

SUPREME COURT OF OHIO

Disciplinary Counsel v. Smith

2020-Ohio-3830 (Ohio 2020) · No. 2019-1612 · Decided July 27, 2020

SUMMARY

The Supreme Court of Ohio indefinitely suspended Deborah Anne Smith from the practice of law after no objections were filed to an interim default suspension. The order imposes requirements concerning cessation of legal practice, continuing legal education, client protection fund reimbursement, reinstatement, client notification, and related compliance filings.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Maureen O'Connor, C.J.
JURISDICTION	Ohio
DECIDED	July 27, 2020
DOCKET	2019-1612
DISPOSITION	other
PROCEDURAL POSTURE	On certification of default in an attorney-discipline proceeding.
PRECEDENTIAL VALUE	Published Ohio Supreme Court disciplinary opinion
PARTIES	Disciplinary Counsel v. Deborah Anne Smith

TOPICS

administrative law

agency adjudication

remedies

PRACTICE AREAS

Attorney discipline

Professional responsibility

Legal ethics

QUESTIONS PRESENTED

1. Whether the respondent's interim default suspension should be converted into an indefinite suspension after no objection was filed.
2. What conditions and obligations should govern the respondent's indefinite suspension from the practice of law.

HOLDINGS

1. Upon certification of default and the absence of objections, the court converted respondent's interim default suspension into an indefinite suspension from the practice of law.
2. An indefinitely suspended attorney must cease practicing law, comply with specified client-notification and property-transfer duties, satisfy continuing-legal-education and client-protection reimbursement obligations, and meet applicable requirements before reinstatement.

KEY QUOTATIONS

“respondent, Deborah Anne Smith, Attorney Registration No. 0041073, last known address in Akron, Ohio, is indefinitely suspended from the practice of law.” (¶ 2)

“It is further ordered that respondent immediately cease and desist from the practice of law in any form” (¶ 3)

FACTUAL BACKGROUND

The Board of Professional Conduct certified respondent Deborah Anne Smith's default to the Supreme Court of Ohio. The court imposed an interim default suspension, and Smith filed no objection to conversion of that suspension into an indefinite suspension. The court therefore entered an indefinite suspension and related practice, continuing-legal-education, client-protection, reinstatement, and notification requirements.

PROCEDURAL HISTORY

The Board of Professional Conduct filed a certification of default. The Supreme Court of Ohio imposed an interim default suspension and ordered the parties to show cause why it should not be converted into an indefinite suspension. No objections were filed, and the court converted the interim suspension into an indefinite suspension.

DISPOSITION

other

OPINION

PER CURIAM.

[Cite as Disciplinary Counsel v. Smith, ___ Ohio St.3d ___, 2020-Ohio-3830.] DISCIPLINARY COUNSEL v. SMITH. [Cite as Disciplinary Counsel v. Smith, ___ Ohio St.3d ___, 2020-Ohio-3830.] (No. 2019-1612—Submitted July 22, 2019—Decided July 27, 2020.) ON CERTIFICATION OF DEFAULT. _____ {¶ 1} The Board of Professional Conduct filed a certification of default in the office of the clerk of this court on November 22, 2019.

On December 20, 2019, this court imposed an interim default suspension upon respondent, Deborah Anne Smith, pursuant to Gov.Bar R. V(14)(B)(1). The parties were ordered to show cause

why the interim default suspension should not be converted into an indefinite suspension. No objections were filed, and this cause was considered by the court. {¶ 2} On consideration thereof, it is ordered and adjudged by this court that pursuant to Gov.Bar R. V(14)(E)(1), respondent, Deborah Anne Smith, Attorney Registration No. 0041073, last known address in Akron, Ohio, is indefinitely suspended from the practice of law. {¶ 3} It is further ordered that respondent immediately cease and desist from the practice of law in any form and that respondent is hereby forbidden to appear on behalf of another before any court, judge, commission, board, administrative agency, or other public authority. {¶ 4} It is further ordered that respondent is hereby forbidden to counsel, advise, or prepare legal instruments for others or in any manner perform legal services for others. {¶ 5} 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. SUPREME COURT OF OHIO {¶ 6} It is further ordered that before entering into an employment, contractual, or consulting relationship with any attorney or law firm, respondent shall verify that the attorney or law firm has complied with the registration requirements of Gov.Bar R. V(23)(C).

If employed pursuant to Gov.Bar R. V(23), respondent shall refrain from direct client contact except as provided in Gov.Bar R. V(23)(A)(1) and from receiving, disbursing, or otherwise handling any client trust funds or property. {¶ 7} It is further ordered that pursuant to Gov.Bar R. X(13), 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(13), respondent shall complete one credit hour of instruction related to professional conduct required by Gov.Bar R. X(3)(B) for each six months, or portion of six months, of the suspension. {¶ 8} It is further ordered by the court that within 90 days of the date of this order, respondent shall reimburse any amounts that have been awarded against respondent by the Lawyers' Fund for Client Protection pursuant to Gov.Bar R. VIII(7)(F).

It is further ordered by the court that if after the date of this order, the Lawyers' Fund for Client Protection awards any amount against respondent pursuant to Gov.Bar R. VIII(7)(F), respondent shall reimburse that amount to the Lawyers' Fund for Client Protection within 90 days of the notice of that award. {¶ 9} 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 the Supreme Court Rules for the Government of the Bar of Ohio, (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. {¶ 10} It is further ordered that on or before 30 days from the date of this order, respondent shall do the following: 2 January Term, 2020 {¶ 11} 1.

Notify all clients being represented in pending matters and any cocounsel of respondent's suspension and consequent disqualification to act as an attorney after the effective date of this order and, in the absence of cocounsel, also notify the clients to seek legal services elsewhere, calling attention to any urgency in seeking the substitution of another attorney in respondent's place; {¶ 12} 2.

Regardless of any fees or expenses due, deliver to all clients being represented in pending matters any papers or other property pertaining to the client or notify the clients or cocounsel, 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; {¶ 13} 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; {¶ 14} 4. Notify opposing counsel or, in the absence of counsel, the adverse parties in pending litigation of respondent's disqualification to act as an attorney 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; {¶ 15} 5.

Send all notices required by this order by certified mail with a return address where communications may thereafter be directed to respondent; {¶ 16} 6. File with the clerk of this court and disciplinary counsel of the Supreme Court an affidavit showing compliance with this order, showing proof of service of the notices required herein, and setting forth the address where the respondent may receive communications; and {¶ 17} 7.

Retain and maintain a record of the various steps taken by respondent pursuant to this order. 3
SUPREME COURT OF OHIO {¶ 18} It is further ordered that respondent shall keep the clerk and disciplinary counsel advised of any change of address where respondent may receive communications. {¶ 19} It is further ordered that service shall be deemed made on respondent by sending this order, and all other orders in this case, to respondent's last known address. {¶ 20} It is further ordered that the clerk of this court issue certified copies of this order as provided for in Gov.Bar R. V(17)(D)(1) and that publication be made as provided for in Gov.Bar R. V(17)(D)(2).

O'CONNOR, C.J., and KENNEDY, FRENCH, FISCHER, DEWINE, DONNELLY, and STEWART, JJ., concur. _____ 4