NOT FOR PUBLICATION

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U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

IN RE: THOMAS D. SYKES, Movant - Appellant.	No. 24-6477 D.C. No. 2:24-mc-00041-DGE MEMORANDUM[*]

Appeal from the United States District Court
for the Western District of Washington
David G. Estudillo, District Judge, Presiding

Submitted August 22, 2025[**]
Portland, Oregon

Before: CALLAHAN, M. SMITH, and MENDOZA, Circuit Judges.

Appellant Thomas D. Sykes appeals the district court's order denying his petition for admission to the bar of the United States District Court for the Western District of Washington (the District). We construe Sykes's appeal as a petition for a writ of mandamus pursuant to 28 U.S.C. § 1651(a), and, reviewing for clear error, we deny his petition. Because Sykes is familiar with the facts of this case,

[*] This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

[**] The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

we do not recount them here except as necessary to provide context to our ruling.

1. "[T]he denial of a petition for admission to a district court bar is n[ot] a final order appealable under 28 U.S.C. § 1291[.]" *Gallo v. U.S. Dist. Ct. for the Dist. of Ariz.*, 349 F.3d 1169, 1176 (9th Cir. 2003); *see In re North*, 383 F.3d 871, 874 (9th Cir. 2004); *In re Wasserman*, 240 F.2d 213, 216 (9th Cir. 1956). Nevertheless, in the absence of jurisdiction under § 1291, we accept Sykes's request to construe his appeal as a petition for a writ of mandamus pursuant to 28 U.S.C. § 1651(a). *See Plata v. Brown*, 754 F.3d 1070, 1076 (9th Cir. 2014); *Miller v. Gammie*, 335 F.3d 889, 895 (9th Cir. 2003) (en banc). "[I]t is well established in this Circuit that '[w]hen a district court's decision is correct as a matter of law, a writ of mandamus should be denied.'" *Gallo*, 349 F.3d at 1177 (alteration in original) (quoting *In re Allen*, 896 F.2d 416, 420 (9th Cir. 1990)). Therefore, in construing Sykes's appeal as a petition for a writ of mandamus, we review only for "clear error." *Id.*; *Exec. Software N. Am., Inc. v. U.S. Dist. Ct. for the Cent. Dist. of Cal.*, 24 F.3d 1545, 1551 (9th Cir. 1994)).

2. The district court did not clearly err by denying Sykes's petition for admission to the bar of the District. Pursuant to Rule 83.1(b) of the District's Local Civil Rules (Rule 83.1(b)), an attorney "is eligible for admission to the bar of [the District]" only "if he or she is (1) a member in good standing of the Washington State Bar, or (2) a member in good standing of the bar of any state and

employed by the United States or one of its agencies in a professional capacity." Local Rules W.D. Wash. LCR 83.1(b). By his own admission, Sykes is not a member of the Washington State Bar, nor is he employed by the United States or one of its agencies in a professional capacity. Therefore, under Rule 83.1(b), Sykes is not eligible for admission to the District, and the district court did not clearly err by so concluding.

3. The district court also did not clearly err by rejecting Sykes's challenges to the validity of Rule 83.1(b). Pursuant to *Frazier v. Heebe*, 482 U.S. 641 (1987), appellate courts "may exercise [their] inherent supervisory power to ensure that [district courts'] local rules are consistent with 'the principles of right and justice.'" *See id.* at 645 (quoting *In re Ruffalo*, 390 U.S. 544, 554 (1968) (White, J., concurring)). Rule 83.1(b) is consistent with "right and justice." *Id.* It serves a legitimate purpose—ensuring that all attorneys who practice in the District are competent to do so—in a rational way: by "ensuring that all attorneys practicing [in the District] 'clear the standard required' by the [Washington] state bar association[]." *Gallo*, 349 F.3d at 1181 (quoting *Russell v. Hug*, 275 F.3d 812, 819 (9th Cir. 2002)); *Frazier*, 482 U.S. at 645–49. It is also neither "irregular" nor "flagrantly improper." *Ex parte Burr*, 22 U.S. 529, 530 (1824). Indeed, because "[a]dmission to the state bar is the essential determinant of professional ethics and legal competence," *Zambrano v. City of Tustin*, 885 F.2d 1473, 1483 (9th Cir.

1989), we have repeatedly held that admissions-based rules like Rule 83.1(b) are "well within" the rule making power of district courts. *Gallo*, 349 F.3d at 1184; *In re North*, 383 F.3d at 878; *Giannini v. Real,* 911 F.2d 354, 359–60 (9th Cir. 1990).

Nor is Rule 83.1(b)'s requirement of state bar membership in tension with Article III. "[A] federal district court's conditioning of general admission to its own bar on forum state bar membership does not cede *any* power of the federal judiciary, whether to a coequal branch or to a state." *Laws. for Fair Reciprocal Admission v. United States*, 141 F.4th 1056, 1065–66 (9th Cir. 2025). "That conditioning involves only the exercise of *federal* power by a *federal* court." *Id.* at 1066. Further, as the district court correctly reasoned, membership in the Washington State Bar is not dispositive of admission because "good standing with [that bar] is not required to practice before the [District] and does not [] guarantee an attorney's continued eligibility to practice before the [District]." Therefore, the district court did not clearly err by concluding that Rule 83.1(b) does not delegate "preemptive veto power" to the Washington State Bar.[1]

Finally, the district court did not clearly err by finding that Rule 83.1(b) does

[1] On appeal, Sykes also suggests that, even if Rule 83.1(b) does not violate Article III, it nevertheless violates 28 U.S.C. § 1654, which "was enacted to implement" Article III. This argument was not raised before the district court, and the district court did not rule on it. As a result, Sykes's argument about § 1654 is waived, and we decline to rule on it in the first instance. *Villanueva v. California*, 986 F.3d 1158, 1164 n.4 (9th Cir. 2021); *see also Handa v. Clark*, 401 F.3d 1129, 1132 (9th Cir. 2005).

not violate the Supremacy Clause. Unlike in *Sperry v. Florida*, 373 U.S. 379 (1963), Rule 83.1(b) does not involve any "law of the State," *id.* at 384 (quoting *Gibbons v. Ogden*, 22 U.S. 1, 31 (1824)), because "[f]ederal district courts' conditioning of general admission to their bars on forum state bar membership does not involve any action by states." *Laws. for Fair Reciprocal Admission*, 141 F.4th at 1066. Further, even if the district court's adoption of Rule 83.1(b) was considered state action, it presents no conflict with the Internal Revenue Service (IRS) regulations that permit Sykes to practice federal tax law before the IRS from his office in Washington. *See* 31 C.F.R. §§ 10.2(a)(1)–(4), 10.3(f); Wash. R. Pro. Conduct 5.5(d)(2). As a result, Rule 83.1(b) cannot be said to deny Sykes the "right to perform the functions within the scope of the federal authority." *Sperry*, 373 U.S. at 385.

PETITION DENIED.