

SUPREME COURT OF OHIO

In re Report of the Commission on Continuing Legal Education

98 Ohio St. 3d 1497 (Ohio 2003) · Decided March 20, 2003

SUMMARY

The Supreme Court of Ohio adopts the Commission on Continuing Legal Education's recommendation concerning attorneys' and judges' noncompliance with continuing legal education requirements. The order imposes sanctions, suspends the listed attorneys from practicing law until reinstatement, and establishes related notification, compliance, and filing obligations.

CASE DETAILS

COURT	Supreme Court of Ohio
JURISDICTION	Ohio
DECIDED	March 20, 2003
DISPOSITION	other
PROCEDURAL POSTURE	Original disciplinary proceeding arising from the Commission on Continuing Legal Education's report recommending sanctions and suspension of an attorney for continuing-legal-education noncompliance.
PRECEDENTIAL VALUE	Published per curiam disciplinary order; binding as to the disposition and conditions imposed on the respondent.

TOPICS

administrative law

agency adjudication

remedies

PRACTICE AREAS

administrative law

professional discipline

legal ethics

continuing legal education

QUESTIONS PRESENTED

1. Whether the Supreme Court should adopt the Commission on Continuing Legal Education's recommendation of sanctions for the respondent's continuing-legal-education noncompliance.
2. Whether the respondent should be suspended from the practice of law and required to satisfy specified reinstatement, notice, client-protection, and continuing-education conditions.

HOLDINGS

1. The court adopted the Commission on Continuing Legal Education's recommendation and imposed the recommended monetary sanction for the respondent's noncompliance during the 2000-2001 reporting period.
2. The respondent was immediately suspended from the practice of law until reinstated by order of the Supreme Court of Ohio, based on violation of Gov.Bar R. X for a third consecutive reporting period and continuous and ongoing noncompliance.
3. The respondent was prohibited from practicing law, required to surrender specified credentials and provide notices and client-related protections, and could not be reinstated until complying with Gov.Bar R. X(7), the Supreme Court Rules for the Government of the Bar of Ohio, the court's orders, and a subsequent reinstatement order.

KEY QUOTATIONS

"IT IS ORDERED by the court that the recommendation of the commission be adopted and respondent, [Name of Attorney], is immediately suspended from the practice of law pursuant to Gov.Bar R. X(6)(B)(3), and Gov.Bar R. X(5)(A)(4), until respondent is reinstated by order of this court pursuant to Gov.Bar R. X(7)." (98 Ohio St. 3d at 1497)

"IT IS FURTHER ORDERED that respondent shall not be reinstated to the practice of law in Ohio until (1) respondent complies with the requirements for reinstatement set forth in Gov.Bar R. X(7), (2) respondent complies with the Supreme Court Rules for the Government of the Bar of Ohio, (3) respondent complies with this and all other orders of the court, and (4) this court orders respondent reinstated." (98 Ohio St. 3d at 1498)

FACTUAL BACKGROUND

The Commission on Continuing Legal Education determined that the respondent failed to comply with applicable continuing-legal-education requirements during the 2000-2001 reporting period. It recommended a monetary sanction and suspension from the practice of law based on a third consecutive reporting-period violation and continuing noncompliance. After the respondent filed objections to the recommendation, the Supreme Court adopted it and imposed suspension and related obligations.

PROCEDURAL HISTORY

The Commission on Continuing Legal Education filed a report under Gov.Bar R. X recommending sanctions and suspension for noncompliance during the 2000-2001 reporting period and for violations across three consecutive reporting periods. The Supreme Court of Ohio issued an order to show cause, received the respondent's objections and the commission's answer brief, and then adopted the commission's recommendation.

DISPOSITION

other

OPINION

PER CURIAM.

ORDER This matter originated in this court on the filing of a report by the Commission on Continuing Legal Education (the “commission”) pursuant to Gov.Bar R. X(6)(A)(1)(b) and (A)(2)(d). The commission recommended the imposition of sanctions against certain attorneys and judges, including the above-named respondent, for failure to comply with the applicable continuing legal education provisions of Gov.Bar R. X and Gov.Jud.

R. IV for the 2000-2001 reporting period. The commission’s report recommended imposition of a sanction against the respondent in the total amount of \$[] for noncompliance in the 2000-2001 reporting period. Furthermore, the commission’s report recommended that the respondent be suspended from the practice of law pursuant to Gov.Bar R. X(5)(A)(4) for violation of Gov.Bar R. X for the third consecutive reporting period, and for continuous and ongoing noncompliance with Gov.Bar R. X during the last three reporting periods.

On November 6, 2002, this court issued to the respondent an order to show cause why the commission’s recommendation should not be adopted and an order so entered against the respondent. Respondent filed objections to the commission’s recommendation, the commission filed an answer brief, and this cause was considered by the court. Upon consideration thereof, IT IS ORDERED by the court that the recommendation of the commission be adopted and respondent, [Name of Attorney], is immediately suspended from the practice of law pursuant to Gov.Bar R. X(6)(B)(3), and Gov.Bar R. X(5)(A)(4), until respondent is reinstated by order of this court pursuant to Gov.Bar R. X(7).

