

UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

Docket No. 03-2151

THEODORE KAMASINSKI

Plaintiff- Appellant

v.

HON. EDWARD J. FITZGERALD,
HON. PETER HEED,
HON. DANIEL I. ST. HILLAIRE AND
MARTHA VAN OOT, ESQUIRE

Defendant - Appellees

APPEAL FROM UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

BRIEF OF APPELLEE
MARTHA VAN OOT, ESQUIRE
PRESIDENT, NEW HAMPSHIRE BAR ASSOCIATION

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STATEMENT OF ISSUES

1. Does the Rooker-Feldman Doctrine preclude Federal Court Review of the New Hampshire Superior Court decision holding that the Appellant is engaged in the unauthorized practice of law?
2. Does the Younger Absention Doctrine preclude the Federal Court Review of the same New Hampshire Superior Court decision?

STATEMENT OF THE CASE

This case arises out of an Appeal from an Order of the United States District Court for the District of New Hampshire, dismissing hte Appellant's Complaint, wherein he claims that his constitutionally protected rights have been and/or will be violated unless the Federal Court intervenes to block the enforcement against him of an injunction entered by the State Superior Court which enjoined him from engaging in the unauthorized practice of law and requesting the Federal Court to declare that the State Court's Order is "in violation of the United States Constitution and 42 U.S.C. § 1983." Complaint at 24.

Each of the defendants moved to dismiss the Complaint on several grounds.

The U.S. District Court dismissed the Complaint based upon the Rooker-Feldman Doctrine.

This Appeal followed.

STATEMENT OF FACTS

The Appellant is not a lawyer. He did not graduate from law school. He has not taken any bar exam. Appellant's App. p. 27. He is a convicted felon. Appellant's App. p. 31. Nevertheless, he has insisted that he is entitled to practice law in the State of New Hampshire including representing clients, trying cases, and charging fees to clients. He claims that he does what a lawyer does. Appellant's App. pp. 27 & 29.

After he was disqualified from appearing on behalf of two litigants by two New Hampshire Superior Court judges in two separate cases, he filed a Petition for Declaratory Judgment in New Hampshire Superior Court against the State Attorney General and the New Hampshire Bar Association. The Appellant had sought a declaration from the Court that he was entitled to practice law, and to continue to represent clients.

The New Hampshire Bar Association and the State Attorney General contested the Appellant's petition, and filed counterclaim requests that the Court determine that the Appellant was engaged in the unauthorized practice of law and that he be enjoined from any further activities in this regard.

New Hampshire law authorizes the Attorney General and the New Hampshire Bar Association to seek injunctive relief to prevent the unauthorized practice of law. NH RSA 311:7-a.

SUMMARY OF ARGUMENT

- I. The Rooker-Feldman Doctrine precludes Federal Court review of the State Court decision holding that the Appellant is engaged in the unauthorized practice of law.
- II. The Younger Abstention Doctrine would also preclude Federal Court review of the State Court decision against the Appellant.

ARGUMENT

- I. THE ROOKER-FELDMAN DOCTRINE PRECLUDES FEDERAL COURT REVIEW OF THE STATE COURT DECISION HOLDING THAT THE APPELLANT IS ENGAGED IN THE UNAUTHORIZED PRACTICE OF LAW.

The Rooker-Feldman Doctrine holds that a United States District Court lacks jurisdiction to consider an appeal from a state court judgment. Rooker v. Fidelity Trust Co., 263 U.S. 413, 415-16 (1923); District of Columbia Court of Appeals v. Feldman, 460 U.S. 462, 482 (1983). The United States Supreme Court is the appropriate venue for the review of state court decisions involving or implicating federal questions. Wilson v. Shumway, 2000 D.N.H. 109 (Barbadoro, C.J.) (citing 28 U.S.C. § 1257; Feldman, 460 U.S. at 476; Rooker, 263 U.S. at 416). "The doctrine applies to both litigated claims and unlitigated claims that are 'inextricably intertwined' with litigated claims." Lancellotti v. Fay, 909 F.2d 15, 17 (1st Cir. 1999). "'Rooker-Feldman precludes a federal action if the relief requested in the federal action would effectively reverse the state decision or void its ruling.'" Hill v. Town of Conway, C-98-458-B (December 3, 1998) (citations omitted) (Barbadoro,

