

SUPREME COURT OF OHIO

Columbus Bar Ass'n v. Peden

118 Ohio St. 3d 244 (Ohio 2008) · Decided May 15, 2008

SUMMARY

The Ohio Supreme Court adopted findings that attorney John Joseph Peden mishandled client funds and initially failed to cooperate with a disciplinary investigation. The court imposed a six-month suspension from practice, stayed on conditions including monitored probation, treatment compliance, and quarterly reports.

CASE DETAILS

|                       |                                                                                                                                                                     |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Ohio                                                                                                                                               |
| WRITING FOR THE COURT | Per Curiam; Moyer, C.J.; Pfeifer; Lundberg Stratton; O'Connor; O'Donnell; Lanzinger; Cupp                                                                           |
| JURISDICTION          | Ohio                                                                                                                                                                |
| DECIDED               | May 15, 2008                                                                                                                                                        |
| DISPOSITION           | other                                                                                                                                                               |
| PROCEDURAL POSTURE    | Attorney-disciplinary proceeding in which the Board of Commissioners on Grievances and Discipline recommended a six-month suspension stayed on remedial conditions. |
| PRECEDENTIAL VALUE    | Published and precedential opinion of the Supreme Court of Ohio                                                                                                     |
| PARTIES               | Columbus Bar Association v. John Joseph Peden                                                                                                                       |

TOPICS

administrative law remedies

PRACTICE AREAS

legal ethics attorney discipline professional responsibility client trust accounts

QUESTIONS PRESENTED

- Whether Peden committed professional misconduct by mishandling client funds and failing to maintain and account for client trust funds.
- Whether Peden violated his duty to cooperate with the disciplinary investigation.

3. What sanction was appropriate in light of the misconduct and aggravating and mitigating circumstances.

## HOLDINGS

1. Peden violated the applicable disciplinary rules by overdrawing and improperly using his client trust account, depositing unearned fees into his operating account, failing to maintain an interest-bearing client trust account, and failing to account for and preserve client funds.
2. Peden violated DR 1-102(A)(6) and Gov.Bar R. V(4)(G) by failing to produce requested trust-account records, requiring subpoenas and repeated requests, and failing to disclose where certain client funds had been deposited.
3. A six-month suspension from the practice of law, stayed on specified remedial conditions and accompanied by one year of monitored probation, was appropriate.

## KEY QUOTATIONS

*“We suspend respondent from the practice of law in Ohio for six months but stay the suspension on the conditions set forth by the board, including one year of probation pursuant to Gov.Bar R. V(9).” (¶ 9)*

## FACTUAL BACKGROUND

Peden overdrew his client trust account nine times during 2003 and 2004 and was unable to immediately refund an unearned \$1,500 fee. He failed to maintain an interest-bearing client trust account from December 2004 through February 2005 while continuing to collect client funds, and he sometimes used trust-account funds for client costs and deposited unearned fees into his operating account. During the disciplinary investigation, he failed to produce requested trust-account records and did not disclose where certain client funds had been deposited. Peden's misconduct was mitigated by treatment for a diagnosed mental disorder, lack of a prior disciplinary record, lack of dishonesty or greed, restitution, acknowledgment, and cooperation that improved with treatment.

## PROCEDURAL HISTORY

The Columbus Bar Association charged Peden with misconduct involving client funds and failure to cooperate with a disciplinary investigation. After a panel hearing and Peden's stipulations, the panel found misconduct and recommended a six-month stayed suspension with conditions. The board adopted that recommendation, and the Supreme Court of Ohio adopted the board's findings and sanction.

## DISPOSITION

other

## INSTRUCTIONS FOR AN AI ASSISTANT

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