

SUPREME COURT OF OHIO

Disciplinary Counsel v. Kramer

2016-Ohio-5734 (Ohio 2016) · No. 2015-2000 · Decided September 13, 2016

SUMMARY

The Supreme Court of Ohio held that disciplinary counsel had authority to investigate an anonymous grievance concerning attorney Roger Stephen Kramer, notwithstanding a certified grievance committee's earlier dismissal of a related grievance. The court adopted the board's recommendation imposing a one-year suspension, stayed in its entirety on the condition that Kramer commit no further misconduct. The decision involved violations of Ohio Prof.Cond.R. 8.4(c) and 8.4(d) arising from falsified public-employment time records.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	O'Connor, C.J.; Lanzinger, J.; O'Neill, J.; French, J.; Kennedy, J.; Pfeifer, J.; O'Donnell, J.
JURISDICTION	Ohio
DECIDED	September 13, 2016
DOCKET	2015-2000
DISPOSITION	other
PROCEDURAL POSTURE	Original attorney-discipline proceeding based on a certified report of the Board of Professional Conduct. The board recommended a one-year suspension stayed in its entirety; disciplinary counsel sought an actual suspension, and Kramer sought dismissal or a fully stayed suspension.
STANDARD OF REVIEW	The Supreme Court of Ohio independently reviews attorney-discipline cases.
PRECEDENTIAL VALUE	Published Supreme Court of Ohio opinion; precedential.
PARTIES	Disciplinary Counsel v. Roger Stephen Kramer

TOPICS

administrative law

rulemaking

statutory interpretation

constitutional law

PRACTICE AREAS

legal ethics and attorney discipline

professional responsibility

administrative law

constitutional law

QUESTIONS PRESENTED

1. Whether Kramer violated Prof.Cond.R. 8.4(c) and 8.4(d) by knowingly falsifying public-employee time records.
2. Whether disciplinary counsel had authority under the Rules for the Government of the Bar of Ohio to investigate and pursue discipline based on a separate anonymous grievance after a certified grievance committee declined to file a complaint concerning related conduct.
3. What sanction was appropriate for Kramer's misconduct.

HOLDINGS

1. Kramer violated Prof.Cond.R. 8.4(c) and 8.4(d) by knowingly falsifying his public-employee time records.
2. Under the Rules for the Government of the Bar as they then existed, disciplinary counsel had authority to review and investigate the anonymous grievance and pursue disciplinary action; nothing in the rules limited that authority merely because a certified grievance committee had declined to file a complaint concerning related conduct.
3. A one-year suspension from the practice of law, stayed in its entirety on the condition that Kramer engage in no further misconduct, was warranted.

KEY QUOTATIONS

“In other words, disciplinary counsel and the certified grievance committees each enjoy broad authority to review and investigate any grievance that comes to his or their attention.” (¶ 25)

“Regardless of whether the grievances against Kramer alleged the same misconduct, nothing in the rules currently limits the authority of disciplinary counsel to investigate a grievance that alleges attorney misconduct.” (¶ 28)

“Accordingly, Roger Stephen Kramer is suspended from the practice of law in Ohio for one year, with the suspension stayed in its entirety on the condition that he engage in no further misconduct.” (¶ 35)

FACTUAL BACKGROUND

Kramer served as a hearing officer for the Cuyahoga County Board of Revision and was a county employee. An inspector-general investigation identified approximately 129 discrepancies between his timesheets and parking-garage records, and the investigation indicated that he had been paid for work he did not perform. After the local bar grievance committee declined to file a complaint, disciplinary counsel investigated a separate anonymous grievance, found additional timekeeping discrepancies, and charged Kramer with dishonest conduct and conduct prejudicial to the administration of justice.

PROCEDURAL HISTORY

The Cleveland Metropolitan Bar Association's certified grievance committee declined to file a complaint after reviewing a grievance concerning Kramer's timekeeping. Before that dismissal, disciplinary counsel received a separate anonymous grievance concerning the same general conduct, conducted a broader investigation, and filed a formal complaint alleging violations of Prof.Cond.R. 8.4(c) and 8.4(d). A hearing panel and the Board of Professional Conduct recommended a one-year suspension stayed in its entirety, which the Supreme Court of Ohio adopted.

DISPOSITION

other

CASES CITED

- Disciplinary Counsel v. Potter, 126 Ohio St. 3d 50, 2010-Ohio-2521, 930 N.E.2d 307, ¶¶ 9-11
- Disciplinary Counsel v. Niermeyer, 119 Ohio St. 3d 99, 2008-Ohio-3824, 892 N.E.2d 434, ¶¶ 12-13
- Ohio State Bar Assn. v. Weaver, 41 Ohio St. 2d 97, 100, 322 N.E.2d 665 (1975)
- Melling v. Stralka, 12 Ohio St. 3d 105, 106, 465 N.E.2d 857 (1984)