

SUPREME COURT OF OHIO

Trumbull Cty. Bar Assn. v. Lutseck

2020-Ohio-644 (Ohio 2020) · No. 2020-0163 · Decided February 26, 2020

SUMMARY

The Supreme Court of Ohio entered an interim default suspension against attorney John Patrick Lutseck after he failed to answer a formal disciplinary complaint. The order prohibits him from practicing law, imposes continuing legal education and reinstatement requirements, and directs compliance with client-notification, property-return, and related obligations.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Maureen O'Connor, C.J.
JURISDICTION	Ohio
DECIDED	February 26, 2020
DOCKET	2020-0163
DISPOSITION	other
PROCEDURAL POSTURE	The Board of Professional Conduct certified respondent's default after he failed to answer a formal disciplinary complaint. The Supreme Court of Ohio entered an interim default suspension under the Supreme Court Rules for the Government of the Bar of Ohio.
PRECEDENTIAL VALUE	published and precedential

TOPICS

default

civil procedure

PRACTICE AREAS

professional discipline

attorney suspension

QUESTIONS PRESENTED

1. Whether the Board of Professional Conduct's certification of default warranted entry of an interim default suspension under Gov.Bar R. V(14).

HOLDINGS

1. Upon certification of respondent's default and the absence of a response, the court entered an immediate interim default suspension pursuant to Gov.Bar R. V(14)(B)(1).

FACTUAL BACKGROUND

The Board of Professional Conduct alleged that respondent John Patrick Lutseck failed to file an answer to a formal disciplinary complaint pending before the board. Lutseck did not file a response to the certification of default.

PROCEDURAL HISTORY

On January 31, 2020, the Board of Professional Conduct filed a certification of default alleging that John Patrick Lutseck failed to answer a formal complaint pending before the board. Lutseck did not respond. The Supreme Court of Ohio entered an immediate interim default suspension and imposed related practice, notice, continuing-legal-education, reimbursement, and reinstatement requirements.

DISPOSITION

other

OPINION

PER CURIAM.

[Cite as Trumbull Cty. Bar Assn. v. Lutseck, ___ Ohio St.3d ___, 2020-Ohio-644.] TRUMBULL COUNTY BAR ASSOCIATION v. LUTSECK. [Cite as Trumbull Cty. Bar Assn. v. Lutseck, ___ Ohio St.3d ___, 2020-Ohio-644.] (No. 2020-0163—Submitted January 31, 2020—Decided February 26, 2020.) ON CERTIFICATION OF DEFAULT. _____ {¶ 1} On January 31, 2020, and pursuant to Gov.Bar R. V(14)(A), the Board of Professional Conduct filed with this court a certification of default, alleging that respondent, John Patrick Lutseck, failed to file an answer to a formal complaint pending before the board.

Respondent did not file a response. {¶ 2} Upon consideration thereof and pursuant to Gov.Bar R. V(14)(B)(1), it is ordered and decreed that an interim default suspension is immediately entered against John Patrick Lutseck, Attorney Registration No. 0003696, last known business address in Vienna, Ohio, and that the suspension is effective as of the date of this entry. {¶ 3} It is further ordered that respondent immediately cease and desist from the practice of law in any form and that he is hereby forbidden to appear on behalf of another before any court, judge, commission, board, administrative agency, or other public authority. {¶ 4} It is further ordered that effective immediately, respondent is forbidden to counsel, advise, or prepare legal instruments for others or in any manner perform legal services for others. {¶ 5} It is further ordered that respondent 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. SUPREME COURT OF

OHIO {¶ 6} 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. {¶ 7} 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. {¶ 8} 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. {¶ 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 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. {¶ 10} It is further ordered that on or before 30 days from the date of this order, respondent shall do the following: 2 January Term, 2020 {¶ 11} 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 services elsewhere, calling attention to any urgency in seeking the substitution of another attorney in respondent's place; {¶ 12} 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; {¶ 13} 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 his possession or control; {¶ 14} 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; {¶ 15} 5.

Send all notices required by this order by certified mail with a return address where communications may thereafter be directed to respondent; {¶ 16} 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 service of the notices required herein, and setting forth the address where respondent may receive communications; and {¶ 17} 7.

Retain and maintain a record of the various steps taken by respondent pursuant to this order. 3 SUPREME COURT OF OHIO {¶ 18} It is further ordered that respondent shall keep the clerk, the Trumbull County Bar Association, and disciplinary counsel advised of any change of address where respondent may receive communications. {¶ 19} 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. {¶ 20} It is further ordered 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 Office of Attorney Services. {¶ 21} 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 KENNEDY, FRENCH, FISCHER, DEWINE, DONNELLY, and STEWART, JJ., concur. _____ 4