C.J.), affirmed, 193 F.3d 33 (1st Cir. 1999). Stated another way, a plaintiff cannot assert federal claims that would "succeed only to the extent that the state court wrongly decided the issues." Wilson v. Shumway, 2000 D.N.H. 109 (citing Penzoil Co. v. Texaco, Inc., 481 U.S. 1, 25 (1987)).

The Appellant instituted the State Court action seeking an order that he was not engaged in the unauthorized practice of law. In that action, he refused to comply with State Superior Court Orders concerning discovery. The Superior Court gave the Appellant every opportunity to comply with its Order concerning discovery. The Appellant defied the Court. The Court also gave the Appellant every opportunity to be heard on the decree that was to be issued by the Court. However, the Appellant chose not to comment or object to the proposed Order.

The Appellant then filed a motion for reconsideration of the Court's January 30, 2003 Order. The Court denied the motion for reconsideration with a lengthy Order.

The Appellant has not pursued his State remedy of an appeal to the N.H. Supreme Court, and consequently has not filed an appeal to the United States Supreme Court. Instead, he has filed the instant lawsuit seeking relief from the adverse State Court ruling in the Federal Court.

The Rooker-Feldman Doctrine precludes the Appellant's lawsuit.

NH RSA 311:7 provides: "no person shall be permitted commonly to practice as an attorney in court unless he had been

admitted by the court and taken the oath prescribed in NH RSA 311:6."

NH RSA 311:1 provides: "A party in any cause or proceeding may appear, plead, prosecute or defend in his proper person or by any citizen of good character. For the purposes of this action, a citizen shall be presumed to be of good character unless demonstrated otherwise."

In order for a non lawyer to appear in Court on behalf of a citizen, the non lawyer must demonstrate that he is a "citizen of good character." RSA 311:1

On the subject of the Appellant's "good character", the NH Superior Court issued a Discovery Order dated April 9, 2002. In that Order the Appellant was required to disclose the following:

- a. All information regarding any offenses of which he has been charged by complaint or indictment (offenses include felonies, misdemeanors and violations other than offenses for which the record of conviction has been annulled pursuant to statute); all judicial and quasi-judicial proceedings in which Mr. Kamasinski has filed an appearance for, or otherwise represented, another person, entity or organization; and all persons, entities and organizations to whom Mr. Kamasinski has given legal counsel.
- b. That Mr. Kamasinski be compelled to disclose the name and docket number of all cases in which he has appeared, which are currently pending in any Court in the State of New Hampshire;
- c. That Mr. Kamasinski be required to disclose all names and aliases that he has used in the past.

Add. pp. 23-25.

This Order was basically the same Order concerning the Appellant that was issued by the New Hampshire Supreme Court in

the matter of Petition of Caroline G. Douglas, NH Supreme Court
Docket Nos: 97-344 and 97-583.

Disclosure of this information is also required by NH
Supreme Court Rule 33.

Mr. Kamasinski refused to comply with the Discovery Order
even though the Superior Court afforded him every opportunity to
do so. He has also refused to answer interrogatories which had
been propounded by each of the respondents.

He did not supply this information in the Douglas case
either.

In order for a determination to be made as to the
Appellant's good character, the Court and the parties were
entitled to know the Appellant's real name, as well as all names
that he has ever used. The Appellant refused to supply this
information as well as his criminal record. He also refused to
provide a complete list of past and present clients.

The Appellant's true identity and his criminal record were
relevant facts for the Court to consider in the State Court
action.

In view of his failure to comply with the Court's Discovery
Order, the Appellant left the Court with little choice but to
enter a decree pro confesso against him.

However, even after his wilful disobedience of the Court's
Orders, the Court gave the Appellant the opportunity to object to
and to be heard on the proposed decrees submitted by the State

and by the Bar Association. Court's Order on Petitioner's Motion to Reconsider, p.2. Add. pp. 19-22.

