

SUPREME COURT OF OHIO

Office of Disciplinary Counsel v. Brumbaugh

99 Ohio St. 3d 65 (Ohio 2003) · Decided May 16, 2003

SUMMARY

The Supreme Court of Ohio indefinitely suspended Phillip Brumbaugh from practicing law for neglecting multiple entrusted legal matters, misrepresenting case statuses, and mishandling client funds. The court credited mitigating factors including treatment for alcoholism and depression, cooperation in the disciplinary process, lack of financial gain, and absence of misappropriation. Reinstatement was conditioned on treatment and recovery requirements, satisfaction of prior court orders, and waiting two years before filing a petition.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Per Curiam; Moyer, C.J.; Resnick, J.; F.E. Sweeney, J.; Pfeifer, J.; Cook, J.; Lundberg Stratton, J.; O'Connor, J.
JURISDICTION	Ohio
DECIDED	May 16, 2003
DISPOSITION	other
PROCEDURAL POSTURE	Original attorney-discipline proceeding brought by Disciplinary Counsel based on respondent's admitted violations of multiple Disciplinary Rules.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Ohio
PARTIES	Office of Disciplinary Counsel v. Phillip Brumbaugh

TOPICS

remedies

PRACTICE AREAS

legal ethics

attorney discipline

professional responsibility

QUESTIONS PRESENTED

1. What disciplinary sanction is appropriate for respondent's admitted violations involving dishonesty, neglect, failure to carry out employment contracts, prejudice to clients, and mishandling of client funds?

2. Whether mitigating circumstances, including treatment for alcoholism and depression, cooperation, lack of dishonest or selfish motive, and lack of client-fund misappropriation, warranted an indefinite suspension rather than a more severe sanction.
3. What conditions and waiting period should govern respondent's reinstatement to the practice of law?

HOLDINGS

1. An indefinite suspension from the practice of law in Ohio is an appropriate sanction for respondent's egregious course of misconduct, notwithstanding his prior comparable discipline, because substantial mitigating factors supported the agreed sanction.
2. Respondent may not file a petition for reinstatement for two years from the date of the order, and readmission is conditioned on proof of successful treatment and recovery from alcoholism and compliance with all orders of the court, including the conditions in the prior October 3, 2002 entry.

KEY QUOTATIONS

“Based on the foregoing, an indefinite suspension is an appropriate sanction.” (68)

“Respondent is hereby indefinitely suspended from the practice of law in Ohio.” (68)

FACTUAL BACKGROUND

Respondent represented or agreed to represent several clients in paternity, guardianship, probate, and related matters but failed to perform the promised legal work, failed to communicate, and in some instances misrepresented the status of the matters. In an estate sale, he retained \$43,229.78 in his IOLTA account that was intended to satisfy a secured interest in the decedent's home, falsely stated that the debt had been paid, and released the funds only after a grievance committee scheduled his deposition. Respondent had a history of comparable discipline and was receiving treatment for alcoholism and depression; the disciplinary authorities found substantial mitigating factors, including cooperation, lack of financial gain, and lack of misappropriation.

PROCEDURAL HISTORY

Disciplinary Counsel filed a complaint in April 2002. Respondent admitted all allegations, and the matter was submitted to a panel of the Board of Commissioners on Grievances and Discipline based on testimony and agreed stipulations. The panel and board recommended an indefinite suspension with reinstatement conditioned on successful treatment and recovery from alcoholism; the Supreme Court of Ohio adopted those findings and recommendation.

DISPOSITION

other

CASES CITED

- Darke Cty. Bar Assn. v. Brumbaugh (1992), 65 Ohio St.3d 151, 602 N.E.2d 606
- Darke Cty. Bar Assn. v. Brumbaugh (2000), 90 Ohio St.3d 248, 737 N.E.2d 27

- Darke Cty. Bar Assn. v. Brumbaugh, 95 Ohio St.3d 1467, 2002-Ohio-2424, 768 N.E.2d 659
- Darke Cty. Bar Assn. v. Brumbaugh, 96 Ohio St.3d 1530, 2002-Ohio-5303, 776 N.E.2d 109
- Akron Bar Assn. v. Hoffer (1999), 86 Ohio St.3d 97, 99, 712 N.E.2d 116
- Richland Cty. Bar Assn. v. Brickley, 97 Ohio St.3d 285, 2002-Ohio-6416, 779 N.E.2d 750
- Cuyahoga Cty. Bar Assn. v. Judge, 96 Ohio St.3d 467, 2002-Ohio-4741, 776 N.E.2d 21, ¶ 6

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