SUPREME COURT OF OHIO

Disciplinary Counsel v. Becker

140 Ohio St. 3d 299, 2014-Ohio-3665 (2014) · No. 2013-1257 · Decided September 3, 2014

SUMMARY

The Supreme Court of Ohio permanently disbarred Stephen Leslie Becker for misappropriating funds entrusted to him as guardian of a disabled person's estate, executor of an elderly aunt's estate, and attorney. Becker also converted client and law-firm funds, concealed transactions, and used substantial amounts to support gambling. The court found multiple aggravating factors and concluded that disbarment was necessary to protect the public.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Pfeifer, J.; O'Connor, C.J.; O'Donnell, J.; Lanzinger, J.; Kennedy, J.; French, J.; O'Neill, J.
JURISDICTION	Ohio
DECIDED	September 3, 2014
DOCKET	2013-1257
DISPOSITION	other
PROCEDURAL POSTURE	Attorney-discipline proceeding on a certified report from the Board of Commissioners on Grievances and Discipline. After a hearing panel found misconduct and recommended permanent disbarment, the board adopted the panel's report. Both parties filed objections in the Supreme Court of Ohio.
STANDARD OF REVIEW	The Supreme Court of Ohio independently reviewed the certified disciplinary record and adopted the board's findings when supported by clear and convincing evidence; it determined the appropriate sanction by considering the violated ethical duties, sanctions in similar cases, and aggravating and mitigating factors.
PRECEDENTIAL VALUE	binding
PARTIES	Disciplinary Counsel v. Stephen Leslie Becker

TOPICS

guardianships guardianship procedure probate estate administration gambling

PRACTICE AREAS

legal ethics and attorney discipline probate and fiduciary law guardianships professional responsibility

QUESTIONS PRESENTED

1. Whether Becker violated the Disciplinary Rules of the Code of Professional Responsibility and the Ohio Rules of Professional Conduct through misappropriation, dishonesty, improper fiduciary conduct, and diversion of client and law-firm funds.
2. Whether permanent disbarment was the appropriate sanction in light of the misconduct, aggravating and mitigating factors, and comparable disciplinary cases.
3. Whether Becker's gambling disorder, cooperation, acceptance of responsibility, and claimed self-reporting warranted mitigation.

HOLDINGS

1. Becker violated the charged disciplinary rules by misappropriating and converting guardianship, estate, client, and other entrusted funds; making false or misleading fiduciary disclosures; and engaging in dishonesty and conduct adversely reflecting on his fitness to practice law.
2. Permanent disbarment was the appropriate sanction because Becker knowingly and repeatedly misappropriated substantial sums entrusted to him, harmed vulnerable victims, engaged in a pattern of misconduct, and presented no sufficient basis for mitigation.
3. Becker's gambling problem did not qualify as a mitigating factor because he failed to establish that the disorder caused the misconduct and that he had undergone a sustained period of successful treatment.

KEY QUOTATIONS

> *"No circumstances ever justify the deliberate misappropriation of [a] client's funds for a lawyer's personal benefit,"* (¶ 30)

> *"the primary purpose of the disciplinary process is not to punish the offender but to protect the public from lawyers who are unworthy of the trust and confidence essential to the attorney-client relationship."* (¶ 30)

> *"Accordingly, Stephen Leslie Becker is hereby permanently disbarred from the practice of law in Ohio."* (¶ 32)

FACTUAL BACKGROUND

Becker served as guardian for his disabled nephew and misused guardianship funds, including lending money to himself to pay gambling debts and lending money to his daughter without proper disclosure. He also converted substantial funds belonging to his elderly aunt through a joint account and, after her death, misappropriated estate funds while making false or incomplete fiduciary-account disclosures. In addition, he diverted client funds and legal fees, using some of the money for personal purposes and gambling.

PROCEDURAL HISTORY

Disciplinary Counsel filed a complaint alleging that Becker misappropriated fiduciary, estate, client, and law-firm funds and violated numerous disciplinary rules. A board hearing panel conducted hearings in December 2012 and January 2013, found violations by clear and convincing evidence, and recommended permanent disbarment. The board adopted the report, and the Supreme Court of Ohio adopted the findings and imposed permanent disbarment.

DISPOSITION

other

CASES CITED

- Stark Cty. Bar Assn. v. Buttacavoli, 96 Ohio St. 3d 424, 2002-Ohio-4743, 775 N.E.2d 818, ¶ 16
- Disciplinary Counsel v. Broeren, 115 Ohio St. 3d 473, 2007-Ohio-5251, 875 N.E.2d 935, ¶ 21
- Disciplinary Counsel v. O'Malley, 137 Ohio St. 3d 161, 2013-Ohio-4566, 998 N.E.2d 470, ¶ 15
- Disciplinary Counsel v. McCord, 121 Ohio St. 3d 497, 2009-Ohio-1517, 905 N.E.2d 1182, ¶ 5
- Stark Cty. Bar Assn. v. Williams, 137 Ohio St. 3d 112, 2013-Ohio-4006, 998 N.E.2d 427, ¶ 23
- Disciplinary Counsel v. Yajko, 77 Ohio St. 3d 385, 388, 674 N.E.2d 684 (1997)
- Cleveland Metro. Bar Assn. v. Lockshin, 125 Ohio St. 3d 529, 2010-Ohio-2207, 929 N.E.2d 1028, ¶ 42
- Cleveland Bar Assn. v. Belock, 82 Ohio St. 3d 98, 100, 694 N.E.2d 897 (1998)
- Cuyahoga Cty. Bar Assn. v. Churilla, 78 Ohio St. 3d 348, 350, 678 N.E.2d 515 (1997)
- Akron Bar Assn. v. Smithern, 125 Ohio St. 3d 72, 2010-Ohio-652, 926 N.E.2d 274, ¶ 10