The Appellant asked for two extensions of time to object to the proposed Court Order, but then did nothing. He did not object to the proposed decree submitted by the Bar Association.

The Superior Court ruled that the Appellant was engaged in the unauthorized practice of law in that he commonly practiced law without a license. The Superior Court also ruled that the Appellant was not a person of good character, and that he is not qualified to file an appearance on behalf of another pursuant to NH RSA 311:1.

After the Court's Order dated January 30, 2003, the Appellant filed a Motion for Reconsideration. The Court denied this Motion by Order dated April 11, 2003. Add. pp. 19-22.

The Superior Court enjoined the Appellant from: (1) giving legal advice to anyone; (2) filing an appearance on behalf of any litigant in a state court of state administrative proceeding; (3) drafting or participating in the drafting of pleadings, briefs, or memoranda on behalf of any person other than himself; and (4) negotiating legal rights or responsibilities on behalf of anyone other than himself.

The Appellant did not appeal the Superior Court Order to the New Hampshire Supreme Court. Instead, he filed the instant suit in Federal Court seeking a judicial determination that the State Superior Court's Order of January 30, 2003 enjoining him from engaging in the unauthorized practice of law is unconstitutional.

He also sought an order prohibiting the defendants from enforcing the Superior Court Order.

Each of the defendants filed motions to dismiss the case in Federal Court based upon a number of grounds. The District Court granted the motions to dismiss based upon the Rooker-Feldman Doctrine.

The Appellant has tried to avoid the application of the Rooker-Feldman Doctrine to his case. However, the District Court correctly rejected Appellant's arguments in this regard. "[O]nce a state court issues a final judgment, a federal district court lacks jurisdiction to review that decision even if the state judgment is patently wrong or was entered following patently unconstitutional proceedings. See Feldman, 460 U.S. at 486. Thus, a litigant may not seek to reverse a final state judgment 'simply by casting his complaint in the form of a civil rights action.' Ritter v. Ross, 992 F.2d 750, 754 (7th Cir. 1993) (citation omitted)." District Ct. Opinion p. 8, Appellant's Add. p. 42.

The Appellant claims that he did not have an opportunity to address the definition of the "practice of law" in the State Court proceedings. This assertion is simply not true.

When the Appellant filed the State Court action, he sought a declaration that he was not engaged in the "unauthorized practice of law." The defendants filed pleadings with the State Court asking the Court to enjoin Appellant from engaging in the practice of law.

The New Hampshire Bar Association filed a Memorandum of Law in State Court in support of its position. This Memorandum of Law addressed the definition of the practice of law in New Hampshire. The Appellant did not file a legal memorandum of law in opposition to the Bar's legal memorandum. Moreover, the NH Bar Association submitted a proposed decree seeking to enjoin the Appellant "from rendering, offering to render or holding himself out as rendering any legal service or representation which violates RSA 311:7, i.e., 'practicing as an attorney in Court.' This proposed decree set forth a number of instances and circumstances in which the Appellant had commonly practiced law without a license, all in violation of the unauthorized practice of law statute. Add. pp. 14-18.

The Appellant did not object to nor did he comment on this proposed decree even though he was given every opportunity to do so.

Moreover, the New Hampshire Supreme Court has provided substantial guidance as to what constitutes the unauthorized practice of law. The Superior Court followed this body of case law in writing its Decision in this case. Appellant's App. pp. 27-31 citing Bryant's Case, 24 N.H. 149, 158 (1851); Bilodeau v. Antal, 123 N.H. 39 (1983); State v. Settle, 124 N.H. 832 (1984).

As noted by the Superior Court Judge, the Appellant was convicted of aggravated fraud and misappropriation in Austria. He was imprisoned for these offenses and upon his release, was

deported from Austria to the United States. Appellant's App. p. 31.