IT IS FURTHER ORDERED that, within 30 days of the date of this order, respondent shall pay to the Commission on Continuing Legal Education, by certified check, bank check, or money order, a sanction fee which is hereby imposed in the total amount of \$[]. IT IS FURTHER ORDERED that, payment of the sanction fee notwithstanding, respondent shall comply with the requirements imposed by Gov.Bar R. X for the 2000-2001 reporting period.

See CLE Reg. 503.4. IT IS FURTHER ORDERED that respondent immediately cease and desist from the practice of law in any form and is hereby forbidden to appear on behalf of another before any court, judge, commission, board, administrative agency, or other public authority. IT IS FURTHER ORDERED that respondent is hereby forbidden to counsel or advise or prepare legal documents for others or in any manner perform such services.

IT IS FURTHER ORDERED that respondent is hereby divested of each, any, and all of the rights, privileges, and prerogatives customarily accorded to a member in good standing of the legal profession of Ohio. IT IS FURTHER ORDERED that respondent surrender forthwith respondent’s certificate of admission to practice law and attorney registration card to the Clerk of this court on

or before 30 days from the date of this order, and that respondent's name be stricken from the roll of attorneys maintained by this court.

IT IS FURTHER ORDERED that, pursuant to Gov.Bar R. X(3)(G), respondent shall complete one credit hour of continuing legal education for each month, or portion of a month, of the suspension. As part of the total credit hours of continuing legal education required by Gov.Bar R. X(3)(G), respondent shall complete one credit hour of instruction related to professional conduct required by Gov.Bar R. X(3)(A)(1), for each six months, or portion of six months, of the suspension. *1498IT IS FURTHER ORDERED that respondent shall not be reinstated to the practice of law in Ohio until (1) respondent complies with the requirements for reinstatement set forth in Gov.Bar R. X(7), (2) respondent complies with the Supreme Court Rules for the Government of the Bar of Ohio, (3) respondent complies with this and all other orders of the court, and (4) this court orders respondent reinstated.

IT IS FURTHER ORDERED that, within 30 days of the date of this order, respondent shall: 1. Notify all clients being represented in pending matters and any co-counsel of respondent's suspension and consequent disqualification to act as an attorney after the effective date of this order and, in the absence of co-counsel, also notify the clients to seek legal service elsewhere, calling attention to any urgency in seeking the substitution of another attorney in respondent's place; 2.

Regardless of any fees or expenses due respondent, deliver to all clients being represented in pending matters any papers or other property pertaining to the client, or notify the clients or co-counsel, if any, of a suitable time and place where the papers or other property may be obtained, calling attention to any urgency for obtaining such papers or other property; 3.

Refund any part of any fees or expenses paid in advance that are unearned or not paid, and account for any trust money or property in the possession or control of respondent; 4. Notify opposing counsel in pending litigation or, in the absence of counsel, the adverse parties, of respondent's disqualification after the effective date of this order, and file a notice of disqualification of respondent with the court or agency before which the litigation is pending for inclusion in the respective file or files; 5.

Send all notices required by this order by certified mail with a return address where communications may thereafter be directed to respondent; 6. File with the Clerk of this court and the Disciplinary Counsel of the Supreme Court an affidavit showing compliance with this order, showing proof of service of notices required herein, and setting forth the address where the affiant may receive communications; and 7.

Retain and maintain a record of the various steps taken by respondent pursuant to this order. IT IS FURTHER ORDERED that respondent shall keep the Clerk of this court and the Disciplinary

Counsel advised of any change of address where respondent may receive communications. IT IS FURTHER ORDERED, sua sponte, that all documents filed with this court in this case shall meet the filing requirements set forth in the Rules of Practice of the Supreme Court of Ohio, including requirements as to form, number, and timeliness of filings.

IT IS FURTHER ORDERED by the court that the Clerk shall send this order by certified mail to the respondent at the business address registered with the Attorney Registration Section under Gov.Bar R. VI; that, if this order is returned as undeliverable or unclaimed, the Clerk shall resend it by regular mail to the respondent at the residence address registered with the Attorney Registration Section; and that service of this order in accordance with the foregoing shall be deemed effective service.

IT IS FURTHER ORDERED that, pursuant to Gov.Bar R. X(6)(H), the Clerk of this court send certified copies of this order to those persons or organizations named in Gov.Bar R. V(8)(D)(1), and that publication be made as required under Gov.Bar R. X(6)(H). Attorney Name Registration Residence Residence Employer Employer Sanction Number County State County State Amount Randal Stephen Knight 0060083 Montgomery OH \$600.00 Michael Craig Donovan 0022705 MT CA \$290.00 R. Russell Kubyn 0029510 Geauga OH Lake OH \$560.00