

SUPREME COURT OF OHIO

Cuyahoga County Bar Ass'n v. Rockmael

92 Ohio St. 3d 20 (Ohio 2001) · Decided May 30, 2001

SUMMARY

The Ohio Supreme Court reviewed consolidated attorney-discipline proceedings against Les Evan Rockmael. The court adopted findings that Rockmael neglected client matters, misappropriated approximately \$206,686.09 from client accounts, failed to return unearned fees, and failed to cooperate with bar investigations. The court permanently disbarred him from practicing law in Ohio and taxed costs to him.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Moyer, C.J.; Douglas, J.; Resnick, J.; F.E. Sweeney, J.; Pfeifer, J.; Cook, J.; Lundberg Stratton, J.
JURISDICTION	Ohio
DECIDED	May 30, 2001
DISPOSITION	other
PROCEDURAL POSTURE	Attorney-discipline proceeding in which the Supreme Court of Ohio reviewed and adopted the disciplinary board's findings, conclusions, and recommendation of disbarment.
STANDARD OF REVIEW	Review of the disciplinary record and adoption of the board's findings, conclusions, and recommendation.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Cuyahoga County Bar Association, Cleveland Bar Association v. Les Evan Rockmael

TOPICS

probate

bankruptcy

remedies

PRACTICE AREAS

legal ethics and professional discipline

probate

bankruptcy

attorney misconduct

QUESTIONS PRESENTED

1. Whether respondent violated the cited Ohio Code of Professional Responsibility provisions and Gov.Bar R. V(4)(G) through neglect, failure to perform contracted legal services, misappropriation of client funds, improper limitation of malpractice liability, and failure to cooperate with disciplinary investigations.
2. Whether permanent disbarment was the appropriate sanction for respondent's misconduct.

HOLDINGS

1. Respondent violated DR 1-102(A)(3), DR 1-102(A)(4), DR 1-102(A)(6), DR 2-110(A)(3), DR 6-101(A)(3), DR 6-102(A), DR 7-101(A)(2), DR 7-101(A)(3), DR 9-102(B)(3), DR 9-102(B)(4), and Gov.Bar R. V(4)(G).
2. Permanent disbarment from the practice of law in Ohio was warranted.

KEY QUOTATIONS

“Respondent is hereby permanently disbarred from the practice of law in Ohio.” (22)

FACTUAL BACKGROUND

Respondent accepted representation in several matters, including probate, investment, bankruptcy, and litigation matters, but failed to perform promised legal services and failed to communicate with clients. He misappropriated approximately \$216,000 from Grace family accounts and failed to return \$206,686.09, while conditioning return of the funds on a release of liability. He also failed to respond to multiple bar-association inquiries and did not answer either disciplinary complaint.

PROCEDURAL HISTORY

The Cuyahoga County Bar Association and Cleveland Bar Association filed separate disciplinary complaints against respondent. The complaints were consolidated and referred to a panel of the Board of Commissioners on Grievances and Discipline, which found multiple violations and recommended disbarment. The board adopted the panel's findings and recommendation, and the Supreme Court of Ohio adopted them on review and permanently disbarred respondent.

DISPOSITION

other

OPINION

Cuyahoga County Bar Ass'n v. Rockmael 92 Ohio St. 3d 20

PER CURIAM.

Per Curiam. On December 6, 1999, relator, Cuyahoga County Bar Association, filed a two-count complaint charging respondent, Les Evan Rockmael of Parma Heights, Ohio, Attorney Registration No. 0065107, with several violations of the Code of Professional Responsibility. On

