

SUPREME COURT OF OHIO

Cleveland Metro. Bar Assn. v. Downing

2021 Ohio 2280 (Ohio 2021) · No. 2020-1281 · Decided July 2, 2021

SUMMARY

The Supreme Court of Ohio indefinitely suspended Michael John Downing from the practice of law after considering a certification of default and receiving no objections to converting his interim default suspension. The order imposes restrictions on legal practice, continuing-education and client-protection reimbursement obligations, reinstatement conditions, and notice and compliance requirements.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Maureen O'Connor, C.J.; Maureen O'Connor, J.; Jennifer Brunner, J.; Patrick F. Fischer, J.; Pat DeWine, J.; Michael P. Donnelly, J.; Melody J. Stewart, J.; Sharon L. Kennedy, J.
JURISDICTION	Ohio
DECIDED	July 2, 2021
DOCKET	2020-1281
DISPOSITION	other
PROCEDURAL POSTURE	The Board of Professional Conduct filed a certification of default against respondent attorney Michael John Downing. After imposing an interim default suspension and receiving no objections to an order to show cause, the Supreme Court of Ohio converted the interim suspension into an indefinite suspension.
PRECEDENTIAL VALUE	Published opinion

TOPICS

default

civil procedure

PRACTICE AREAS

professional responsibility

attorney discipline

QUESTIONS PRESENTED

1. Whether the court should convert respondent's interim default suspension into an indefinite suspension after the Board of Professional Conduct certified a default and no objections were filed.
2. What conditions and obligations should govern respondent during the indefinite suspension and any future reinstatement.

HOLDINGS

1. Pursuant to Gov.Bar R. V(14)(E)(1), respondent must be indefinitely suspended from the practice of law after the certification of default and the absence of objections to conversion of the interim suspension.
2. During the indefinite suspension, respondent must cease practicing law, comply with specified client-protection, continuing-legal-education, reimbursement, notice, recordkeeping, and address-reporting obligations, and may not be reinstated unless the stated reinstatement requirements are satisfied and the court orders reinstatement.

KEY QUOTATIONS

“respondent, Michael John Downing, Attorney Registration No. 0022944, last known address in Cleveland, Ohio, is indefinitely suspended from the practice of law.” (¶ 2)

“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 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.” (¶ 9)

FACTUAL BACKGROUND

The Board of Professional Conduct certified respondent Michael John Downing's default in a disciplinary matter. The Supreme Court of Ohio imposed an interim default suspension, and no objections were filed to converting that suspension into an indefinite suspension. The court then imposed the indefinite suspension and specified conditions governing respondent's practice, reinstatement, client notification, property and fee handling, continuing legal education, and reimbursement obligations.

PROCEDURAL HISTORY

The Board of Professional Conduct filed a certification of default on October 22, 2020. The Supreme Court imposed an interim default suspension on November 16, 2020, ordered the parties to show cause why it should not be converted into an indefinite suspension, received no objections, and entered the indefinite suspension order.

DISPOSITION

other

OPINION

PER CURIAM.

[Cite as Cleveland Metro. Bar Assn. v. Downing, ___ Ohio St.3d ___, 2021-Ohio-2280.] CLEVELAND METROPOLITAN BAR ASSOCIATION v. DOWNING. [Cite as Cleveland Metro. Bar Assn. v. Downing, ___ Ohio St.3d ___, 2021-Ohio-2280.] (No. 2020-1281—Submitted June 30, 2021—Decided July 2, 2021.) 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 October 22, 2020.

On November 16, 2020, this court imposed an interim default suspension upon respondent, Michael John Downing, 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, Michael John Downing, Attorney Registration No. 0022944, last known address in Cleveland, Ohio, 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. {¶ 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. SUPREME COURT 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 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: 2 January Term, 2021 {¶ 11} 1.

Notify all clients being represented in pending matters and any cocounsel of respondent's suspension and consequent disqualification to act as an attorney after the effective date of this order and, in the absence of cocounsel, also notify the clients to seek legal services 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 cocounsel, 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 service of the notices required herein, and setting forth the address where the respondent may receive communications; and {¶ 17} 7.

Retain and maintain a record of the various steps taken by respondent pursuant to this order. 3 SUPREME COURT OF OHIO {¶ 18} It is further ordered that respondent shall keep the clerk, the Cleveland Metropolitan Bar Association, 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)(E)(1) and that publication be made as provided for in Gov.Bar R. V(17)(E)(2).

O’CONNOR, C.J., and KENNEDY, FISCHER, DEWINE, DONNELLY, STEWART, and
BRUNNER, JJ., concur. _____ 4

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