

SUPREME COURT OF OHIO

Disciplinary Counsel v. Russ

Disciplinary Counsel v. Russ, 2023 Ohio 1337 (Ohio 2023) · No. No. 2022-1512 · Decided April 27, 2023

SUMMARY

Attorney Andrew E. Russ was suspended for two years with one year conditionally stayed for violating Prof.Cond.R. 1.8(j) by soliciting a sexual relationship with a vulnerable client, and for making false statements during the disciplinary process (Prof.Cond.R. 8.1(a)). He also violated Prof.Cond.R. 8.4(d) by repeatedly being late or failing to appear for hearings on behalf of ten clients. The Ohio Supreme Court imposed conditions on reinstatement including continued compliance with an OLAP contract, additional professionalism CLE, and a healthcare professional's opinion that Russ can ethically represent female clients.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Kennedy; Fischer; DeWine; Donnelly; Stewart; Brunner; Deters
JURISDICTION	Ohio
DECIDED	April 27, 2023
DOCKET	No. 2022-1512
DISPOSITION	other
PROCEDURAL POSTURE	Certified report from the Board of Professional Conduct
STANDARD OF REVIEW	The court reviews the board's findings of fact and conclusions of law and determines the appropriate sanction.
PRECEDENTIAL VALUE	Published
PARTIES	Disciplinary Counsel v. Andrew Edward Russ

TOPICS

- sanctions
- evidence

PRACTICE AREAS

- Legal Ethics / Attorney Discipline

QUESTIONS PRESENTED

1. Whether Russ violated Prof.Cond.R. 1.8(j) by soliciting a sexual relationship with a client
2. Whether Russ violated Prof.Cond.R. 8.1(a) by knowingly making false statements in a disciplinary matter
3. Whether Russ violated Prof.Cond.R. 8.4(h) by engaging in conduct that adversely reflects on his fitness to practice
4. Whether Russ violated Prof.Cond.R. 8.4(d) by engaging in conduct prejudicial to the administration of justice
5. What sanction is appropriate for the misconduct

HOLDINGS

1. Russ violated Prof.Cond.R. 1.8(j) by soliciting a sexual relationship with C.L., a vulnerable client, through explicit text messages.
2. Russ violated Prof.Cond.R. 8.1(a) by knowingly making false statements in his response to relator's letter of inquiry and during his deposition.
3. Russ violated Prof.Cond.R. 8.4(h) because his conduct toward C.L. was sufficiently egregious to merit a separate violation.
4. Russ violated Prof.Cond.R. 8.4(d) by being repeatedly late for or failing to appear at hearings, which prejudiced the administration of justice.
5. A two-year suspension with one year conditionally stayed, along with specific conditions on reinstatement, is the appropriate sanction.

KEY QUOTATIONS

"Russ texted C.L. that he wanted her to 'be [his] woman,' then added, 'I want your p *y little girl' and 'Show me a little of what's mine.' Russ confessed to C.L. that he had always wanted a young girlfriend about the age of his daughter with whom he could share 'the Daddy/daughter dynamic in and out of the bedroom,' and he suggested that treating C.L. as a 'girlfriend/daughter' was 'a big turn on for [him] sexually.'" (¶ 7)*

"We agree that there is an 'inherent harm that results when an attorney abuses the attorney-client relationship in pursuit of the attorney's own sexual gratification,' Sarver at ¶ 31. And in this case, we find that the harm to C.L. was magnified by Russ's efforts to exploit her weaknesses to satisfy his own sexual desires." (¶ 20)

"Because Russ has suggested that his sexually oriented misconduct may be rooted in longstanding psychological issues and because he had completed only eight treatment sessions at the time of his disciplinary hearing, we agree that a two-year suspension, with one year conditionally stayed, coupled with the recommended conditions on Russ's reinstatement, is necessary to protect the public from future harm." (¶ 22)

FACTUAL BACKGROUND

Andrew Edward Russ was appointed to represent C.L., a vulnerable client facing loss of custody of her newborn. Russ sent explicit text messages soliciting a sexual relationship, exploited her vulnerabilities, and later made false statements during the disciplinary investigation. Additionally, between August 2021 and April 2022, Russ was repeatedly late for or failed to appear at hearings for ten other clients, resulting in his removal from the court-appointed counsel list.

PROCEDURAL HISTORY

The Board of Professional Conduct found that Russ violated multiple professional-conduct rules and recommended a two-year suspension with one year conditionally stayed. No objections were filed. The Supreme Court adopted the board's findings and recommendation.

DISPOSITION

other

REMAND INSTRUCTIONS

Russ is suspended from the practice of law in Ohio for two years with one year stayed on condition of no further misconduct. Reinstatement is conditioned on: (1) proof of compliance with his July 20, 2022 OLAP contract and any extension; (2) completion of three hours of CLE on professionalism; (3) an opinion from a qualified healthcare professional stating that Russ is capable of returning to competent, ethical, and professional practice, specifically addressing his ability to work with female clients. Until such opinion is provided, Russ must decline any court-appointed representation of female clients.

CASES CITED

- Disciplinary Counsel v. Bricker, 137 Ohio St.3d 35, 2013-Ohio-3998, 997 N.E.2d 500
- Lake Cty. Bar Assn. v. Mismas, 139 Ohio St.3d 346, 2014-Ohio-2483, 11 N.E.3d 1180
- Disciplinary Counsel v. Detweiler, 135 Ohio St.3d 447, 2013-Ohio-1747, 989 N.E.2d 41
- Disciplinary Counsel v. Benbow, 153 Ohio St.3d 350, 2018-Ohio-2705, 106 N.E.3d 57
- Disciplinary Counsel v. Cox, 168 Ohio St.3d 78, 2022-Ohio-784, 195 N.E.3d 1018
- Disciplinary Counsel v. Porter, 166 Ohio St.3d 117, 2021-Ohio-4352, 182 N.E.3d 1188
- Disciplinary Counsel v. Sarver, 155 Ohio St.3d 100, 2018-Ohio-4717, 119 N.E.3d 405