

ORIGINAL

FILED
SUPREME COURT BAR DOCKET
STATE OF OKLAHOMA
OCT 24 2011

MICHAELA RICHIE
CLERK

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

IN RE: APPLICATION OF ROHAN)
RADHAKRISHNA KAMATH, 500 CENTRAL)
PARK DR., APT. 2414, OKC, OK 73105,)
FOR SPECIAL TEMPORARY PERMIT)
TO PRACTICE LAW IN OKLAHOMA UNDER)
THE PROVISIONS OF RULE TWO, SECTION 5)
OF THE *RULES GOVERNING ADMISSION TO*)
THE PRACTICE OF LAW IN OKLAHOMA)

SCBD No. 5785

10-24-11
[Handwritten signatures and initials over a stamp]

WATT, J., with whom GURICH, J. joins, dissenting:

¶1 I respectfully dissent. I don't dispute the fact that Mr. Kamath has technically provided this Court with the documents required for obtaining a Special Temporary Permit pursuant to Rule 2, Section 5. His petition indicates he was admitted to the Bar of the State of New York on November 19, 2007, and he has provided the appropriate proof of his good standing with the highest appellate court of that state. He swore that he last practiced law in New York. I dissent to granting a Special Temporary Permit to an out of state lawyer who apparently intends to become a permanent resident of Oklahoma, employed as a permanent employee in a legal capacity for a corporation, without taking the Oklahoma bar examination.

¶2 His petition indicates he became an Oklahoma resident on February 21, 2011, and was employed by Chesapeake Operating, Inc., a.k.a. Chesapeake Midstream, his employer, "immediately prior to becoming an Oklahoma resident." His employer's

written statement indicates his “official start date” with “Chesapeake Midstream” was February 21, 2011. Thus, at the time his petition and other required reports and certificates were submitted to the Court for approval, he had been working in Oklahoma in a legal capacity for almost seven months without a license of any kind. Mr. Kamath should register to take the next Oklahoma bar examination if he intends to be a permanent employee of Chesapeake and a permanent resident of Oklahoma. A Special Temporary Permit was never intended to provide out of state lawyers with **permanent** Oklahoma law licenses without taking the Oklahoma bar examination.¹

¶3 An absurd result can occur when Rule 2, Section 5 is abused. An out of state lawyer with less than 5 years’ experience who intends to open a private firm in

¹ The requirements applicable to all attorneys granted a special temporary permit are set out in the Rules Creating and Controlling the Oklahoma Bar Association, 5 O.S. Supp. 2009, Ch. 1, App. 1, §5. See Section 5(E)(1), which provides:

1. An attorney granted a special temporary permit to practice shall pay an administrative fee to the Oklahoma Bar Association of \$350.00 regardless of the duration of the permit. An annual fee in the amount of \$350.00 shall be collected on or before the anniversary of the permit. A late fee of \$100.00 shall be collected in the event the fee is paid within 30 days of the due date. In the event that the fee is not paid within 30 days of the due date, the special temporary permit shall be deemed cancelled and can only be renewed upon making application to the Board of Bar Examiners and the payment of a new application fee. The annual permit shall only be renewed upon affirmation that the conditions for which the special temporary permit was issued still exist. **An attorney granted a special temporary permit to practice shall not appear on the roll of attorneys and shall not be considered a member of the Oklahoma Bar Association.** However, an attorney granted a special temporary permit shall be subject to the jurisdiction of the Oklahoma Supreme Court for purposes of attorney discipline and other orders revoking, suspending or modifying the special permit to practice law. [emphasis added].

