to practice as an attorney in the highest court of any other state or territory, and who shall have been engaged in practice therein may, in the discretion of the supreme court, be admitted to practice in the courts of this state without an examination, upon presentation of his certificate of such admission, and upon showing to the satisfaction of the court that he is still in good standing as an attorney in the courts of such other state or territory, and that he is a person of good moral character. The court may adopt rules for the proof of such qualifications.

² *See, e.g.*, Ark. Code Ann. § 16-22-202 (“Every applicant for admission to practice law in the courts of this state shall be examined pursuant to the rules of the Supreme Court of this state . . .”); Me. Rev. Stat. Ann. tit. 4, § 805-A (1) (“Any person who produces a certificate of qualification from the board recommending his admission to the bar may be admitted to practice as an attorney in the courts of this State on motion in open court.”); P.R. Laws Ann. tit. 4, § 721 (“From the date of the approval of this act, there shall be admitted to practice as lawyers in the Courts of Justice of the Commonwealth of Puerto Rico, in addition to those already admitted, only those who fulfill the requirements enumerated below . . .”).

In re Goddard, 8 ROP Intrm. 267 (2001)

the practice of law in Palau since February 2000, and will not do so until he becomes a member of the bar. We also note the absence of a prior disciplinary record. He has made a good faith effort to rectify this problem, and began these efforts before the disciplinary process began. Furthermore, this matter does not involve misrepresentations to the court,³ potential conflicts of interests adverse to a client,⁴ or commingling of funds or similar breaches of fiduciary duty.⁵

Considering all of the circumstances, we have determined not to impose any sanction at this time. Rather, pursuant to Rule 3 of the Disciplinary Rules, the Tribunal hereby suspends the imposition of sanctions for a period of two years, and places Mr. Goddard on probation during that period. The conditions of probation will be as follows:

- ¶270 1. Mr. Goddard shall not engage in the practice of law until such time as he is admitted to practice law in the Republic of Palau.
2. Mr. Goddard shall not engage in any activities that result in the imposition of sanctions under these rules.
3. Mr. Goddard shall pay to the Palau Bar Association the amount he should have paid as bar dues during the period of March 1996 to March 2000: a total of \$1000. This payment shall be paid within thirty days of the date of this opinion.

³ *In re Webster*, 3 ROP Intrm. 229 (1992).

⁴ *In re Rechucher*, 7 ROP Intrm. 28 (1998).

⁵ *In re Tarkong*, 3 ROP Intrm. 12A (1991).