The Appellant's approach to litigation is often reckless. He has no respect for the Court system, the litigants and its participants. For example, in the Appendix that he submitted to this Court in this case, he included the deposition of Walter Foster taken in the matter of Petition of Caroline G. Douglas. Appellant's App. pp. 42-55. That deposition has never been a part of the record in this case. It has nothing to do with this case. The Appellant is smart enough to know this.

The deposition testimony refers to drug use by a member of the N.H. Bar, who is the former spouse of one of the Appellant's "clients". The inclusion of this deposition transcript is an example of the maliciousness which the Appellant injects into the legal process. Moreover, the deponent, Mr. Foster, is another one of the Appellant's "clients", from whom he "borrowed" \$380,000 and with whom he ended up in litigation. Appellant's App. p. 32.

There are several other instances where the Appellant received fees from clients for work to be performed and did not perform the work nor did he return the fees. Add. p. 16.

Mr. Kamasinski was born in Brooklyn, New York with the name of Theodore Ratnoff. Appellant's App. p. 81. More than 30 years ago, a U.S. District Court Judge described the Appellant as either a "full-time liar or a full-time incompetent." U.S. v. Mayersohn, 335 F.Supp. 1339, 1356 (S.D.N.Y. 1971) (Judge Zavatt).

"Can the Leopard change its spots?" (Jeremiah 13:23).

Obviously, Mr. Kamasinski cannot.

II. THE YOUNGER ABSTENTION DOCTRINE WOULD ALSO PRECLUDE FEDERAL COURT REVIEW OF THE STATE COURT DECISION AGAINST THE APPELLANT.

The Appellant commenced his initial action in State Court against the N.H. Bar and the N.H. Attorney General. The Appellant chose the State Court forum. Now, apparently unhappy with the results, he wants to pursue the matter in Federal Court. All of the issues raised by the Appellant in his Federal Court Complaint have either been raised or could have been raised in the State Court proceedings.

Although the District Court dismissed Appellant's Complaint based upon the Rooker-Feldman Doctrine, the case could also have been dismissed based upon the Younger-Abstention Doctrine.

The Younger Abstention Doctrine "dictates that federal courts not interfere with state court proceedings by granting equitable relief - such as injunctions of important state proceedings or declaratory judgments regarding constitutional issues in those proceedings - when such relief could adequately be sought before the State Court." The Coakley Landfill Group v. IT Corporation, CV 98-167-JM, 2000 DNH 046 (2000). The case at bar is a request for injunctive relief. This is the same remedy that the Appellant sought in his State Court action, and he has not exhausted his State Court remedies. This is the exact situation which the U.S. Supreme Court has counseled federal

courts to abstain from. Quackenbush v. Allstate Ins. Co., 517 U.S. 706 (1996); Penzoil Co. v. Texaco, 481 U.S. 1 (1987); Younger v. Harris, 401 U.S. 37 (1971).

CONCLUSION

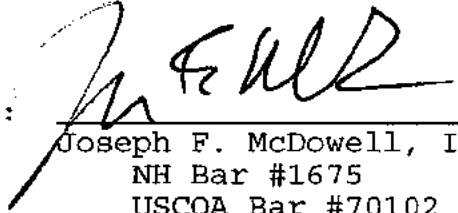
The Decision of the U.S. District Court in this case was correct and this Court should affirm that Decision.

Respectfully submitted,
MARTHA VAN OOT,

By Counsel,
MCDOWELL & OSBURN, P.A.

Dated: December 22, 2003


By:



Joseph F. McDowell, III
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CERTIFICATION

I hereby certify that on December 22, 2003 two copies of the above were forwarded to Theodore Kamasinski, Pro Se, Daniel J. Mullen, Esq., John A. Curran, Esq. and Martin P. Honigberg, Esq.



Joseph F. McDowell, III

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THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

01-E-386

Theodore Kamasinski

v.

