

SUPREME COURT OF OHIO

Disciplinary Counsel v. Harmon

143 Ohio St. 3d 1, 2014-Ohio-4598 (2014) · No. 2013-1983 · Decided October 22, 2014

SUMMARY

The Supreme Court of Ohio held that Paul Dare Harmon violated Prof.Cond.R. 8.4(c), (d), and (h) by failing to disclose assets and making false statements during bankruptcy proceedings. The court suspended Harmon from practicing law for two years, with the second year stayed subject to conditions including no further misconduct, a mental-health evaluation, and compliance with any Ohio Lawyers Assistance Program treatment recommendations.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	O'Connor, C.J.; O'Donnell, J.; Lanzinger, J.; Kennedy, J.; Pfeifer, J.; French, J.; O'Neill, J.
JURISDICTION	Ohio
DECIDED	October 22, 2014
DOCKET	2013-1983
DISPOSITION	other
PROCEDURAL POSTURE	Attorney-discipline proceeding before the Supreme Court of Ohio on a certified report from the Board of Commissioners on Grievances and Discipline.
STANDARD OF REVIEW	The Supreme Court of Ohio independently reviews the certified disciplinary record and determines whether the charged misconduct was established by clear and convincing evidence and what sanction is appropriate.
PRECEDENTIAL VALUE	binding
PARTIES	Disciplinary Counsel v. Paul Dare Harmon

TOPICS

bankruptcy fraud

bankruptcy disclosure requirements

bankruptcy

gambling

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Harmon violated Prof.Cond.R. 8.4(c), (d), and (h) by failing to disclose assets and making false statements in his bankruptcy proceedings.
2. Whether the appropriate sanction was a two-year suspension with the second year stayed on conditions.

HOLDINGS

1. Harmon violated Prof.Cond.R. 8.4(c) by engaging in dishonesty, fraud, deceit, or misrepresentation; Prof.Cond.R. 8.4(d) by engaging in conduct prejudicial to the administration of justice; and Prof.Cond.R. 8.4(h) by engaging in conduct that adversely reflected on his fitness to practice law.
2. A two-year suspension from the practice of law, with the second year stayed on conditions, was warranted.

KEY QUOTATIONS

“holding that in order to find a violation of Prof.Cond.R. 8.4(h), there must be clear and convincing evidence that a lawyer has engaged in conduct that while not specifically prohibited by the rules, nonetheless adversely reflects on the lawyer’s fitness to practice law, or that the lawyer’s conduct is sufficiently egregious to warrant an additional finding that it adversely reflects on the lawyer’s fitness to practice law” (¶ 16)

“Accordingly, Paul Dare Harmon is suspended from the practice of law in the state of Ohio for two years, with the second year stayed on the conditions that he commit no further misconduct” (¶ 26)

FACTUAL BACKGROUND

Harmon filed a Chapter 7 bankruptcy petition in December 2009 and declared under penalty of perjury that he had fully disclosed his finances. He failed to disclose five assets, including his interest in a defamation action, an interest in his wife's bank account, stocks, a lease security deposit, and additional accounts receivable, and later gave materially false or misleading testimony concerning his assets and finances. The bankruptcy court found that he knowingly made false statements of material fact under oath with fraudulent intent or reckless disregard for the truth and denied him a discharge of his debts.

PROCEDURAL HISTORY

Disciplinary Counsel filed a complaint alleging that Harmon failed to disclose assets in his bankruptcy petition and gave false testimony during the bankruptcy proceedings. A probable-cause panel certified the complaint, and a three-member hearing panel found misconduct and recommended a one-year suspension. The Board adopted the findings, amended the recommended sanction to a two-year suspension with the second year stayed on conditions, and certified its report to the Supreme Court of Ohio, which adopted the findings, conclusions, and recommendation.

DISPOSITION

other

CASES CITED

- Disciplinary Counsel v. Bricker, 137 Ohio St. 3d 35, 2013-Ohio-3998, 997 N.E.2d 500, ¶ 21
- 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
- Toledo Bar Assn. v. Miller, 132 Ohio St. 3d 63, 2012-Ohio-1880, 969 N.E.2d 239, ¶¶ 4-9, 16
- Disciplinary Counsel v. Potter, 126 Ohio St. 3d 50, 2010-Ohio-2521, 930 N.E.2d 307, ¶ 10
- Disciplinary Counsel v. Rohrer, 124 Ohio St. 3d 65, 2009-Ohio-5930, 919 N.E.2d 180, ¶ 45

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