

SUPREME COURT OF OHIO

Cleveland Bar Ass'n v. Judge

94 Ohio St. 3d 331 (Ohio 2002) · Decided February 20, 2002

SUMMARY

The Supreme Court of Ohio indefinitely suspended attorney Thomas J. Judge for neglecting two clients' disability-benefit matters, failing to pursue their claims, and failing to cooperate with the disciplinary investigation. The court adopted the board's findings and recommendation and taxed costs to the respondent.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Per Curiam; Moyer, C.J.; Douglas, J.; Resnick, J.; F.E. Sweeney, J.; Pfeifer, J.; Cook, J.; Lundberg Stratton, J.
JURISDICTION	Ohio
DECIDED	February 20, 2002
DISPOSITION	other
PROCEDURAL POSTURE	Attorney-discipline proceeding initiated by the Cleveland Bar Association. After Judge failed to answer the disciplinary complaint, the matter was referred for default proceedings; the master commissioner recommended indefinite suspension, and the Board of Commissioners on Grievances and Discipline adopted that recommendation.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Ohio
PARTIES	Cleveland Bar Association v. Thomas J. Judge

TOPICS

administrative law

remedies

PRACTICE AREAS

attorney discipline

professional responsibility

legal malpractice and client representation

QUESTIONS PRESENTED

1. Whether Judge's neglect of two clients' disability-benefit matters and failure to cooperate with the disciplinary investigation violated the cited disciplinary rules.
2. What sanction was appropriate for the violations.

HOLDINGS

1. Judge's conduct violated DR 1-102(A)(6), DR 6-101(A)(2), DR 6-101(A)(3), DR 7-101(A)(1), DR 7-101(A)(2), DR 7-101(A)(3), Gov.Bar R. V(4)(G), and Gov.Bar R. V(6)(A)(1).
2. An indefinite suspension from the practice of law is appropriate where neglect of legal matters is coupled with failure to cooperate in the ensuing disciplinary investigation, particularly when the neglect prejudices the clients' interests.

KEY QUOTATIONS

“Neglect of legal matters and a failure to cooperate in the ensuing disciplinary investigation generally warrant an indefinite suspension from the practice of law in Ohio.” (at 332)

*“The sanction of an indefinite suspension from the practice of law “is especially fitting * * * where neglect of a legal matter is coupled with a failure to cooperate in the ensuing disciplinary investigation.”” (at 332)*

“Respondent is hereby indefinitely suspended from the practice of law in Ohio. Costs are taxed to respondent.” (at 333)

FACTUAL BACKGROUND

Thomas J. Judge neglected two clients' disability-benefit matters. He failed to pursue one client's Social Security claim beyond filing an unsuccessful request for reconsideration and failed to appeal, while he took no timely action on another client's employer-sponsored long-term-disability claim, causing the claim to be denied as untimely and benefits to cease. Judge also failed to respond to the Cleveland Bar Association's investigative inquiries.

PROCEDURAL HISTORY

The Cleveland Bar Association filed a disciplinary complaint on August 14, 2000, alleging multiple violations arising from Judge's neglect of two clients' disability claims and failure to cooperate with the disciplinary investigation. Judge failed to answer, resulting in default proceedings before a master commissioner. The master commissioner recommended indefinite suspension, the Board adopted the findings and recommendation, and the Supreme Court of Ohio adopted them and imposed the sanction.

DISPOSITION

other

CASES CITED

- Akron Bar Assn. v. Snyder, 87 Ohio St. 3d 211, 718 N.E.2d 1271 (1999)

- Disciplinary Counsel v. Henderson, 87 Ohio St. 3d 219, 718 N.E.2d 1277 (1999)
- Warren Cty. Bar Assn. v. Lieser, 79 Ohio St. 3d 488, 683 N.E.2d 1148 (1997)
- Disciplinary Counsel v. Boylan, 85 Ohio St. 3d 115, 707 N.E.2d 465 (1999)
- In re Comm. on Continuing Legal Edn., 73 Ohio St. 3d 1401, 651 N.E.2d 1300 (1995)

OPINION

PER CURIAM.

Per Curiam. In August 1996, Brian Costa retained respondent, Thomas J. Judge¹ of Cleveland, Ohio, Attorney Registration No. 0024839, to represent him on a claim for Social Security disability benefits. Thereafter, despite repeated attempts by Costa to contact respondent concerning his claim, and after respondent's office claimed that Costa's file had been lost, respondent failed to respond.