Honorable Philip McLaughlin,
in his official capacity as
Attorney General of the State of New Hampshire
and Martha Van Oot,
in her official capacity as President
of the New Hampshire Bar Association

DECREE

This case originated with Theodore Kamasinski's petition for declaratory judgment, in which he asks the Court to declare that he is not engaged in the unauthorized practice of law. Pursuant to RSA 311:7-a, the respondents (the "State" and the "N.H. Bar Association") each filed a cross-petition to preliminarily and permanently enjoin Mr. Kamasinski from appearing in any court in the State of New Hampshire on behalf of any person or entity other than himself personally and from engaging in any conduct that violated RSA 311:7.

On October 17, 2002, the Court issued the following order:

1. Petitioner shall fully comply with the discovery orders of this court or make arrangements to do so satisfactory to respondents on or before a date 14 days following the clerk's notice of this order.
2. Failure to comply will result in dismissal of petitioner's petition and all well pleaded facts of respondents shall be deemed confessed by petitioner.
3. If petitioner does not comply, respondents shall within 10 days of the date established by paragraph 1 submit a proposed decree to the court containing the facts they deem to be confessed and the relief requested upon

such confessed facts. Petitioner has 10 days from such submission to object to such order solely on grounds that the facts taken as confessed do not as a matter of law entitle respondents to the relief requested.

Since the petitioner has not complied with the Court's Order, his petition is dismissed, and the following facts are deemed to be confessed as set forth in Respondent's Amended Answer and Respondents' Answer:

A. RSA 311:7 provides that "[n]o person shall be permitted commonly to practice as an attorney in court unless he has been admitted by the court and taken the oath prescribed in RSA 311:6." Pursuant to RSA 311:7-a, "the attorney general may maintain an action for injunctive relief ... against any person who renders, offers to render, or holds himself or herself out as rendering any services which constitutes the unauthorized practice of law."

B. Petitioner Kamasinski is not a licensed attorney nor a member of the New Hampshire Bar Association or any other state bar association. Petitioner Kamasinski has never been admitted to the practice of law in New Hampshire by the New Hampshire Supreme Court, and has not taken the oath prescribed by RSA 311:6.

C. Petitioner Kamasinski has filed appearances on behalf of several individuals, including the ones referenced in his petition, appearing as an attorney-in-fact in the courts of New Hampshire. In addition, Petitioner Kamasinski has prepared legal

documents for individuals, has acted as general counsel for certain entities, and renders, offers to render and/or holds himself out as rendering services which constitute the practice of law.

D. Petitioner Kamasinski has undertaken representation of several individuals and entities for consideration paid, and has agreed to provide legal services to these individuals and entities in the State of New Hampshire. Petitioner Kamasinski has failed to provide the agreed upon services in many of these instances.

E. Petitioner Kamasinski is not a citizen of good character as is required by RSA 311:1. He has taken actions which have been damaging to his clients, to the public at large, to his opponents, and he has taken action which have been damaging to the system of justice in the State of New Hampshire. He has taken actions which were intended to circumvent court orders prohibiting him from engaging in the unauthorized practice of law.

F. Petitioner Kamasinski has refused to comply with the Court's discovery orders, IN THIS CASE..

G. He was convicted of aggravated fraud in the Country of Austria, and served approximately 18 months in prison.

H. Mr. Kamasinski has engaged in an ongoing pattern of violating RSA 311:7 by "commonly" practicing "as an attorney in court".

I. Mr. Kamasinski, therefore, "renders, offers to render, or holds himself out as rendering" services which constitute the unauthorized practice of law. RSA 311:7-a(1).

J. Mr. Kamasinski was disqualified from such representation of a party as the result of a violation of RSA 311:7 in the case of Holmes v. Holmes which is pending in the Hillsborough County Superior Court, Northern District (00-M-815).

K. The reasoning and conclusions of Judge Lynn in the Holmes case was subsequently adopted by Judge Douglas R. Gray in the case of In the Matter of Andrew Hay and Barbara Hay, Strafford County Superior Court, 99-M-0613.

L. Accordingly, two Superior Court judges have found the Petitioner to be in violation of RSA 311:7, and have disqualified him from further appearances in those cases.

