

SUPREME COURT OF OHIO

Columbus Bar Assn. v. Armengau

2014-Ohio-3023 (Ohio 2014) · No. 2014-0997 · Decided July 8, 2014

SUMMARY

The Supreme Court of Ohio entered an immediate interim remedial suspension against attorney Javier Horacio Armengau on the motion of the Columbus Bar Association. The order prohibited Armengau from practicing law, required steps to protect clients and reimburse Clients' Security Fund awards, and imposed conditions for reinstatement.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Maureen O'Connor, Chief Justice; William M. O'Neill, Justice; Paul E. Pfeifer, Justice; Terrence O'Donnell, Justice; Lynn Slaby, Justice; Judith Ann Lanzinger, Justice; Sharon L. Kennedy, Justice; William A. Klatt, Justice
JURISDICTION	Ohio
DECIDED	July 8, 2014
DOCKET	2014-0997
DISPOSITION	other
PROCEDURAL POSTURE	The Columbus Bar Association moved for an immediate interim remedial suspension of respondent attorney under Gov.Bar R. V(5a), alleging violations of the Ohio Rules of Professional Conduct and a substantial threat of serious harm to the public.
STANDARD OF REVIEW	The court considered the motion under the procedures and requirements of Gov.Bar R. V(5a), including whether the alleged conduct warranted immediate interim remedial suspension because it posed a substantial threat of serious harm to the public.
PRECEDENTIAL VALUE	Published Supreme Court of Ohio per curiam disciplinary order
PARTIES	Columbus Bar Association v. Javier Horacio Armengau

TOPICS

remedies

civil procedure

PRACTICE AREAS

legal ethics

attorney discipline

professional responsibility

QUESTIONS PRESENTED

1. Whether the court should impose an immediate interim remedial suspension under Gov.Bar R. V(5a) based on alleged professional misconduct posing a substantial threat of serious harm to the public.
2. What protective and administrative measures should accompany the interim suspension.

HOLDINGS

1. The court imposed an immediate interim remedial suspension against Armengau, effective immediately and continuing pending final disposition of disciplinary proceedings predicated on the conduct alleged to threaten serious harm to the public.
2. The court ordered Armengau to cease practicing law, prohibited him from performing legal services and handling client matters except as permitted by the governing rules, and required inventory, notice, file-transfer, refund, accounting, continuing-education, reinstatement, and Clients' Security Fund obligations.

KEY QUOTATIONS

“Upon consideration thereof and pursuant to Gov.Bar R. V(5a)(B), it is ordered and decreed that an interim remedial suspension is immediately entered against Javier Horacio Armengau, Attorney Registration No. 0069776, last known business address in Columbus, Ohio, and that the suspension be effective as of the date of this entry, pending final disposition of disciplinary proceedings predicated on the conduct threatening the serious harm.” (¶ 2)

“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.” (¶ 3)

FACTUAL BACKGROUND

The Columbus Bar Association alleged that Javier Horacio Armengau engaged in conduct violating the Ohio Rules of Professional Conduct and posing a substantial threat of serious harm to the public. Armengau responded to the motion, but the court ordered an immediate interim suspension and related client-protection measures pending final disciplinary proceedings.

PROCEDURAL HISTORY

The relator filed its motion on June 16, 2014. Respondent filed a response, and the Supreme Court of Ohio granted the motion, imposing an immediate interim remedial suspension pending final disposition of disciplinary proceedings.

DISPOSITION

other

OPINION

PER CURIAM.