In addition, other than filing a request for reconsideration, which was denied, respondent did not do any work on the claim. He also failed to file an appeal of the denial of the request for reconsideration, and Costa retained another attorney, who established good cause for a hearing on Costa's claim based on respondent's inaction.

In April 1998, Janice Hunter retained respondent to represent her on a claim for benefits under her employer's long-term disability insurance. Despite numerous telephone calls and letters from Hunter and her physicians, respondent did not take any action on behalf of Hunter and did not return her calls.

Because of respondent's failure to timely pursue her claim, Hunter's attempt to file the claim with another attorney was denied as untimely, and her monthly disability benefits were discontinued. Costa and Hunter filed grievances against respondent with relator, Cleveland Bar Association. Respondent failed to respond to relator's inquiries about the grievances or otherwise cooperate with relator's investigation of the grievances.

On August 14, 2000, relator filed a complaint charging respondent with multiple violations of the Code of Professional Responsibility and the Supreme Court Rules for the Government of the Bar. After respondent failed to answer, the *332matter was referred to a master commissioner under Gov.Bar R. V(6)(F)(2) on relator's motion for default judgment.

The master commissioner found the facts as previously set forth and concluded that respondent's conduct as to each of his clients violated DR 1-102(A)(6) (engaging in conduct that adversely reflects on lawyer's fitness to practice law), 6-101(A)(2) (handling a legal matter without adequate preparation), 6-101(A)(3) (neglecting an entrusted legal matter), 7-101(A)(1) (failing to seek lawful objectives of his client through reasonably available means), 7-101(A)(2) (failing to carry

out contract of employment entered into with client for professional services), and 7-101(A)(3) (intentionally prejudicing or damaging client during course of professional relationship).

The master commissioner further concluded that respondent violated Gov.Bar R. V(4)(G) (duty to cooperate in disciplinary investigation) and V(6)(A)(1) (defining misconduct to include violation of oath of office taken upon admission to the practice of law in this state or any disobedience of the Code of Professional Responsibility or Rules for the Government of the Bar).

The master commissioner recommended that respondent be indefinitely suspended from the practice of law. The Board of Commissioners on Grievances and Discipline of the Supreme Court (“board”) adopted the findings, conclusions, and recommendation of the master commissioner and further recommended that costs be taxed to respondent.

We adopt the findings, conclusions, and recommendation of the board. In determining the appropriate sanction, Section 10(B) of the Rules and Regulations Governing Procedure on Complaints and Hearings Before the Board of Commissioners on Grievances and Discipline authorizes the board to consider precedent established by this court. BCGD Reg. 10(B).

We have consistently recognized that “[n]eglect of legal matters and a failure to cooperate in the ensuing disciplinary investigation generally warrant an indefinite suspension from the practice of law in Ohio.” *Akron Bar Assn. v. Snyder* (1999), 87 Ohio St.3d 211, 212, 718 N.E.2d 1271, 1272.

In other words, “[t]he sanction of an indefinite suspension from the practice of law ‘is especially fitting * * * where neglect of a legal matter is coupled with a failure to cooperate in the ensuing disciplinary investigation.’ ” *Disciplinary Counsel v. Henderson* (1999), 87 Ohio St.3d 219, 221, 718 N.E.2d 1277, 1279, quoting *Warren Cty. Bar Assn. v. Lieser* (1997), 79 Ohio St.3d 488, 490, 683 N.E.2d 1148, 1149.

Here, like the attorneys in *Henderson* and *Disciplinary Counsel v. Boylan* (1999), 85 Ohio St.3d 115, 707 N.E.2d 465, respondent exhibited a cavalier attitude towards the representation of his clients as well as the ensuing disciplinary investigation.

Moreover, respondent’s neglect prejudiced his clients’ interests. *333Respondent is hereby indefinitely suspended from the practice of law in Ohio. Costs are taxed to respondent. Weston, Hurd, Fallon, Paisley & Howley and Gary W. Johnson; Ulmer & Berne, LLP, and Joseph S. Simms, for relator. Judgment accordingly. Moyer, C.J., Douglas, Resnick, F.E. Sweeney, Pfeifer, Cook and Lundberg Stratton, JJ., concur..

We previously imposed a sanction on respondent for failure to comply with the continuing legal education requirements of Gov.Bar R. X for the 1992-1993 reporting period. In *re Comm. on Continuing Legal Edn.* (1995), 73 Ohio St.3d 1401, 651 N.E.2d 1300.

