

SUPREME COURT OF OHIO

Disciplinary Counsel v. Hilburn

135 Ohio St. 3d 1 (Ohio 2012) · No. 2012-0678 · Decided December 3, 2012

SUMMARY

The Supreme Court of Ohio held that Regina Lynn Hilburn violated multiple Rules of Professional Conduct through neglect of client matters, inadequate communication, misrepresentation, conduct prejudicial to the administration of justice, and failure to cooperate with disciplinary investigations. The court imposed an 18-month suspension from the practice of law, with the final 12 months stayed subject to treatment, monitoring, and no further misconduct.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Per Curiam; Maureen O'Connor, Chief Justice; Pfeifer; Lundberg Stratton; O'Donnell; Lanzinger; Cupp; McGee Brown
JURISDICTION	Ohio
DECIDED	December 3, 2012
DOCKET	2012-0678
DISPOSITION	other
PROCEDURAL POSTURE	The Supreme Court of Ohio reviewed a certified report of the Board of Commissioners on Grievances and Discipline concerning stipulated attorney misconduct, aggravating and mitigating factors, and a recommended sanction.
STANDARD OF REVIEW	The Supreme Court independently reviewed and adopted the stipulated findings of misconduct, aggravating and mitigating factors, and recommended sanction.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Ohio
PARTIES	Disciplinary Counsel v. Regina Lynn Hilburn

TOPICS

sanctions

civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Hilburn violated the Rules of Professional Conduct and Rules for the Government of the Bar as stipulated.
2. Whether the opinion and treatment evidence of a certified nurse practitioner, working in collaboration with a physician, could establish mental disability as a mitigating factor under BCGD Proc.Reg. 10(B)(2)(g).
3. What disciplinary sanction was appropriate in light of the misconduct, aggravating factors, and mitigating factors.

HOLDINGS

1. Hilburn violated the Rules of Professional Conduct through neglect of client matters, failure to communicate and respond to client requests, dishonesty and misrepresentation, conduct prejudicial to the administration of justice, conduct adversely reflecting on her fitness to practice law, and failure to cooperate with disciplinary investigations.
2. Under the circumstances presented, a certified nurse practitioner's professional opinion could support a finding of mental disability as a mitigating factor when the nurse practitioner worked in collaboration with a physician and had the relevant experience, treatment relationship, and diagnostic basis.
3. An eighteen-month suspension from the practice of law, with the final twelve months stayed on specified conditions, was appropriate.

KEY QUOTATIONS

“Hilburn is therefore suspended from the practice of law for 18 months from the date of this decision, with the final 12 months of the suspension stayed on the following conditions:” (§ 35)

FACTUAL BACKGROUND

Hilburn represented several clients in domestic, adoption, and civil matters but neglected filings, failed to communicate with clients, allowed a case to be dismissed, and entered into a dismissal without informing or obtaining authorization from a client. In one adoption matter, she misrepresented to a court that she had contacted the Ohio Lawyers Assistance Program and was found in contempt. She also failed to timely cooperate with multiple disciplinary investigations. The parties stipulated that Hilburn had depression and that her mental disability contributed to the misconduct, and the court found that her treatment and prognosis supported considering the condition as mitigation.

PROCEDURAL HISTORY

Disciplinary Counsel filed a five-count complaint against Hilburn. The parties stipulated to the facts, violations, documentary evidence, aggravating and mitigating factors, and a proposed sanction; the hearing panel and board adopted the stipulations and recommended an eighteen-month suspension with twelve months stayed. The Supreme Court of Ohio adopted the board's findings and sanction.

DISPOSITION

other

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