

SUPREME COURT OF OHIO

In re Resignation of Dunn

2019-Ohio-1633 (Ohio 2019) · No. 2019-0449 · Decided May 2, 2019

SUMMARY

The Supreme Court of Ohio accepted Marcus David Dunn’s resignation from the practice of law with disciplinary action pending under Gov.Bar R. VI(11)(C). The order withdrew his practice privileges, struck his name from the roll of attorneys, and imposed related notice, reimbursement, recordkeeping, and compliance obligations.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Per curiam; Maureen O'Connor, Chief Justice; Maureen O'Connor, C.J.; Eileen T. Kennedy, J.; Jennifer Brunner French, J.; Patrick F. Fischer, J.; Pat DeWine, J.; Michael P. Donnelly, J.; Melody J. Stewart, J.
JURISDICTION	Ohio
DECIDED	May 2, 2019
DOCKET	2019-0449
DISPOSITION	other
PROCEDURAL POSTURE	Marcus David Dunn submitted an application for retirement or resignation under Gov.Bar R. VI(11). The application was referred to disciplinary counsel, whose report was filed with the Supreme Court of Ohio under seal. The court accepted Dunn's resignation with disciplinary action pending and imposed the conditions stated in its order.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of Ohio; the order is principally case-specific and disciplinary in nature.

TOPICS

appellate procedure

PRACTICE AREAS

legal ethics and attorney discipline

professional responsibility

attorney resignation

QUESTIONS PRESENTED

1. Whether Dunn's application for retirement or resignation should be accepted under Gov.Bar R. VI(11) while disciplinary action was pending.
2. What restrictions and compliance obligations should accompany acceptance of the resignation.

HOLDINGS

1. The Supreme Court of Ohio accepted Dunn's resignation as an attorney and counselor at law with disciplinary action pending pursuant to Gov.Bar R. VI(11)(C).
2. Upon acceptance of the resignation, Dunn's rights and privileges to practice law in Ohio were withdrawn, he was prohibited from holding himself out as authorized to practice or rendering legal services, and his name was to be stricken from the roll of attorneys after surrender of his certificate of admission.
3. Dunn was required to comply with specified obligations concerning employment with attorneys or law firms, reimbursement to the Lawyers' Fund for Client Protection, client and opposing-party notices, delivery of client property, refunds and trust accounting, filing an affidavit of compliance, record retention, and address updates.

KEY QUOTATIONS

“the resignation as an attorney and counselor at law is accepted as a resignation with disciplinary action pending.” (¶ 2)

“from and after this date all rights and privileges extended to respondent to practice law in the state of Ohio be withdrawn” (¶ 3)

“respondent shall surrender respondent’s certificate of admission to practice to the clerk of the court on or before 30 days from the date of this order and that respondent’s name be stricken from the roll of attorneys maintained by this court.” (¶ 7)

FACTUAL BACKGROUND

Marcus David Dunn was admitted to practice law in Ohio on May 16, 1994 and had a last known business address in Bexley, Ohio. He submitted an application for retirement or resignation while disciplinary action was pending. The application was referred to disciplinary counsel, and disciplinary counsel's report was filed with the Supreme Court of Ohio on March 26, 2019.

PROCEDURAL HISTORY

Dunn, an Ohio attorney, applied for retirement or resignation. After referral to disciplinary counsel and filing of disciplinary counsel's report, the Supreme Court of Ohio acted on the application and entered an order accepting the resignation with discipline pending.

DISPOSITION

OPINION

PER CURIAM.

[Cite as In re Resignation of Dunn, ___ Ohio St.3d ___, 2019-Ohio-1633.] IN RE RESIGNATION OF DUNN. [Cite as In re Resignation of Dunn, ___ Ohio St.3d ___, 2019-Ohio-1633.] Attorneys at law—Resignation with disciplinary action pending—Gov.Bar R. VI(11)(C). (No. 2019-0449—Submitted April 23, 2019—Decided May 2, 2019.) ON APPLICATION FOR RETIREMENT OR RESIGNATION PURSUANT TO GOV.BAR R. VI(11). _____ {¶ 1} Marcus David Dunn, Attorney Registration No. 0062732, last known business address in Bexley, Ohio, who was admitted to the bar of this state on May 16, 1994, submitted an application for retirement or resignation pursuant to Gov.Bar R. VI(11).

The application was referred to disciplinary counsel pursuant to Gov.Bar R. VI(11)(B). On March 26, 2019, the Office of Attorney Services filed disciplinary counsel’s report, under seal, with this court in accordance with Gov.Bar R. VI(11)(B)(2). {¶ 2} On consideration thereof, it is ordered by the court that pursuant to Gov.Bar R. VI(11)(C), the resignation as an attorney and counselor at law is accepted as a resignation with disciplinary action pending. {¶ 3} It is further ordered and adjudged that from and after this date all rights and privileges extended to respondent to practice law in the state of Ohio be withdrawn, that henceforth respondent shall cease to hold himself forth as an attorney authorized to appear in the courts of this state, and that respondent shall not attempt, either directly or indirectly, to render services as an attorney or counselor at law to or for any individuals, corporation, or society, nor in any way perform or seek to perform services for anyone, no matter how constituted, that SUPREME COURT OF OHIO must by law be executed by a duly appointed and qualified attorney within the state of Ohio. {¶ 4} It is further ordered that respondent desist and refrain from the practice of law in any form, either as principal or agent or clerk or employee of another, and hereby is forbidden to appear in the state of Ohio as an attorney and counselor at law before any court, judge, board, commission, or other public authority, and hereby is forbidden to give another an opinion as to the law or its application or advise with relation thereto. {¶ 5} 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. {¶ 6} It is further ordered that respondent shall not enter into an employment, contractual, or consulting relationship with an attorney or law firm with which respondent was associated as a partner, shareholder, member, or employee at the time

respondent engaged in the misconduct that resulted in this acceptance of respondent's resignation with discipline pending. {¶ 7} It is further ordered that respondent shall surrender respondent's certificate of admission to practice to the clerk of the court on or before 30 days from the date of this order and that respondent's name be stricken from the roll of attorneys maintained by this court. {¶ 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 2 January Term, 2019 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 on or before 30 days from the date of this order, respondent shall do the following: {¶ 10} 1.

Notify all clients being represented in pending matters and any co-counsel of respondent's resignation 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 services elsewhere, calling attention to any urgency in seeking the substitution of another attorney in respondent's place; {¶ 11} 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; {¶ 12} 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; {¶ 13} 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; {¶ 14} 5.

Send all notices required by this order by certified mail with a return address where communications may thereafter be directed to respondent; {¶ 15} 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 {¶ 16} 7.

Retain and maintain a record of the various steps taken by respondent pursuant to this order. {¶ 17} It is further ordered that until such time as respondent fully complies with this order, respondent shall keep the clerk and disciplinary counsel advised of any change of address where

respondent may receive communications. {¶ 18} 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. {¶ 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). {¶ 21} O'CONNOR, C.J., and KENNEDY, FRENCH, FISCHER, DEWINE, DONNELLY, and STEWART, JJ., concur.