M. "There exists in New Hampshire a strong public policy against the unauthorized practice of law." State v. Settle, 124 NH 832, 835 (1984) quoting Bilodeau v. Antal, 123 NH 39, 43 (1983).

N. Requirements to become a licensed attorney in New Hampshire and thereafter to maintain that license provide significant protection to consumers of legal services in New Hampshire not available when non-lawyers assume the role of attorney-in-fact.

O. Petitioner Kamasinski has violated the letter and intent of RSA 311:7 as described above.

This Court permanently enjoins the Petitioner from rendering, offering to render or holding himself out as rendering any legal service or representation which violates RSA 311:7, i.e., "practicing as an attorney in Court."

The Petitioner is enjoined from appearing in any court in the State of New Hampshire on behalf of any person or entity other than himself personally.

Date:

Presiding Justice

THE STATE OF NEW HAMPSHIRE
Merrimack County Superior Court
163 N. Main Street
P. O. Box 2880
Concord, NH 03301 2880
603 225-5501

NOTICE OF DECISION

JOSEPH F MCDOWELL III ESQUIRE
282 RIVER ROAD
PO BOX 3360
MANCHESTER NH 03105-3360

01-E-0386 Theodore Kamasinski vs. Honorable Philip McLaughlin et.al.

Enclosed please find a copy of the Court's Order dated 4/11/2003
relative to:

Order-Motion to Reconsider

04/15/2003

William McGraw
Clerk of Court

cc: Theodore Kamasinski
Joshua L. Gordon, Esq.
Daniel J. Mullen, Esq

THE STATE of NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT



Theodore Kamasinski

v.

**Hon. Philip McLaughlin, in his official capacity as
Attorney General of the State of New Hampshire**

&

**Martha Van Oot, in her official capacity as
President of the New Hampshire Bar Association**

Docket No. 2001-E-0386

ORDER ON PETITIONER'S MOTION TO RECONSIDER

Petitioner seeks reconsideration of the court's order of January 30, 2003, striking his appearances on behalf of others in all courts of this state and precluding him from the further practice of law as specifically defined by the order.

Pursuant to Superior Court Rule 59-A, a motion for reconsideration "shall state, with particular clarity, points of law or fact that the Court has overlooked or misapprehended and shall contain such argument in support of the motion as the movant desires to present" While petitioner takes issue with many of the facts found and rulings made by the court, he overlooks the essential fact that the order arises from the petitioner's own failure to participate in discovery as ordered by the court on numerous occasions and failure to respond to the orders of the court regarding his default. Petitioner was given every opportunity to show why he should not be required to provide the discovery sought by respondents and after consideration of his arguments, the court

directed that he provide certain specific materials relevant to the scope of this action. Petitioner neither provided such discovery nor did he request an interlocutory appeal of the orders.

As a result of the petitioner's failure to provide discovery, and after several motions for default by respondents, the court on October 17, 2002, issued an order providing petitioner with one final chance to provide the ordered discovery. Petitioner was fully warned in that order that his failure to comply with discovery orders would "result in the dismissal of petitioner's petition and all well pleaded facts of respondents (would) be deemed confessed by petitioner." October 17, 2002 Order at p.2.

Even after the continuing refusal to provide discovery, petitioner was given an opportunity to further dispute the facts or argue that the facts taken as confessed would not entitle respondents to the relief sought. Petitioner did not avail himself of such opportunities. After respondents filed their pleadings in response to the court's order of October 17, 2002, petitioner filed no response. Petitioner asked for and received an extension of time to file such a response, but none was forthcoming. Although a hearing had been scheduled on all pending matters, given the lack of petitioner's response to respondent's pleadings, the court cancelled the hearing. See order of January 28, 2003.