[Cite as Columbus Bar Assn. v. Armengau, ___ Ohio St.3d ___, 2014-Ohio-3023.] COLUMBUS BAR ASSOCIATION v. ARMENGAU. [Cite as Columbus Bar Assn. v. Armengau, ___ Ohio St.3d ___, 2014-Ohio-3023.] (No. 2014-0997—Submitted June 25, 2014—Decided July 8, 2014.) ON MOTION FOR IMMEDIATE INTERIM REMEDIAL SUSPENSION _____ {¶ 1} On June 16, 2014, and pursuant to Gov.Bar R. V(5a)(A)(1)(b), relator, Columbus Bar Association, filed with this court a motion for immediate interim remedial suspension pursuant to Gov.Bar R. V(5a), alleging that respondent, Javier Horacio Armengau, has engaged in conduct that violates the Ohio Rules of Professional Conduct and poses a substantial threat of serious harm to the public.

Respondent filed a response, and this matter was considered by the court. {¶ 2} Upon consideration thereof and pursuant to Gov.Bar R. V(5a)(B), it is ordered and decreed that an interim remedial suspension is immediately entered against Javier Horacio Armengau, Attorney Registration No. 0069776, last known business address in Columbus, Ohio, and that the suspension be effective as of the date of this entry, pending final disposition of disciplinary proceedings predicated on the conduct threatening the serious harm.

It is further ordered pursuant to Gov.Bar R. V(8)(F) that within 10 days of the date of this order, relator shall appoint an attorney to inventory the files of respondent and take action, including action set forth in Gov.Bar R. V(8)(E), as is necessary to protect the interest of the clients of respondent. {¶ 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 SUPREME COURT OF OHIO appear on behalf of another before any court, judge, commission, board, administrative agency, or other public authority. {¶ 4} It is further ordered that effective immediately, respondent is 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. {¶ 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(8)(G)(3).

If employed pursuant to Gov.Bar R. V(8)(G), respondent shall refrain from direct client contact except as provided in Gov.Bar R. V(8)(G)(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 the 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 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 this and all other orders issued by this court, (3) respondent complies with the Supreme Court Rules for the Government of the Bar of Ohio, and (4) this court orders respondent reinstated.

2 January Term, 2014 {¶ 9} 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 by the Clients' Security Fund pursuant to Gov.Bar R. VIII(7)(F). It is further ordered by the court that if after the date of this order the Clients' Security Fund awards any amount against respondent pursuant to Gov.Bar R. VIII(7)(F), respondent shall reimburse that amount to the Clients' Security Fund within 90 days of the notice of that award. {¶ 10} It is further ordered that on or before 30 days from the date of this order, respondent shall do the following: {¶ 11} 1.

Notify all clients being represented in pending matters and any co-counsel of respondent's suspension and consequent disqualification to act as an attorney after the effective date of this order and, in the absence of co-counsel, also notify the clients to seek legal service 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 co-counsel, 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 his possession or control; {¶ 14} 4. Notify opposing counsel or, in the absence of counsel, the adverse parties in pending litigation of his 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; 3 SUPREME COURT OF OHIO {¶ 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 respondent may receive communications; and {¶ 17}.7.

Retain and maintain a record of the various steps taken by respondent pursuant to this order. {¶ 18} It is further ordered that respondent shall keep the clerk, the Columbus Bar Association, and disciplinary counsel advised of any change of address where respondent may receive communications. {¶ 19} It is further ordered that all documents filed with this court in this case shall meet the filing requirements set forth in the Rules of Practice of the Supreme Court of Ohio, including requirements as to form, number, and timeliness of filings.

All case documents are subject to Sup.R. 44 through 47, which govern access to court records. {¶ 20} It is further ordered that service shall be deemed made on respondent by sending this order, and all other orders in this case, by certified mail to the most recent address respondent has given to the Office of Attorney Services. {¶ 21} It is further ordered that the clerk of this court issue certified copies of this order as provided for in Gov.Bar R. V(8)(D)(1), that publication be made as provided for in Gov.Bar R. V(8)(D)(2), and that respondent bear the costs of publication.

O'CONNOR, C.J., and PFEIFER, O'DONNELL, LANZINGER, KENNEDY, and FRENCH, JJ., concur. O'NEILL, J., dissents as to the imposition of the suspension in this case.