Oklahoma **MUST TAKE THE BAR EXAM.** However, an out of state lawyer who obtains legal employment with a corporation can obtain a Special Temporary Permit without taking the Oklahoma bar exam or qualifying for reciprocity, retain the employment with the corporation indefinitely, and practice law in Oklahoma without a permanent license as long as the corporate employment exists. This type of treatment of out-of-state lawyers becomes a means to circumvent our requirement for taking the Oklahoma bar examination and results in disparate treatment between those who come to Oklahoma to work for corporations and those who come to Oklahoma to “hang out a shingle.” Moreover, this Court has become complicit, notwithstanding my dissents, with this practice by allowing a loose interpretation of our rules to allow membership to those who do not meet the standards we have heretofore set for members of the Bar. Mr. Kamath should practice under a Special Temporary Permit only while preparing to take the bar exam and obtain a permanent Oklahoma license.

¶4 I also dissent because Section 5 of Rule 2 is not a substitute for obtaining an Oklahoma license to practice law through the reciprocity provisions of Rule 2, Sections 1-4. A lawyer who moves to Oklahoma from a reciprocal state with less than five years of legal experience during the preceding seven years must apply to take the bar exam. It should be understood that limited practice **in Oklahoma**, pursuant to a Special Temporary Permit under Rule 2, Section 5, will not fulfill the

requirements of Rule 2, Section 1, of having “engaged in the actual and continuous practice of law for at least five of the seven years immediately preceding application for admission under this Rule.” Compliance with this time requirement may only be shown by proof of practice in a **reciprocal state**. See Section 4 of Rule 2.² It may not be fulfilled by practice **in Oklahoma**. It is indisputable from his application **that Mr. Kamath did not qualify for reciprocity**, as he was admitted to the New York Bar less than five years ago and is not admitted to the Bar of any other reciprocal state.

¶5 For decades, our rules have clearly stated that the only means available to attain full membership in the Oklahoma Bar Association is taking the bar examination. The only exception is the reciprocity provision under Rule 2. I would order that Mr. Kamath must be required to register for the next available bar examination, pursuant to Rule 4 [Admission by examination]. Mr. Kamath must comply with our rules in

² Section 4. It is the purpose of this rule to grant reciprocity to qualified judges and lawyers from other jurisdictions and to secure for Oklahoma judges and lawyers like privileges. If the former jurisdiction of the applicant does not grant to Oklahoma judges and lawyers the right of admission on motion, then this Rule shall not apply and the applicant must, before being admitted to practice in Oklahoma, comply with the provisions of Rule Four [Admission by examination]. If the former jurisdiction of the applicant permits the admission of Oklahoma judges and lawyers upon motion but the Rules are more stringent and exacting and contain other limitations, restrictions or conditions of admission and the fees required to be paid are higher, the admission of applicant shall be governed by the same Rules and shall pay the same fees which would apply to an applicant from Oklahoma seeking admission to the bar in the applicant’s former jurisdiction.

the same manner as countless other Bar applicants with no reciprocity have had to do for decades, as I was required to do upon my moving to Oklahoma almost four decades ago from Texas. Without the requisite five years of legal experience at the time of my application for membership, I sat for and passed the first available bar exam thereafter. Mr. Kamath is in no different circumstance than I, and hundreds since, have been, and he, like the rest of us who lack the five years of reciprocity, **must** sit for the Oklahoma bar exam to obtain a license to practice law. Otherwise, he will be able to practice law with a limited license in Oklahoma, thus using his special temporary permit to avoid the requirement which we expect from all Oklahoma lawyers, i.e., taking and passing the bar examination. This was not the intended purpose of Rule 2.

¶6 The Board of Bar Examiners should amend the Rules of Admission to reflect the high standards we expect from practicing members of the Oklahoma Bar Association. Its failure to do so will result in a federal lawsuit alleging, at a minimum, constitutional violations of the equal protection clause. Because I continue to believe that it is the intent of this Court and the Board of Bar Examiners to maintain the high standards we have required for decades, an amendment to our current rules is absolutely imperative. If not, then we should just “throw open our

door” and grant a license to anyone who has graduated from an ABA accredited law school.

¶7 I respectfully dissent.