In summary, petitioner cannot now contest the facts deemed confessed by the court as he was given the opportunity to do so and did not. Petitioner was given every opportunity to provide the ordered discovery but failed to do so. In fact, petitioner could have been defaulted at a much earlier stage in the proceedings pursuant to Superior Court Rule 36. Petitioner was given ample warning of the result of his continued failures and did nothing. He has waived his right to now contest the orders of the court. His MOTION FOR RECONSIDERATION does not in any way establish that his failure to provide the ordered discovery was anything but willful and deliberate or that his failure did not prejudice the respondents' ability to prepare for trial. Further, given the abundance of opportunity petitioner was afforded to comply with discovery and respond

to the court's proposed sanction, it is clear that further opportunities or lesser sanctions would have been futile. Although the court would have preferred to decide this matter on the merits, it is clear from the record that petitioner did not want such a decision. Petitioner instead chose to challenge the authority of the court to order discovery necessary to insure a fair and orderly trial process. The court's ultimate findings and remedy are based solely on petitioner's own actions and failures to act which are firmly documented in the record and not on any point of law or fact which was misapprehended or overlooked by the court.

Petitioner's MOTION TO RECONSIDER is denied.

So Ordered.

Dated: April 11, 2003



Edward J. Fitzgerald, III
Presiding Justice

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

Theodore Kamasinski

v.

Honorable Philip McLaughlin,
in his official capacity as
Attorney General of the State of New Hampshire
and Peter E. Hutchins,
in his official capacity as President
of the New Hampshire Bar Association

No. 01-E-386

ORDER

The respondent, Peter E. Hutchins, has filed a motion seeking the Court to compel discovery from the petitioner, Theodore Kamasinski. The petitioner has filed an objection. After considering the parties' written arguments the Court rules as follows.

The respondent seeks information that the Supreme Court ordered the petitioner to provide in the matter of Petition of Caroline G. Douglas, Docket Numbers 97-344 & 97-583, wherein the petitioner was ordered to:

file an affidavit together with any other information necessary to determine whether he is a citizen of good character and whether he has commonly practiced as an attorney in court, including, without limitation: all information regarding any offenses of which he has been charged by complaint or indictment (offenses include felonies, misdemeanors and violations other than offenses for which a record of his conviction has been annulled pursuant to statute); all judicial and quasi-judicial proceedings in which Mr. Kamasinski has filed an appearance for, or otherwise represented, another person, entity, or organization; and all persons, entities, and

APR 12 2002

organizations to whom Mr. Kamasinski has given legal counsel. (Emphasis Added)

The respondent argues that, to properly comply with this Supreme Court order, the petitioner should also be required to provide all other names and aliases that he may have used.

The petitioner first argues that the respondent seeks this information in excess of the 50 interrogatories limitation established under Superior Court Rule 36. However, the petitioner bases this argument on his re-numbering of the interrogatories.

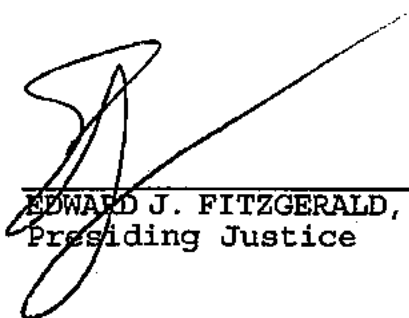
The petitioner next argues that the respondent is improperly asking the Court to compel discovery of information that has not been requested pursuant to Superior Court Rule 36. As previously stated, the information sought is information that the Supreme Court ordered the petitioner to provide. As such, the respondent is moving for the Court to enforce that order. Additionally, the respondent's request that the petitioner supply any names or aliases used by him properly effects the Supreme Court order.

The petitioner's final argument is that the Supreme Court subsequently allowed him to appear before it on behalf of another and as such effectively confirmed his good character status. However, the Supreme Court ordered the petitioner to provide the information not only to establish his good character, but also to determine whether the petitioner's activities constitute commonly practicing law in violation of RSA 311:7. See Petition of Caroline G. Douglas, Docket Numbers 97-344 & 97-583. This is the very issue that appears before this Court and as such, the information sought by the respondent, as found by the Supreme Court, is necessary to make this determination.

For the foregoing reasons the respondent's Motion to Compel
Discovery, prayers 1, 2, and 3, are GRANTED.

So ordered.

Dated: April 9, 2002



EDWARD J. FITZGERALD, III
Presiding Justice