

SUPREME COURT OF OHIO

Disciplinary Counsel v. MacLean

106 Ohio St. 3d 50 (Ohio 2005) · Decided August 3, 2005

SUMMARY

The Ohio Supreme Court suspended Timothy M. MacLean from practicing law for two years after he practiced while his license was suspended for failure to comply with continuing legal education requirements. The court credited him with time already served under the prior suspension and made him immediately eligible to apply for reinstatement upon satisfying applicable requirements.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Per Curiam; Moyer, C.J.; Resnick, J.; Pfeifer, J.; Lundberg Stratton, J.; O'Connor, J.; O'Donnell, J.; Lanzinger, J.
JURISDICTION	Ohio
DECIDED	August 3, 2005
DISPOSITION	other
PROCEDURAL POSTURE	Attorney-discipline proceeding initiated by Disciplinary Counsel based on stipulated violations of the Ohio Code of Professional Responsibility. The Board of Commissioners on Grievances and Discipline recommended a two-year suspension with credit for time already served.
STANDARD OF REVIEW	Upon review of the board's stipulated findings and recommendation, the Supreme Court of Ohio independently determined whether the misconduct occurred and whether the recommended sanction was appropriate.
PRECEDENTIAL VALUE	published and precedential Ohio Supreme Court opinion
PARTIES	Disciplinary Counsel v. Timothy M. MacLean

TOPICS

- administrative law
- agency adjudication

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether MacLean violated the Ohio Code of Professional Responsibility by practicing law while his license was suspended for CLE noncompliance.
2. Whether a two-year suspension, with credit for time served under the prior suspension and immediate eligibility to apply for reinstatement, was the appropriate sanction.

HOLDINGS

1. MacLean violated DR 1-102(A)(5), DR 2-110(B)(2), and DR 3-101(B) by practicing law and continuing representation after his license had been suspended.
2. A two-year suspension from the practice of law, with credit for time actually served under the April 5, 2002 suspension and immediate eligibility to apply for reinstatement upon satisfying applicable requirements, was appropriate.

KEY QUOTATIONS

“Accordingly, respondent is hereby suspended from the practice of law in Ohio for two years; however, he is credited for time actually served under the suspension of April 5, 2002.” (at 52)

“Respondent is thus immediately eligible to apply for reinstatement to the practice of law in Ohio by fulfilling all relevant reinstatement requirements, including Gov.Bar R. V(10) and X(7).” (at 52)

FACTUAL BACKGROUND

MacLean failed to report continuing-legal-education activity, failed to pay a prior CLE-related fine, and failed to complete required CLE hours. The Supreme Court of Ohio suspended his license on April 5, 2002, and ordered him to cease representing clients and notify relevant parties. Despite the suspension, he participated in depositions, attended a pretrial conference, and obtained a trial continuance while representing a personal-injury plaintiff before opposing counsel moved to disqualify him; he then immediately stopped practicing.

PROCEDURAL HISTORY

Disciplinary Counsel charged MacLean with practicing law while his license was suspended for continuing-legal-education noncompliance. MacLean admitted the charged misconduct, and a panel of the Board of Commissioners on Grievances and Discipline accepted stipulated facts and recommended sanctions. The Supreme Court of Ohio reviewed the board's findings and recommendation and imposed the recommended suspension.

DISPOSITION

other

CASES CITED

- 88 Ohio St. 3d 1401, 1403, 722 N.E.2d 1029
- In re Report of Comm. on Continuing Legal Edn., 95 Ohio St. 3d 1414, 766 N.E.2d 155 (2002)
- Disciplinary Counsel v. Carson, 93 Ohio St. 3d 137, 753 N.E.2d 172 (2001)

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