

SUPREME COURT OF OHIO

Columbus Bar Assn. v. Gill

137 Ohio St. 3d 277, 2013-Ohio-4619 (2013) · No. 2012-2069 · Decided October 24, 2013

SUMMARY

The Supreme Court of Ohio held that Sterling Everard Gill II committed multiple violations of the Ohio Rules of Professional Conduct, including failures involving client communication, fee disclosures, trust-account maintenance, diligence, and cooperation with disciplinary investigations. The court imposed a two-year suspension, stayed the second year subject to conditions including use of an alcohol-monitoring device, treatment compliance, establishment of a client trust account, continuing legal education, and supervised probation upon reinstatement.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Per Curiam; Pfeifer; O'Donnell; Kennedy; O'Neill; O'Connor; Lanzinger; French
JURISDICTION	Ohio
DECIDED	October 24, 2013
DOCKET	2012-2069
DISPOSITION	other
PROCEDURAL POSTURE	Attorney-discipline proceeding based on a certified report of the Board of Commissioners on Grievances and Discipline. The respondent objected to the board's recommendation of an indefinite suspension, while relator sought an actual two-year suspension with conditions.
STANDARD OF REVIEW	The Supreme Court of Ohio independently reviews the stipulated and board findings of professional misconduct and determines the appropriate sanction by considering the ethical duties violated, actual injury, aggravating and mitigating factors, and sanctions imposed in comparable cases.
PRECEDENTIAL VALUE	Published precedential decision of the Supreme Court of Ohio
PARTIES	Columbus Bar Association v. Sterling Everard Gill II

TOPICS

remedies

administrative law

appellate procedure

PRACTICE AREAS

attorney discipline

professional responsibility

legal ethics

QUESTIONS PRESENTED

1. Whether the board's findings of professional misconduct should be adopted.
2. What sanction is appropriate for Gill's multiple violations of the Ohio Rules of Professional Conduct and related disciplinary rules.
3. Whether Gill's addiction, bipolar disorder, cooperation, lack of dishonest motive, prior discipline, pattern of misconduct, and absence of client-fund misappropriation justified a sanction less severe than indefinite suspension.

HOLDINGS

1. The court adopted the board's findings of fact and misconduct, except that it dismissed the stipulated Prof.Cond.R. 1.5(d)(3) violation under Count One for insufficient evidence.
2. Gill was suspended from the practice of law for two years, with the second year stayed subject to specified conditions, including use of an alcohol-monitoring device.
3. The second year of the suspension would be stayed if Gill obtained and wore an alcohol-monitoring device within 60 days and complied with the specified treatment and professional requirements; violation of the monitoring condition would lift the stay and require service of the entire two-year suspension.

KEY QUOTATIONS

“Given Gill’s history of relapses, a significant suspension is necessary to ensure that Gill’s new treatment regimen continues its initial success for a more sustained period of time.” (¶ 28)

“If the device detects alcohol during the term of Gill’s suspension or if Gill otherwise fails to comply with this condition during his suspension, the stay shall be lifted, and Gill shall serve the entire two-year suspension.” (¶ 30)

FACTUAL BACKGROUND

Gill, a solo criminal-defense practitioner, committed numerous violations involving inadequate client communication, fee disclosures, lack of malpractice-insurance disclosures, improper handling of client funds, failures to respond to disciplinary inquiries, and conduct prejudicial to the administration of justice. He also appeared late or apparently intoxicated in court, failed to timely prosecute appeals, and had a prior disciplinary history involving conversion of client funds. Evidence showed that alcohol addiction and bipolar disorder contributed to some of his misconduct, while he had not misappropriated client funds in the present matter.

PROCEDURAL HISTORY

The Columbus Bar Association filed an 11-count second amended complaint alleging 53 disciplinary-rule violations. The parties stipulated to most of the misconduct, and a three-member panel recommended a two-year suspension with 18 months stayed. The board adopted the findings but recommended an indefinite suspension. The Supreme Court of Ohio sustained Gill's objection in part and imposed a two-year suspension with the second year stayed on conditions.

DISPOSITION

other

CASES CITED

- Columbus Bar Assn. v. Gill, 39 Ohio St. 3d 4, 528 N.E.2d 945 (1988)
- Columbus Bar Assn. v. Gill, 56 Ohio St. 3d 602, 565 N.E.2d 539 (1990)
- In re Gill, 114 Ohio St. 3d 1405, 2007-Ohio-2710, 867 N.E.2d 840
- Stark Cty. Bar Assn. v. Buttacavoli, 96 Ohio St. 3d 424, 2002-Ohio-4743, 775 N.E.2d 818, ¶ 16
- Disciplinary Counsel v. Broeren, 115 Ohio St. 3d 473, 2007-Ohio-5251, 875 N.E.2d 935, ¶ 21
- Disciplinary Counsel v. Johnson, 131 Ohio St. 3d 372, 2012-Ohio-1284, 965 N.E.2d 294
- Erie-Huron Counties Joint Certified Grievance Comm. v. Derby, 131 Ohio St. 3d 144, 2012-Ohio-78, 961 N.E.2d 1124
- Columbus Bar Assn. v. King, 132 Ohio St. 3d 501, 2012-Ohio-873, 974 N.E.2d 1180
- Cleveland Metro. Bar Assn. v. Westfall, 134 Ohio St. 3d 127, 2012-Ohio-5365, 980 N.E.2d 982
- Disciplinary Counsel v. Leksan, 136 Ohio St. 3d 85, 2013-Ohio-2415, 990 N.E.2d 591