

SUPREME COURT OF OHIO

Cuyahoga County Bar Association v. Rutherford

112 Ohio St. 3d 159, 2006-Ohio-6526 (Ohio 2006) · No. 2006-1590 · Decided December 27, 2006

SUMMARY

The Supreme Court of Ohio disciplined Guy D. Rutherford for neglecting three client matters, failing to carry out agreed legal services, mishandling unearned client funds, and failing to deliver funds to which clients were entitled. The court imposed a six-month suspension, stayed on conditions including six months of probation, continued treatment for his mental disability, participation in an Ohio Lawyers' Assistance Program recovery contract, and practice monitoring.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Per Curiam; Resnick; Pfeifer; Lundberg Stratton; Lanzinger; O'Donnell; Moyer; O'Connor
JURISDICTION	Ohio
DECIDED	December 27, 2006
DOCKET	2006-1590
DISPOSITION	other
PROCEDURAL POSTURE	Attorney-discipline proceeding on a certified report from the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio.
STANDARD OF REVIEW	The court independently determined the appropriate professional-discipline sanction by considering the duties violated, actual or potential injury, the lawyer's mental state, aggravating and mitigating circumstances, and sanctions imposed in similar cases.
PRECEDENTIAL VALUE	Published, precedential decision of the Supreme Court of Ohio.

TOPICS

bankruptcy divorce family law

PRACTICE AREAS

legal ethics and attorney discipline bankruptcy family law

QUESTIONS PRESENTED

1. Whether Rutherford violated the specified disciplinary rules by neglecting entrusted legal matters, failing to carry out contracts of employment, mishandling unearned client funds, and failing to deliver client funds.
2. What sanction was appropriate for Rutherford's stipulated professional misconduct in light of the aggravating and mitigating circumstances.

HOLDINGS

1. Rutherford violated DR 6-101(A)(3), DR 7-101(A)(2), DR 9-102(A)(2), and DR 9-102(B)(4) through neglect of entrusted matters, failure to perform promised legal services, failure to deposit unearned fees in an identifiable client account, and failure to deliver client funds to which clients were entitled.
2. A six-month suspension from the practice of law, stayed during a six-month probation subject to treatment, an Ohio Lawyers' Assistance Program recovery contract, and practice monitoring, was an appropriate sanction.

KEY QUOTATIONS

“Respondent violated his duties to carefully attend to his clients’ cases, perform work as promised, and properly account to clients for his earnings and expenses.” (¶ 14)

“Respondent is therefore suspended from the practice of law in Ohio for six months; however, the suspension is stayed on the conditions that he serve a six-month probation pursuant to Gov.Bar R. V(9), during which he shall remain in treatment for his mental disability, including entering a recovery contract with OLAP, and cooperate with procedures to monitor his practice and assure compliance with ethical and professional standards.” (¶ 18)

FACTUAL BACKGROUND

Rutherford accepted fees from Edith Essex for a Chapter 13 bankruptcy but delayed filing, failed to deposit unearned fees into his client trust account, and filed an incomplete petition that was dismissed. He accepted fees from Agueda Ortiz for a divorce, falsely told her that he had filed the action, and then failed to pursue the case after eventually filing the complaint. He also filed an incomplete bankruptcy petition for Veronica Mills and failed to respond to a contempt show-cause matter, resulting in dismissal. Rutherford stipulated to the misconduct, made full restitution to Essex and Ortiz, and presented mitigating evidence concerning depression, treatment, cooperation, and the absence of a prior disciplinary record.

PROCEDURAL HISTORY

The Cuyahoga County Bar Association filed an amended disciplinary complaint against Guy D. Rutherford. After a panel hearing involving comprehensive stipulations, the Board of Commissioners on Grievances and Discipline adopted findings of fact and recommended a six-month suspension stayed on conditions. The Supreme Court of Ohio accepted the findings and imposed the recommended sanction.

DISPOSITION

other

CASES CITED

- Disciplinary Counsel v. Connors, 97 Ohio St. 3d 479, 2002-Ohio-6722, 780 N.E.2d 567, ¶ 16
- Stark Cty. Bar Assn. v. Buttacavoli, 96 Ohio St. 3d 424, 2002-Ohio-4743, 775 N.E.2d 818, ¶ 16
- Toledo Bar Assn. v. DiLabbio, 101 Ohio St. 3d 147, 2004-Ohio-338, 803 N.E.2d 389
- Columbus Bar Assn. v. Dougherty, 105 Ohio St. 3d 307, 2005-Ohio-1825, 825 N.E.2d 1094, ¶ 20

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