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# Attorney Jeffrey Moorhead Was 'Not Provided Due Process' in District Court Disciplinary Matter, V.I. Supreme Court Finds

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## Attorney Jeffrey Moorhead.

Local attorney Jeffrey Moorhead has, at least for now, retained his right to appear before the Virgin Islands Supreme Court after the high court declined to impose reciprocal discipline that had been handed down by the District Court of the Virgin Islands.

The District Court had ordered a two-year suspension after receiving a complaint from the parent of a defendant represented by Moorhead in 2021. That complaint resulted in the appointment of a Magistrate Judge from Pennsylvania to hear the case against Moorhead.

However, unlike other court proceedings, the appointed Magistrate Judge did not hold evidentiary hearings, neither did she interview the parties in question — Moorhead, his client, or his client's mother — the woman who penned the complaint in the first place.

The magistrate did, however, review previously disciplinary penalties imposed upon Moorhead, and examined eight different occasions where the attorney in question had received court fines or been removed from his role as a court-appointed representative. She also reportedly interviewed six unnamed people in her investigation, and summarized their testimony in her report issued on December 3rd. The Magistrate judge found several issues with Moorhead's conduct of his duties, including "problems meeting court deadlines, making timely court appearances, successfully e-filing documents, communicating adequately with clients, and the like."

Moorhead's behavior, the judge wrote, could be due to "an impairment of some kind, possibly due to substance abuse." The magistrate judge went further, saying that the attorney's practice had become "increasingly disorganized and haphazard," and she questioned whether he even continued to maintain a law office.

As a result of the deficiencies she assessed in his practice, the Magistrate Judge recommended Moorhead be suspended for two years with conditions for his re-admission to the bar including a "comprehensive physical and mental health examination," as well as him finding a "professional mentor" to provide supervision in his practice of law.

Moorhead objected to the Magistrate Judge's report, saying that his due process was denied on multiple grounds — his right to be heard was denied, the lack of notice when other matters were being considered, the judge's findings based on interviews with unnamed people, and the lack of specificity on which ethical rules, if any, he had violated.

Moorhead's objections were overruled, however, by a panel of 13 appeals court judges of the Third Circuit, who approved and adopted the recommendations of the original Magistrate Judge.

The appeals panel concluded that Moorhead's right to be heard could have been exercised on paper, in the form of his response and objections to the Magistrate Judge's report. He was properly notified of the scope of the investigation and the allegations against him, the panel found, and his objection to not being able to identify and cross-examine the witnesses was rejected because of confidentiality concerns. "The Virgin Islands is a small, close-knit legal community, and Attorney Moorhead himself is related to the Chief Judge of the District Court," the panel held.

The District Court panel found that the disciplinary proceeding against Moorhead did not require adherence to the rules of evidence, nor did it exclude hearsay or guarantee a right to cross-examination.

The appeals panel similarly dispensed with Moorhead's objections when it came to being apprised of specific ethics breaches, noting that having been admitted to the Bar of the District Court since 1988, the attorney should be "thoroughly familiar" with the Model Rules of Professional Conduct.

Following the conclusion that the Magistrate Judge's recommended suspension be upheld, the Virgin Islands Office of Disciplinary Counsel filed a copy of the District Court's Order with the Virgin Islands Supreme Court, who then directed Moorhead to argue why the Supreme Court should not impose the same disciplinary action as the District Court.

Moorhead said that the District Court's procedure was so fatally flawed that he was deprived due process in the matter, and thus the Supreme Court's adoption of the same discipline would "result

in a grave injustice.”

Moorhead noted that the Chief Judge of the Third Circuit, temporarily designated as a District Court Judge, directed the Clerk of the District Court not to process an appeal Moorhead had filed to the Third Circuit Court of Appeals.

Amid more legal wrangling, the Board of Professional Responsibility asked the Supreme Court, and the Supreme Court agreed, to defer a decision on imposing identical discipline until Moorhead’s requests for review of the District Court’s decision were exhausted.

Moorhead’s petitions to get the matter reheard or reviewed were unsuccessful, all the way up to the United States Supreme Court.

With the District Court’s decision left to stand, it was then up to the Virgin Islands Supreme Court to decide whether it would impose the same discipline — a two-year suspension with significant re-admission conditions — on Moorhead.

Ultimately, the Court found that the Magistrate Judge did not properly provide Moorhead with an opportunity to be heard, and thus concluded that Moorhead did not receive the due process protections entitled to him. Therefore, the automatic imposition of reciprocal discipline was unwarranted.

This does not mean that Moorhead’s disciplinary woes are over, however — the District Court’s suspension still stands, and as the Supreme Court noted, the original complainant has also filed a complaint with the Office of Disciplinary Council. Should that body rule against Moorhead, the attorney could face a period of suspension from the Supreme Court Bar as well.

The Supreme Court’s November 28th ruling means that any such discipline, however, can only come after a separate investigation and prosecution is carried out.