

SUPREME COURT OF OHIO

Cincinnati Bar Ass'n v. Blake

100 Ohio St. 3d 298 (2003) · Decided November 12, 2003

SUMMARY

The Supreme Court of Ohio considered professional-misconduct charges against an attorney arising from multiple felony and misdemeanor convictions, as well as failure to respond to an investigator's inquiries. The court adopted the findings and recommendation of disbarment and permanently disbarred the respondent from practicing law in Ohio.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Moyer, C.J.; Resnick; F.E. Sweeney; Pfeifer; Lundberg Stratton; O'Connor; O'Donnell
JURISDICTION	Ohio
DECIDED	November 12, 2003
DISPOSITION	other
PROCEDURAL POSTURE	Attorney-discipline proceeding in which the Cincinnati Bar Association moved for default after respondent failed to answer a misconduct complaint; the matter was reviewed after the Board of Commissioners on Grievances and Discipline recommended disbarment.
STANDARD OF REVIEW	The Supreme Court of Ohio independently reviewed the adopted findings and recommendation in the default attorney-discipline proceeding.
PRECEDENTIAL VALUE	published and precedential
PARTIES	Cincinnati Bar Association v. Wilton E. Blake II

TOPICS

remedies

restitution

PRACTICE AREAS

legal ethics

attorney discipline

professional misconduct

criminal conduct by attorneys

QUESTIONS PRESENTED

1. Whether respondent's felony and misdemeanor criminal conduct violated the cited disciplinary rules.
2. Whether permanent disbarment was the appropriate sanction for respondent's criminal conduct and failure to cooperate with the investigation.

HOLDINGS

1. Respondent violated DR 1-102(A)(3), DR 1-102(A)(4), DR 1-102(A)(5), DR 1-102(A)(6), and Gov.Bar R. V(4)(G).
2. Permanent disbarment was warranted because respondent had turned to crime and had been convicted of theft offenses.

KEY QUOTATIONS

"We also agree that respondent should be disbarred for his criminal conduct." (100 Ohio St. 3d at 299)

"Accordingly, respondent is hereby permanently disbarred from the practice of law in Ohio." (100 Ohio St. 3d at 299)

FACTUAL BACKGROUND

Respondent was convicted of four felonies involving theft and forgery and received five years of community control, an order to pay \$25,297.54 in restitution, and 500 hours of community service. He also pleaded no contest to misdemeanor theft and criminal trespass. Respondent met once with the bar association's investigator but failed to respond to later letters of inquiry, and the record did not substantiate his compliance with the restitution order.

PROCEDURAL HISTORY

The Cincinnati Bar Association charged respondent with professional misconduct based on felony and misdemeanor convictions and his failure to respond to investigative inquiries. Respondent did not answer, and a master commissioner made findings of fact and recommended disbarment. The Board adopted that recommendation, and the Supreme Court of Ohio agreed and permanently disbarred respondent.

DISPOSITION

other

CASES CITED

- In re Blake, 96 Ohio St. 3d 1519, 2002-Ohio-5089, 775 N.E.2d 860
- Cincinnati Bar Ass'n v. Banks, 94 Ohio St. 3d 428, 763 N.E.2d 1166 (2002)

OPINION

PER CURIAM.

Per Curiam. {¶ 1} Respondent, Wilton E. Blake II of Cincinnati, Ohio, Attorney Registration No. 0061255, was admitted to the Ohio bar in 1993. On September 27, 2002, we suspended respondent's license to practice law for an interim period pursuant to Gov.Bar R. V(5)(A)(4) upon receiving notice that he had been convicted of four felonies.

In re Blake, 96 Ohio St.3d 1519, 2002-Ohio-5089, 775 N.E.2d 860. {¶ 2} On August 12, 2002, relator, Cincinnati Bar Association, charged respondent with professional misconduct based on the felony convictions and two subsequent misdemeanor convictions. Respondent was served with the complaint but did not answer, and relator moved for default pursuant to Gov.Bar R. V(6)(F).

A master commissioner appointed by the Board of Commissioners on Grievances and Discipline considered the motion, making findings of fact, conclusions of law, and a recommendation. {¶ 3} On May 23, 2002, respondent pled guilty to and was convicted of one count of theft in violation of R.C. 2913.02(A)(1), a fourth-degree felony; two more counts of theft in violation of R.C.

2913.02(A)(1), each a fifth-degree felony; and one count of forgery in violation of R.C. 2913.31(A)(2), a fifth-degree felony. The court sentenced respondent to five years of community control and ordered him to make restitution to his victims in the amount of \$25,297.54 and to perform 500 hours of community service. {¶ 4} On May 17, 2002, respondent additionally pled no contest to theft in violation of R.C.

2913.02(A)(1), a first-degree misdemeanor, and criminal trespass in violation of R.C. 2911.21(A)(2), a fourth-degree misdemeanor. {¶ 5} The master commissioner found that respondent's criminal activity violated DR 1-102(A)(3) (engaging in illegal conduct involving moral turpitude), 1-102(A)(4) (engaging in conduct involving fraud, deceit, dishonesty, or misrepresentation), 1-102(A)(5) (engaging in conduct prejudicial to the administration of *299justice), and 1-102(A)(6) (engaging in conduct that adversely reflects on an attorney's fitness to practice law).

Because respondent met once with relator's investigator but failed to respond to the investigator's letters of inquiry, the master commissioner also found respondent in violation of Gov.Bar R. V(4)(G). Christopher R. Heekin, for relator. {¶ 6} In recommending a sanction for this misconduct, the master commissioner considered in mitigation and aggravation several documented allegations that we cannot consider on relator's motion for default because they are neither sworn nor certified.

See Gov.Bar R. V(6)(F)(l)(b). However, the master commissioner also observed that no evidence substantiates respondent's compliance with the order of restitution. See Section 10(B)(1)® of the Rules and Regulations Governing Procedure on Complaints and Hearings Before the Board of Commissioners on Grievances and Discipline.

As relator suggested, the master commissioner recommended disbarment. The board adopted the master commissioner's findings of misconduct and recommendation. {¶ 7} We agree that

respondent violated DR 1-102(A)(3), 1-102(A)(4), 1-102(A)(5), and 1-102(A)(6), and Gov.Bar R. V(4)(G).

We also agree that respondent should be disbarred for his criminal conduct. Disbarment is warranted when an attorney turns to crime and is convicted of theft offenses. *Cincinnati Bar Assn. v. Banks* (2002), 94 Ohio St.3d 428, 763 N.E.2d 1166 (attorney convicted of interstate transportation of stolen laptop computers disbarred for violations of DR 1 — 102[A][3], [4], and[5]). {¶ 8} Accordingly, respondent is hereby permanently disbarred from the practice of law in Ohio. Costs are taxed to respondent.

Judgment accordingly. Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.