

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 22-8521**September Term, 2022****20-BG-583****Filed On:** June 6, 2023

In re: Larry Elliott Klayman,

Respondent

BEFORE: Henderson, Wilkins, and Walker, Circuit Judges

ORDER OF SUSPENSION

Upon consideration of this Court's order filed October 24, 2022, directing Respondent to show cause as to why he should not be suspended based on his suspension by the District of Columbia Court of Appeals, the response thereto, and for the reasons stated in the attached Memorandum, it is

ORDERED that the request to hold the proceedings in abeyance pending disposition of Respondent's challenges proceeding before the District of Columbia Superior Court be denied. It is

FURTHER ORDERED that Larry Klayman be suspended from the practice of law before the United States Court of Appeals for the District of Columbia Circuit for a period of eighteen-months from the date of this order, with reinstatement conditioned on demonstrating fitness to practice law. *See* D.C. Cir. Rules, App. II, Rule IV(c). It is

FURTHER ORDERED that Larry Klayman be prohibited from holding himself out to be an attorney at law licensed to practice before the United States Court of Appeals for the District of Columbia Circuit for an eighteen-month period beginning from the date of this order.

MEMORANDUM

As we have explained, “[a] member of this court’s bar who ‘has been suspended or disbarred from practice in any other court’ is subject to reciprocal discipline in this court.” *In re Klayman*, 991 F.3d 1289, 1293 (D.C. Cir. 2021) (citation omitted) (quoting Fed. R. App. P. 46(b)(1)(A)). Following the D.C. Court of Appeals’ decision to suspend Mr. Klayman, he now has the burden of showing why we should not impose reciprocal discipline by establishing at least one of the four grounds outlined under D.C. Circuit Disciplinary Enforcement Rule IV(c). Pursuant to our review, we find Mr. Klayman fails to meet this burden as he has not shown there was a lack of due process or infirmity of proof in the underlying proceeding in the D.C. Court of

Appeals, that suspension would constitute a grave injustice, or that his misconduct warrants substantially different discipline.

And because this Court's imposition of reciprocal discipline is based on the D.C. Court of Appeals' decision to suspend Mr. Klayman filed September 15, 2022, there is no reason to hold the proceedings in abeyance pending his ongoing challenges before the D.C. Superior Court. Indeed, Mr. Klayman requests that we exercise our discretion to stay this matter without first establishing that his case rises to the level of even one of the traditional stay factors. Under the traditional standard, courts consider: "(1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies." *Nken v. Holder*, 556 U.S. 418, 426 (2009) (quoting *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987)).

As applied here, all four factors counsel against staying the proceedings. In determining Mr. Klayman failed to meet his burden to show reciprocal discipline is improper, we also find he failed to show a strong likelihood of success on the merits. The decision of whether to impose reciprocal discipline relates to the D.C. Court of Appeals' decision, and Mr. Klayman has failed to explain how his ongoing proceedings before the D.C. Superior Court, a court bound by the D.C. Court of Appeals' precedent, could disturb the D.C. Court of Appeals' decision. To be sure, Mr. Klayman cites no authority for such a proposition, and the Court knows of none. *See id.* at 433–34 ("The party requesting a stay bears the burden of showing that the circumstances justify an exercise of that discretion."). Neither did Mr. Klayman establish the second or third stay factors under these facts, because the relevant injury is a temporary suspension, and he is the only party in the present action. Furthermore, because it is in the public's interest to ensure that persons practicing law are fit to do so, we find the last factor supports Mr. Klayman's suspension. *See Ex parte Wall*, 107 U.S. 265, 288 (1883) (explaining that court-imposed attorney discipline serves to protect both the courts and the public).

Pursuant to D.C. Circuit Rule 36, this disposition will not be published.

Per Curiam

FOR THE COURT:

Mark J. Langer, Clerk

BY: /s/

Daniel J. Reidy

Deputy Clerk