

SUPREME COURT OF OHIO

Disciplinary Counsel v. Niehaus

2017 Ohio 7685 (Ohio 2017) · No. 2017-0052 · Decided September 20, 2017

SUMMARY

The Supreme Court of Ohio indefinitely suspended Daniel Alan Niehaus from the practice of law based on a certification of default. The order imposes requirements concerning cessation of legal practice, client and court notifications, continuing legal education, reimbursement to the Lawyers' Fund for Client Protection, and reinstatement.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Maureen O'Connor, C.J.; Terrence O'Donnell, J.; Maureen O'Connor, J.; Mary DeGenaro Kennedy, J.; Judith L. French, J.; William M. O'Neill, J.; Patrick F. Fischer, J.; Patrick DeWine, J.
JURISDICTION	Ohio
DECIDED	September 20, 2017
DOCKET	2017-0052
DISPOSITION	other
PROCEDURAL POSTURE	On certification of default in an attorney-discipline proceeding.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Disciplinary Counsel v. Daniel Alan Niehaus

TOPICS

remedies

administrative law

PRACTICE AREAS

professional responsibility

attorney discipline

QUESTIONS PRESENTED

1. Whether the respondent's interim default suspension should be converted into an indefinite suspension under the Supreme Court Rules for the Government of the Bar of Ohio.

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.

KEY QUOTATIONS

“respondent, Daniel Alan Niehaus, Attorney Registration No. 0078682, last known address in Independence, Kentucky, 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 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 Board of Professional Conduct certified respondent Daniel Alan Niehaus's default to the Supreme Court of Ohio. The court had previously imposed an interim default suspension under Gov.Bar R. V(14)(B)(1). Niehaus did not object to conversion of the interim suspension into an indefinite suspension.

PROCEDURAL HISTORY

The Board of Professional Conduct filed a certification of default with the Supreme Court of Ohio. The court 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. Niehaus, ___ Ohio St.3d ___, 2017-Ohio-7685.] DISCIPLINARY COUNSEL v. NIEHAUS. [Cite as Disciplinary Counsel v. Niehaus, ___ Ohio St.3d ___, 2017-Ohio-7685.] (No. 2017-0052—Submitted September 13, 2017—Decided September 20, 2017.) 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 January 12, 2017.

On February 10, 2017, this court imposed an interim default suspension upon respondent, Daniel Alan Niehaus, 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,

Daniel Alan Niehaus, Attorney Registration No. 0078682, last known address in Independence, Kentucky, 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.

SUPREME COURT OF OHIO {¶ 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(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 2 January Term, 2017 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: {¶ 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 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 3 SUPREME COURT OF OHIO 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 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 O'DONNELL, KENNEDY, FRENCH, O'NEILL, FISCHER, and DEWINE, JJ., concur. _____ 4