

SUPREME COURT OF OHIO

Trumbull Cty. Bar Assn. v. Costanzo

105 Ohio St. 3d 1565 (Ohio 2005) · Decided May 26, 2005

SUMMARY

The Supreme Court of Ohio imposed an interim remedial suspension on Maridee L. Costanzo based on allegations that her conduct posed a substantial threat of serious harm to clients and the public. The order prohibited her from practicing law and imposed related client-notification, property-return, fee-refund, continuing-education, and reinstatement requirements.

CASE DETAILS

COURT	Supreme Court of Ohio
JURISDICTION	Ohio
DECIDED	May 26, 2005
DISPOSITION	other
PROCEDURAL POSTURE	The relator bar association moved for an interim remedial suspension of the respondent attorney during pending disciplinary proceedings.
PRECEDENTIAL VALUE	Published Supreme Court of Ohio disciplinary order
PARTIES	Trumbull County Bar Association v. Maridee L. Costanzo

TOPICS

administrative procedure act administrative law remedies equitable relief

PRACTICE AREAS

legal ethics and attorney discipline administrative law remedies

QUESTIONS PRESENTED

- Whether an interim remedial suspension should be imposed under Gov.Bar R. V(5a) based on allegations that the respondent attorney posed a substantial threat of serious harm to clients and the public.
- What ancillary obligations should govern the respondent's suspension, client protection, continuing legal education, reimbursement obligations, and potential reinstatement.

HOLDINGS

1. The court ordered an immediate interim remedial suspension of Maridee L. Costanzo from the practice of law pending final disposition of disciplinary proceedings.
2. The respondent was prohibited from practicing law or performing legal services, required to complete specified continuing-legal-education credits, reimburse qualifying Clients' Security Fund awards, notify clients and opposing parties, transfer client property, refund unearned fees, account for trust property, and satisfy specified requirements before reinstatement.

KEY QUOTATIONS

“Upon consideration thereof and pursuant to Gov.Bar R. V(5a)(B), it is ordered and decreed that an interim remedial suspension be immediately entered against Maridee L. Costanzo” (105 Ohio St. 3d at 1565)

“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 this and all other orders issued by this court; (3) respondent complies with the Supreme Court Rules for the Government of the Bar of Ohio; and (4) this court orders respondent reinstated.” (105 Ohio St. 3d at 1565)

FACTUAL BACKGROUND

The relator alleged that Maridee L. Costanzo committed numerous violations of Ohio's Code of Professional Responsibility and posed a substantial threat of serious harm to her clients and the public. Based on those allegations, the Supreme Court of Ohio entered an immediate interim remedial suspension and imposed requirements concerning client notification, transfer of files, fee refunds, trust-accounting, continuing legal education, reimbursement to the Clients' Security Fund, and reinstatement.

PROCEDURAL HISTORY

On May 9, 2005, the Trumbull County Bar Association filed a motion under Gov.Bar R. V(5a)(A)(1)(b), alleging that Costanzo had committed numerous professional-conduct violations and posed a substantial threat of serious harm to clients and the public. The Supreme Court of Ohio granted the motion and entered an immediate interim remedial suspension pending final disposition of the disciplinary proceedings.

DISPOSITION

other

OPINION

PER CURIAM.

On May 9, 2005, and pursuant to Gov.Bar R. V(5a)(A)(1)(b), relator, Trumbull County Bar Association, filed with this court a motion for interim remedial suspension pursuant to Gov.Bar R. V(5a), alleging that respondent, Maridee L. Costanzo, has committed numerous violations of the

Code of Professional Responsibility and she poses a substantial threat of serious harm to her clients and the public.

Upon consideration thereof and pursuant to Gov.Bar R. V(5a)(B), it is ordered and decreed that an interim remedial suspension be immediately entered against Maridee L. Costanzo, Attorney Registration No. 0058688, last known business address in Warren, Ohio, and that the suspension be effective as of the date of this entry, pending final disposition of disciplinary proceedings predicated on the conduct threatening the serious harm.

IT IS FURTHER ORDERED that Maridee L. Costanzo, immediately cease and desist from the practice of law in any form and is hereby forbidden to appear on behalf of another before any court, judge, commission, board, administrative agency or other public authority. IT IS FURTHER ORDERED that, effective immediately, she be forbidden to counsel or advise, or prepare legal instruments for others or in any manner perform legal services for others.

IT IS FURTHER ORDERED that she 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. IT IS FURTHER ORDERED that, pursuant to Gov.Bar R. X(3)(G), respondent shall complete one credit hour of continuing legal education for each month, or portion of a month of the suspension.

As *1566part of the total credit hours of continuing legal education required by Gov.Bar R. X(3)(G), respondent shall complete one credit hour of instruction related to professional conduct required by Gov.Bar R. X(3)(A)(1), for each six months, or portion of six months, of the suspension. 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 this and all other orders issued by this court; (3) respondent complies with the Supreme Court Rules for the Government of the Bar of Ohio; and (4) this court orders respondent reinstated.

IT IS FURTHER ORDERED, sua sponte, by the court, that within 90 days of the date of this order, respondent shall reimburse any amounts that have been awarded by the Clients' Security Fund pursuant to Gov.Bar R. VIII(7)(F). It is further ordered, sua sponte, by the court that if, after the date of this order, the Clients' Security Fund awards any amount against the respondent pursuant to Gov.Bar R. VIII(7)(F), the respondent shall reimburse that amount to the Clients' Security Fund within 90 days of the notice of such award.

IT IS FURTHER ORDERED that on or before 30 days from the date of this order, respondent shall: 1. Notify all clients being represented in pending matters and any co-counsel of her suspension and her 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 service elsewhere, calling attention to any urgency in seeking the substitution of another attorney in her place; 2.

Regardless of any fees or expenses due her, 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; 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 possession or control; 4. Notify opposing counsel in pending litigation or, in the absence of counsel, the adverse parties of her 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; 5.

Send all such notices required by this order by certified mail with a return address where communications may thereafter be directed to respondent; 6. File with the Clerk of this court and the Disciplinary Counsel of the Supreme Court an affidavit showing compliance with this order, showing proof of service of notices required herein, and setting forth the address where the affiant may receive communications; and 7.

Retain and maintain a record of the various steps taken by respondent pursuant to this order. IT IS FURTHER ORDERED that respondent shall keep the Clerk, the Trumbull County Bar Association, and the Disciplinary Counsel advised of any change of address where respondent may receive communications. IT IS FURTHER ORDERED, sua sponte, 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.

IT IS FURTHER ORDERED, sua sponte, that service shall be deemed made on respondent by sending this order, and all other orders in this case, by certified mail to the most recent address respondent has given to the attorney registration office. IT IS FURTHER ORDERED that the Clerk of this court issue certified copies of this order as provided for in Gov.Bar R. V(8)(D)(I), that publication be made as provided for in Gov.Bar R. V(8)(D)(2), and that respondent bear the costs of publication.

O'Connor, J., not participating.