

SUPREME COURT OF OHIO

Warren County Bar Ass'n v. Marshall

121 Ohio St. 3d 197 (Ohio 2009) · Decided February 12, 2009

SUMMARY

The Supreme Court of Ohio permanently disbarred Bernard Sanford Marshall Jr. for neglecting client matters, intentionally failing to carry out legal-services agreements, engaging in dishonest conduct, and failing to cooperate with disciplinary authorities. The court relied on his prior disciplinary suspensions, pattern of misconduct, and absence of mitigating factors in determining that permanent disbarment was appropriate.

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	February 12, 2009
DISPOSITION	other
PROCEDURAL POSTURE	Attorney-discipline proceeding in which the Warren County Bar Association charged respondent with professional misconduct. A hearing panel found violations and recommended disbarment; the Board of Commissioners on Grievances and Discipline adopted the findings and recommendation. Respondent did not respond to the Supreme Court's order to show cause.
PRECEDENTIAL VALUE	Published Ohio Supreme Court opinion; precedential attorney-discipline decision.
PARTIES	Warren County Bar Association v. Bernard Sanford Marshall Jr.

TOPICS

bankruptcy

family law

PRACTICE AREAS

professional responsibility

attorney discipline

bankruptcy law

family law

QUESTIONS PRESENTED

1. Whether respondent violated DR 6-101(A)(3) by neglecting legal matters entrusted to him.
2. Whether respondent violated DR 7-101(A)(2) by intentionally failing to carry out contracts of employment for legal services.
3. Whether respondent violated Prof.Cond.R. 8.1(b) by knowingly failing to respond to demands for information from a disciplinary authority.
4. Whether respondent's misconduct, prior disciplinary history, dishonesty, pattern of misconduct, and failure to cooperate warranted permanent disbarment.

HOLDINGS

1. Respondent violated DR 6-101(A)(3) by neglecting legal matters entrusted to him.
2. Respondent violated DR 7-101(A)(2) by intentionally failing to carry out contracts of employment entered into with clients for legal services.
3. Respondent violated Prof.Cond.R. 8.1(b) by knowingly failing to respond to demands for information from a disciplinary authority.
4. Permanent disbarment was the appropriate sanction for respondent's misconduct.

KEY QUOTATIONS

“The primary purpose of the disciplinary process is to protect the public from lawyers who are unworthy of the trust and confidence essential to the attorney-client relationship and to allow us to ascertain the lawyer’s fitness to practice law.” (at ¶ 19)

“Based on respondent’s conduct and our precedent, respondent is hereby permanently disbarred from the practice of law in the state of Ohio.” (at ¶ 21)

FACTUAL BACKGROUND

Respondent accepted retainers to represent clients in bankruptcy, child-custody, criminal, and related civil matters but failed to perform substantial work, failed to communicate with clients, and failed to return unearned fees. In one bankruptcy matter, he filed a deficient petition, failed to respond to the bankruptcy court's notice, and did not inform the clients that the case had been dismissed. Respondent also failed to respond to client grievances, discovery requests, prehearing proceedings, and the evidentiary hearing, and he had two prior disciplinary violations resulting in suspensions.

PROCEDURAL HISTORY

The relator filed multiple disciplinary charges against respondent arising from neglect of client matters, failure to perform contracted legal services, and failure to respond to disciplinary authorities. After respondent failed to participate in discovery, prehearing proceedings, or the evidentiary hearing, the panel conducted the hearing in his absence, found violations, and recommended disbarment. The board adopted the panel's findings and recommendation, and the Supreme Court accepted them and permanently disbarred respondent.

DISPOSITION

other

CASES CITED

- Warren Cty. Bar Assn. v. Marshall, 105 Ohio St. 3d 59, 2004-Ohio-7011, 822 N.E.2d 355
- Warren Cty. Bar Assn. v. Marshall, 113 Ohio St. 3d 54, 2007-Ohio-980, 862 N.E.2d 519
- Cuyahoga Cty. Bar Assn. v. Smith, 115 Ohio St. 3d 95, 2007-Ohio-4270, 873 N.E.2d 1224
- Stark Cty. Bar Assn. v. Buttacavoli, 96 Ohio St. 3d 424, 2002-Ohio-4743, 775 N.E.2d 818, at ¶ 16
- Disciplinary Counsel v. Broeren, 115 Ohio St. 3d 473, 2007-Ohio-5251, 875 N.E.2d 935, at ¶ 21
- Disciplinary Counsel v. Agopian, 112 Ohio St. 3d 103, 2006-Ohio-6510, 858 N.E.2d 368, at ¶ 10
- Columbus Bar Assn. v. Moushey, 104 Ohio St. 3d 427, 2004-Ohio-6897, 819 N.E.2d 1112, at ¶ 16
- Cincinnati Bar Assn. v. Weaver, 102 Ohio St. 3d 264, 2004-Ohio-2683, 809 N.E.2d 1113, at ¶ 15
- Greene Cty. Bar Assn. v. Fodal, 100 Ohio St. 3d 310, 2003-Ohio-5852, 798 N.E.2d 1082, at ¶ 32