

SUPREME COURT OF OHIO

Disciplinary Counsel v. Cox

113 Ohio St. 3d 48 (Ohio 2007) · Decided March 21, 2007

SUMMARY

The Ohio Supreme Court reviewed disciplinary charges against Marion Neal Cox arising from his conduct as an acting municipal court judge and attorney. The court found violations involving abuse of contempt power, misrepresentations during the disciplinary investigation, a drug conviction, and abusive conduct toward opposing counsel, and imposed an indefinite suspension from the practice of law.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Per Curiam; Moyer, C.J.; Lundberg Stratton, J.; O'Connor, J.; O'Donnell, J.; Lanzinger, J.; Pfeifer, J.; Cupp, J.
JURISDICTION	Ohio
DECIDED	March 21, 2007
DISPOSITION	other
PROCEDURAL POSTURE	Disciplinary Counsel brought a professional-misconduct proceeding against an Ohio attorney and former acting municipal judge. After a hearing panel made findings and recommended a one-year suspension, the Board of Commissioners on Grievances and Discipline adopted the recommendation. The Supreme Court of Ohio reviewed the board's findings and sanction.
STANDARD OF REVIEW	The Supreme Court of Ohio independently reviewed the board's findings of misconduct and determined the appropriate disciplinary sanction.
PRECEDENTIAL VALUE	Published Ohio Supreme Court opinion; precedential
PARTIES	Disciplinary Counsel v. Marion Neal Cox

TOPICS

- administrative law
- criminal procedure
- municipal law

PRACTICE AREAS

attorney discipline

judicial conduct

professional responsibility

contempt power

QUESTIONS PRESENTED

1. Whether respondent violated the Code of Judicial Conduct and Code of Professional Responsibility through his misuse of contempt power, false statements during the disciplinary investigation, drug-related criminal conduct, and abusive treatment of opposing counsel.
2. Whether the board's recommended one-year suspension was an adequate sanction for respondent's misconduct.

HOLDINGS

1. Respondent violated Canons 1, 2, 3(B)(4), and 4 of the Code of Judicial Conduct and DR 1-102(A)(5) and DR 1-102(A)(6) through his abuse of contempt power, misleading statements to disciplinary investigators, criminal drug conduct, and abusive conduct toward opposing counsel.
2. The board's recommended one-year suspension was insufficient; respondent was indefinitely suspended from the practice of law in Ohio.

KEY QUOTATIONS

“The recommended sanction, however, is too lenient for respondent’s egregious misconduct.” (at 53)

“Respondent is therefore indefinitely suspended from the practice of law in Ohio.” (at 54)

FACTUAL BACKGROUND

Marion Neal Cox, while serving as an acting judge of the East Cleveland Municipal Court, ordered the arrest and detention of James C. Portis after Portis allegedly called the judge a crook. Cox then presided over the contempt proceeding, advised Portis that he had to prove his innocence, threatened him with punishment, and imposed a fine after Portis entered a no-contest plea. Cox later gave disciplinary investigators inaccurate accounts of the incident, had a misdemeanor drug conviction, and berated opposing counsel using profanity and racial slurs.

PROCEDURAL HISTORY

Respondent stipulated to most of the charged misconduct and underlying facts. A panel of the Board of Commissioners on Grievances and Discipline found violations of the Code of Judicial Conduct and Code of Professional Responsibility and recommended a one-year suspension; the board adopted that recommendation. The Supreme Court of Ohio agreed with the violations but concluded that the recommended sanction was too lenient and imposed an indefinite suspension.

DISPOSITION

other

CASES CITED

- Windham Bank v. Tomaszczyk, 27 Ohio St. 2d 55, 56 O.O. 2d 31, 271 N.E.2d 815 (1971)

- Disciplinary Counsel v. Karto, 94 Ohio St. 3d 109, 114, 760 N.E.2d 412 (2002)
- Disciplinary Counsel v. Allen, 79 Ohio St. 3d 494, 495, 684 N.E.2d 31 (1997)
- Disciplinary Counsel v. O'Neill, 103 Ohio St. 3d 204, 2004-Ohio-4704, 815 N.E.2d 286, ¶ 33
- Columbus Bar Assn. v. Farmer, 111 Ohio St. 3d 137, 2006-Ohio-5342, 855 N.E.2d 462, ¶ 49

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