

SUPREME COURT OF OHIO

Disciplinary Counsel v. Repp

2021-Ohio-3923 (Ohio 2021) · No. 2021-0757 · Decided November 9, 2021

SUMMARY

The Supreme Court of Ohio held that Judge Mark Edward Repp committed professional and judicial-conduct violations by improperly ordering a courtroom spectator to undergo a drug test and then holding her in contempt and jailing her for refusing. The court imposed a one-year suspension from the practice of law and an immediate suspension from judicial office without pay for the duration of the disciplinary suspension.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Per Curiam; Maureen O'Connor, C.J.; Maureen O'Connor, J.
JURISDICTION	Ohio
DECIDED	November 9, 2021
DOCKET	2021-0757
DISPOSITION	other
PROCEDURAL POSTURE	Attorney-discipline proceeding based on a certified report of the Board of Professional Conduct of the Supreme Court of Ohio.
STANDARD OF REVIEW	The Supreme Court of Ohio independently reviewed the stipulated record and adopted the board's findings of misconduct and recommended sanction.
PRECEDENTIAL VALUE	published
PARTIES	Disciplinary Counsel v. Mark Edward Repp

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether Repp's courtroom conduct, order compelling A.O. to submit to a drug test, and contempt judgment constituted violations of the Rules of Professional Conduct and Code of Judicial Conduct.
2. What sanction was appropriate for Repp's admitted and stipulated professional and judicial misconduct.

HOLDINGS

1. Repp violated Prof.Cond.R. 8.4(d) and Jud.Cond.R. 1.2, 2.2, and 2.8(B) by engaging in undignified, improper, and discourteous conduct toward A.O. and T.D., abusing judicial authority, and acting in a manner prejudicial to the administration of justice.
2. A one-year suspension from the practice of law without a stay was appropriate, together with immediate suspension from judicial office without pay for the duration of the disciplinary suspension and taxation of costs.

KEY QUOTATIONS

“the power to punish for contempt is properly used to secure the dignity of the courts, not to demean and intimidate people” (¶ 28)

“a one-year suspension with no stay will best protect the public and send a strong message to the judiciary that this type of judicial misconduct will not be tolerated.” (¶ 32)

FACTUAL BACKGROUND

While presiding over a municipal-court proceeding, Judge Mark Edward Repp ordered A.O., a spectator who had quietly entered the courtroom to observe a relative's hearing, to submit to a drug test based on his unsupported belief that she was under the influence. When A.O. refused, Repp found her in direct contempt and sentenced her to ten days in jail or until she submitted to the test, despite her having no pending case, probation status, or drug-related charge. A.O. was jailed and subjected to security and medical screenings before the contempt judgment was later reversed by the Third District Court of Appeals.

PROCEDURAL HISTORY

Disciplinary counsel charged Judge Mark Edward Repp with violations of the Ohio Rules of Professional Conduct and Code of Judicial Conduct arising from his treatment of a courtroom spectator. The parties stipulated to facts, misconduct, and exhibits. A hearing panel found misconduct and recommended a partially stayed one-year suspension; the Board of Professional Conduct adopted the findings but recommended a one-year suspension without a stay, immediate suspension from judicial office without pay, and costs. The parties waived objections, and the Supreme Court of Ohio adopted the board's findings and recommended sanction.

DISPOSITION

other

CASES CITED

- In re S.J., 106 Ohio St.3d 11, 2005-Ohio-3215, 829 N.E.2d 1207
- State v. [A.O.], 3d Dist. Seneca No. 13-20-05, 2020-Ohio-4514
- Disciplinary Counsel v. Bachman, 163 Ohio St.3d 195, 2020-Ohio-6732, 168 N.E.3d 1178
- Denovchek v. Trumbull Cty. Bd. of Commrs., 36 Ohio St.3d 14, 15, 520 N.E.2d 1362 (1988)
- Disciplinary Counsel v. Cox, 113 Ohio St.3d 48, 2007-Ohio-979, 862 N.E.2d 514
- Disciplinary Counsel v. Karto, 94 Ohio St.3d 109, 114, 760 N.E.2d 412 (2002)

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