

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF WASHINGTON
UNITED STATES COURTHOUSE
700 STEWART STREET
SEATTLE, WASHINGTON 98101

BRUCE RIFKIN
CLERK OF COURT

(206) 370-8400

December 4, 2006

Oscar Stilley
701 S. 21st Street
Fort Smith, AR 72901-4001



06-CR-00122-JSR

RE: Application to Participate *Pro Hac Vice* in United States v. Gebauer,
CR06-122RSL

Dear Mr. Stilley:

The Court has received your application to participate *pro hac vice* in United States v. Gebauer, CR06-122RSL. Pursuant to General Rule 2(d), the Clerk of the Court has discretion to approve or disapprove such applications. For the reasons set forth below, I have disapproved your application.

General Rule 2(d) requires that an application to participate *pro hac vice* must be accompanied by, among other items, "a statement that the applicant has not been disbarred or formally censured by a court of record or by a state bar association," and "a statement that there are no pending disciplinary proceedings against the applicant." However, you have been disciplined several times by the Arkansas Supreme Court Committee on Professional Conduct (the "Committee"). The Committee suspended you for 30 days effective October 1, 2001. The Committee also cautioned you on October 17, 2001; reprimanded you twice, on October 17, 2001 and November 13, 2001; and issued a letter of warning on July 20, 2001. You have also stated in your application, "Another professional conduct matter is pending." You have not further identified the matter, citing a right to maintain confidentiality. It is troubling that your pattern of professional conduct matters is continuing.

In considering your application, I recognize that the denial of a criminal defendant's right to the counsel of his choice raises Sixth Amendment concerns. See, e.g., United States v.

Walters, 309 F.3d 589, 592 (9th Cir. 2002). The right, however, may be abridged to serve some "compelling purpose." Id. (internal citation and quotation omitted). "A criminal defendant's exercise of this right cannot unduly hinder the fair, efficient and orderly administration of justice." Id. (internal citation and quotation omitted). Your application may be denied if defendant's "'choice of counsel . . . would unreasonably delay proceedings or burden the court with counsel who was incompetent or unwilling to abide by court rules and ethical guidelines.'" Id. (quoting United States v. Panzardi Alvarez, 816 F.2d 813, 817-18 (1st Cir. 1987)). Based on the relevant authority, I have weighed defendant's right to counsel of his choice against factors weighing against admitting you to practice *pro hac vice*.

Numerous factors weigh against granting your application. In addition to your extensive and on-going list of disciplinary matters, you have been fined and sanctioned by numerous courts, as set forth in the exhibits to your declaration. See, e.g., Stille v. Marschewski, 2006 U.S. App. LEXIS 13316 (8th Cir. 2006) (unpublished) (affirming imposition of Rule 11 sanctions); Stille v. James, 48 Fed. Appx. 595, 597 (8th Cir. 2002) (unpublished per curiam) (finding no abuse of discretion in imposing Rule 11 sanction enjoining you from filing future cases involving issues that had been litigated or raised in three lawsuits and two appeals; finding that the court "acted appropriately by helping Stille stop pursuing fruitless litigation"). As set forth in James and in Stille v. Hubbs, you have shown a pattern of continuing to pursue litigation after the relevant issues have already been decided, resulting in the imposition of sanctions and waste of judicial resources.

This district is also troubled by your pattern of impugning the integrity of judges and other officers of the court without any factual support for your allegations. For example, the court in In re: Oscar Ramos Stille, 155 Fed. Appx. 217 (6th Cir. 2005) (unpublished), in affirming the denial of your *pro hac vice* application,¹ noted that you had made unsupported, "spurious" and "brash" allegations that the district court judge was not impartial and had ulterior motives for denying your application. You also suggested, again without any factual support, that the Assistant United States Attorney in that case had acted unethically. As another court explained in denying your application to proceed *pro hac vice* before it,

The court is further concerned by what appears to be a pattern of accusing judges, justices, and officers of the court of wrongful conduct without any basis. Not only was Stille suspended by the Arkansas Supreme Court because of his attempts to interrogate its justices and because of his intemperate and disrespectful conduct,

¹ It appears that several courts have denied your applications for admittance *pro hac vice* and several have approved those applications. This district independently reviews and analyzes your application.

but Stilley has also attempted to impugn the integrity of the Government counsel [in this case] by raising an unsupported charge of "judge shopping." Stilley also indicates that Magistrate Judge Kobayashi was not "even handed" or "fair and impartial" in deciding this matter. Stilley's unsupported accusations of improper conduct by all who disagree with him gives the court concern about how he will behave in future court proceedings.

United States v. Bennett, 2006 U.S. Dist. LEXIS 70089 at * 13-14 (D. Haw. 2006) (denying *pro hac vice* application). Furthermore, you refused to pay the sanctions imposed in one case, and in defiance of the court's order, failed to submit financial documents to support your professed inability to pay, ultimately resulting in your incarceration. Stilley v. Forth Smith Sch. Dist., 2006 Ark. LEXIS 430 (Sept. 14, 2006). In yet another example of your lack of respect for the courts, you were reprimanded for, among other things, making a false statement of material fact to the tribunal. Ex. 3. Three of your disciplinary actions have included a finding that you violated the ethical rules by engaging in conduct that is prejudicial to the administration of justice. Exs. 1, 2, 4.

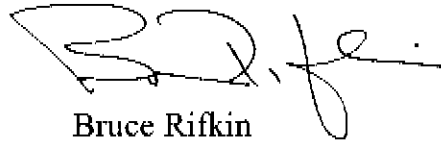
Having reviewed the extensive instances of discipline and sanctions, your violations of the ethical rules, and the instances of disrespect towards the courts and their rules and orders, I find that permitting you to represent defendant would burden the court with counsel who is unwilling to abide by court rules, orders, and ethical guidelines. Those factors, as well as your continued pursuit of litigation after the issues have already been finally resolved, suggest that allowing you to represent the defendant in this case would delay the proceedings and unduly hinder the fair, efficient and orderly administration of justice.

Finally, your pattern of improper conduct could, if repeated in this case, present grounds for a claim of ineffective assistance of counsel, which would be detrimental to the administration of justice.²

² For example, you were suspended for filing an appeal against the wishes of your client, failing to abide by his wishes, proceeding despite a conflict of interest, and engaging in conduct that was both prejudicial to the administration of justice and involved dishonesty, fraud, deceit or misrepresentation. You were cautioned for violating the ethical rules requiring that a lawyer act with reasonable diligence and promptness in representing a client and for filing a petition for rehearing that was argumentative and devoid of any legal or factual basis for reversing a previous court decision.

For all of the foregoing reasons, your application to participate *pro hac vice* is denied.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Rifkin", with a long horizontal flourish extending to the right.

Bruce Rifkin
Clerk of Court