

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

ADMINISTRATIVE ORDER 2007-63

**IN RE: ORDER OF DISBARMENT OF
ATTORNEY ALAN IRA KARTEN**
Florida Bar #200263

FILED by <u>W</u> D.C.
NOV 13 2007
CLARENCE MADDOX CLERK U. S. DIST. CT. S. D. OF FLA. - MIAMI

ORDER DENYING MOTION FOR REHEARING

This matter is before the Court on Alan Ira Karten's Motion for Rehearing directed at Administrative Order 2007-48 ordering his disbarment from this Court's roll of attorneys based upon reciprocal disbarment.

As grounds for his Motion, Karten asserts various contentions, arguing that the state proceedings were procedurally deficient because the state court referee made credibility determinations without hearing live testimony, that this Court did not review the underlying record of his state proceedings prior to adopting a "generalized conclusion" by the Court's Attorney Discipline Committee, and that the final order of disbarment should have been entered by former Chief Judge Zloch.

Concerning Karten's argument regarding the deficiency of the state proceedings, the Committee and the Court have previously been over this ground. Consistent with precedent, Rule V provides that a final adjudication of disbarment of another court shall be "conclusive" in this Court unless the attorney demonstrates on the face of the record deficiencies in those collateral proceedings. Karten concedes in his motion that he was permitted to present his motion for new trial, present oral argument, and appeal to the Florida Supreme Court. He also acknowledges that "it is true that Mr. Karten was permitted access to the courts and was permitted to follow the rules like any other litigant." These admissions undercut his argument that the Florida proceedings were procedurally deficient.

Karten also argues that the matter was originally before then-Chief Judge Zloch and there was no basis to transfer this matter to Chief Judge Moreno. The Chief Judge of the Southern District has historically handled the function of deciding reciprocal disbarment matters. *See, e.g., In the Matter of*

Robert L. Roth, Admin. Order 2005-31 (Order of Disbarment after reference to Committee signed by Chief Judge Zloch). This District enters approximately 12 reciprocal discipline orders per year, all handled by the Chief Judge. There is some authority for this practice. See In re Matter of Tidwell, 139 F.Supp.2d 343, 344 (WDNY 2000)(Chief Judge Larimer states that he originally entered an order striking an attorney from the Court's rolls based upon reciprocal discipline "in my role as Chief Judge."), *affirmed on appeal*, In re Tidwell, 295 F.3d 331 (2d Cir. 2002). On September 24, 2007, Judge Zloch sent correspondence to Mr. Karten indicating that he no longer had jurisdiction over the matter.

The undersigned having fully reviewed the record and considered the argument raised therein, it is

ORDERED AND ADJUDGED:

That Alan Ira Karten's Motion for Rehearing is DENIED.

DONE AND ORDERED in CHAMBERS at Miami, Miami-Dade County, Florida this 12th day of November, 2007.


Federico A. Moreno
Chief United States District Judge

c: Honorable J.L. Edmondson, Chief Judge, Eleventh Circuit
All Miami Eleventh Circuit Court of Appeals Judges
All Southern District Judges and Magistrate Judges
United States Attorney
Federal Public Defender
Circuit Executive
Court Administrator, Clerk of Court
Clerk of Court, 11th Circuit
Florida Bar
Attorney Admissions Clerk
Library
Alan Ira Karten, 1888 NW 7th Street, Miami, FL 33125