

SUPREME COURT OF OHIO

Disciplinary Counsel v. Garber

2016-Ohio-7956 (Ohio 2016) · No. 2016-1569 · Decided December 1, 2016

SUMMARY

The Supreme Court of Ohio imposed an indefinite suspension on Ronald David Garber under Ohio's reciprocal-discipline procedures after the Supreme Court of California summarily disbarred him. Reinstatement in Ohio is conditioned on, among other requirements, Garber's reinstatement to practice law in California and compliance with Ohio reinstatement rules and the court's order.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Maureen O'Connor, C.J.; Evelyn Lundberg Stratton Pfeifer, J.; William M. O'Donnell, J.; Lanzinger, J.; Kennedy, J.; French, J.; O'Neill, J.
JURISDICTION	Ohio
DECIDED	December 1, 2016
DOCKET	2016-1569
DISPOSITION	other
PROCEDURAL POSTURE	Reciprocal-discipline proceeding initiated upon the filing of a certified California Supreme Court order summarily disbarring respondent. The Ohio Supreme Court ordered respondent to show cause why identical or comparable discipline should not be imposed; respondent filed no objections.
PRECEDENTIAL VALUE	Published Ohio Supreme Court opinion; precedential

TOPICS

remedies

appellate procedure

writ of certiorari

PRACTICE AREAS

legal ethics and professional responsibility

attorney discipline

reciprocal discipline

QUESTIONS PRESENTED

1. Whether the Supreme Court of Ohio should impose reciprocal discipline after receiving a certified order from the Supreme Court of California summarily disbarring respondent.

2. What discipline and conditions should govern respondent's practice of law in Ohio.

HOLDINGS

1. Under Gov.Bar R. V(20)(B), the Supreme Court of Ohio imposed reciprocal discipline by indefinitely suspending respondent from the practice of law in Ohio and conditioning any reinstatement on, among other requirements, his reinstatement to practice in California.
2. During the indefinite suspension, respondent must cease practicing law and comply with specified notice, client-property, fee, trust-accounting, continuing-legal-education, reimbursement, reporting, and employment restrictions; reinstatement requires compliance with Ohio reinstatement rules, the court's orders, and proof of reinstatement in California.

KEY QUOTATIONS

“respondent, Ronald David Garber, Attorney Registration No. 0046371, last known business address in Toledo, Ohio, is indefinitely suspended from the practice of law and respondent will not be reinstated to the practice of law in Ohio until such time as respondent is reinstated to the practice of law in the state of California.” (¶ 3)

“It is further ordered that respondent immediately cease and desist from the practice of law in any form and is forbidden to appear on behalf of another before any court, judge, commission, board, administrative agency, or other public authority.” (¶ 4)

FACTUAL BACKGROUND

The Supreme Court of California entered an order summarily disbaring respondent Ronald David Garber. Ohio disciplinary counsel filed a certified copy of that order with the Supreme Court of Ohio. After being ordered to show cause why identical or comparable discipline should not be imposed in Ohio, Garber filed no objections.

PROCEDURAL HISTORY

The Supreme Court of California summarily disbarred Ronald David Garber in an order entered August 4, 2016. Ohio disciplinary counsel filed a certified copy of that order in the Supreme Court of Ohio under the reciprocal-discipline provisions of Gov.Bar R. V(20). After the Ohio court issued a show-cause order, respondent filed no objections, and the court imposed an indefinite suspension and related conditions.

DISPOSITION

other

OPINION

PER CURIAM.

[Cite as Disciplinary Counsel v. Garber, ___ Ohio St.3d ___, 2016-Ohio-7956.] DISCIPLINARY COUNSEL v. GARBER. [Cite as Disciplinary Counsel v. Garber, ___ Ohio St.3d ___, 2016-Ohio-

7956.] (No. 2016-1569—Submitted October 24, 2016—Decided December 1, 2016.) ON CERTIFIED ORDER of the Supreme Court of California, No. S234942. _____

{¶ 1} This cause is pending before the Supreme Court of Ohio in accordance with the reciprocal-discipline provisions of Gov.Bar R. V(20). {¶ 2} On October 24, 2016, relator, disciplinary counsel, filed with this court a certified copy of an order of the Supreme Court of California entered August 4, 2016, in In re Ronald David Garber on Discipline, in case No. S234942, summarily disbaring respondent.

On October 26, 2016, this court ordered respondent to show cause why identical or comparable discipline should not be imposed in this state. No objections were filed, and this cause was considered by the court. {¶ 3} On consideration thereof, it is ordered and adjudged by this court that, pursuant to Gov.Bar R. V(20)(B), respondent, Ronald David Garber, Attorney Registration No. 0046371, last known business address in Toledo, Ohio, is indefinitely suspended from the practice of law and respondent will not be reinstated to the practice of law in Ohio until such time as respondent is reinstated to the practice of law in the state of California. {¶ 4} It is further ordered that respondent immediately cease and desist from the practice of law in any form and is forbidden to appear on behalf of another before any court, judge, commission, board, administrative agency, or other public authority.

SUPREME COURT OF OHIO {¶ 5} It is further ordered that respondent is forbidden to counsel, advise, or prepare legal instruments for others or in any manner perform legal services for others. {¶ 6} It is further ordered that respondent is 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. {¶ 7} 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. {¶ 8} It is further ordered that pursuant to Gov.Bar R. X(13), respondent shall complete one credit hour of continuing legal education for each month, or portion of a month, of the suspension.

As part of the total credit hours of continuing legal education required by Gov.Bar R. X(13), respondent shall complete one credit hour of instruction related to professional conduct required by Gov.Bar R. X(3)(B) for each six months, or portion of six months, of the suspension. {¶ 9} 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 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. 2 January Term, 2016 {¶ 10} 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 the Supreme Court Rules for the Government of the Bar of Ohio, (3) respondent files evidence with the clerk of this court and with disciplinary counsel demonstrating his reinstatement to the practice of law in California, (4) respondent complies with this and all other orders issued by this court, and (5) this court orders respondent reinstated. {¶ 11} It is further ordered that on or before 30 days from the date of this order, respondent shall do the following: {¶ 12} 1.

Notify all clients being represented in pending matters and any co-counsel of respondent's suspension 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 service elsewhere, calling attention to any urgency in seeking the substitution of another attorney in respondent's place; {¶ 13} 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; {¶ 14} 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; {¶ 15} 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; 3 SUPREME COURT OF OHIO {¶ 16} 5.

Send all notices required by this order by certified mail with a return address where communications may thereafter be directed to respondent; {¶ 17} 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 {¶ 18} 7.

Retain and maintain a record of the various steps taken by respondent pursuant to this order. {¶ 19} 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. {¶ 20} 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. {¶ 21} 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. {¶ 22} 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).

O'CONNOR, C.J., and PFEIFER, O'DONNELL, LANZINGER, KENNEDY, FRENCH, and O'NEILL, JJ., concur. _____ 4