March 7, 2000, relator Cleveland Bar Association filed a three-count complaint against respondent, whose address was then in Parma, Ohio, charging him with conduct violating other rules of the Code of Professional Responsibility. On April 27, 2000, the Board of Commissioners on Grievances and Discipline of the Supreme Court (“board”) granted a motion by the Cleveland Bar Association to consolidate the two cases. Before the Cleveland Bar Association filed its complaint it was able, after many attempts, to speak with respondent about the grievances filed against him, and it *21obtained respondent’s promise to reply to the grievances. Respondent never replied and never filed an answer to either complaint. The matter was referred to a panel of the board, which found that Patricia Yurko hired respondent in August 1997 and paid him a fee of \$500 to probate her mother’s estate. Thereafter Yurko had difficulty in contacting respondent, and in February 1998, she received a notice from the probate court requiring her to appear with a final accounting for the estate. The attorney who had referred Yurko to respondent assured Yurko that she need not appear so long as respondent filed the appropriate papers. Yurko met in late February 1998 with respondent and signed the papers he had prepared. Respondent did not file the papers timely, nor did he file the papers by the extended deadline, March 6, 1998. The panel further found that in April 1996, the Grace family retained respondent in connection with various investments to be made on behalf of the individuals in the family, the companies they had an interest in, and their children. Although respondent was the only authorized signer for the Grace family bank accounts, he was not authorized to withdraw funds until instructed to do so by the family attorney. The Grace family members retained the bank account passbooks to control access to their accounts, totaling approximately \$216,000. When the family attorney contacted respondent in December 1998, he discovered that respondent had withdrawn all the funds. Respondent, who required that the Grace family agree to release him from any liability with regard to his misappropriation of the money before he would return the funds, has failed to return \$206,686.09, the total amount he took from the Grace family accounts. In addition, the panel found that in August 1997, Ron Garnett hired respondent and paid him \$675 to file a bankruptcy petition. Respondent failed to file the case and Garnett could not contact him. It also found that Luckye Collins engaged respondent in 1995 to represent him in a case in the Supreme Court of Ohio. Respondent obtained a remand of Collins’s case to the trial court but did not appear at the trial court hearings on the remand. The panel finally found that although respondent received certified letters from the Cleveland Bar Association inquiring about the Yurko matter, he failed to respond. He also failed to respond to similar inquiries about the Grace family matter. Nor did respondent reply to letters from the Cuyahoga County Bar Association about the Garnett or Collins matters. The panel concluded that respondent’s actions and failures to act violated DR 1-102(A)(3) (a lawyer shall not engage in illegal conduct involving moral turpitude), 1-102(A)(4) (a lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation), 1-102(A)(6) (a lawyer shall not engage in conduct that adversely reflects on fitness to practice law), 2-110(A)(3) (a lawyer who withdraws from employment shall promptly refund any fee paid in advance *22that was not earned), 6-

101(A)(3) (a lawyer shall not neglect an entrusted legal matter), 6-102(A) (a lawyer shall not attempt to exonerate himself from or limit his liability to his client for his personal malpractice), 7-101(A)(2) (a lawyer shall not fail to carry out a contract of employment for legal services), 7-101(A)(3) (a lawyer shall not damage or prejudice a client during the course of a professional relationship), 9-102(B)(3) (a lawyer shall maintain complete records of all funds coming into his possession and render appropriate accounts to his client regarding them), 9-102(B)(4) (a lawyer shall promptly pay to the client as requested funds in the possession of the lawyer that the client is entitled to receive), and Gov.Bar R. V(4)(G) (a lawyer shall cooperate with the investigation of a grievance). Justin F. Madden and Stephen Webster, for relator Cuyahoga County Bar Association. Julie A. Harris and Mark T. Freeman, for relator Cleveland Bar Association. The panel recommended that respondent be disbarred from the practice of law. The board adopted the findings, conclusions, and recommendation of the panel. On review of the record, we adopt the findings, conclusions, and recommendation of the board. Respondent is hereby permanently disbarred from the practice of law in Ohio. Costs are taxed to respondent. Judgment accordingly. Moyer, C.J., Douglas, Resnick, F.E. Sweeney, Pfeifer, Cook and Lundberg Stratton, JJ., concur.