

SUPREME COURT OF OHIO

Disciplinary Counsel v. Brazil

2018 Ohio 1734 (Ohio 2018) · No. 2018-0453 · Decided May 7, 2018

SUMMARY

The Supreme Court of Ohio imposed reciprocal discipline on Harold Edmund Brazil based on his disbarment by consent in the District of Columbia. The court suspended Brazil from practicing law in Ohio for five years and conditioned reinstatement on, among other requirements, his reinstatement in the District of Columbia and compliance with Ohio reinstatement rules.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Maureen O'Connor, Chief Justice; Terrence O'Donnell, Justice; Alice Robie Resnick, Justice; Patrick F. Fischer, Justice; Michael P. Donnelly, Justice; Mary DeGenaro, Justice
JURISDICTION	Ohio
DECIDED	May 7, 2018
DOCKET	2018-0453
DISPOSITION	other
PROCEDURAL POSTURE	Reciprocal attorney-discipline proceeding initiated after disciplinary counsel filed a certified copy of a District of Columbia Court of Appeals order disbarring respondent by consent.
PRECEDENTIAL VALUE	Published Ohio Supreme Court opinion; precedential

TOPICS

appellate procedure

civil procedure

PRACTICE AREAS

legal ethics

attorney discipline

reciprocal discipline

QUESTIONS PRESENTED

1. Whether the Supreme Court of Ohio should impose identical or comparable discipline based on the respondent's disbarment by consent in the District of Columbia.

2. What conditions should govern respondent's suspension and potential reinstatement to the practice of law in Ohio.

HOLDINGS

1. Under Gov.Bar R. V(20)(B), the Supreme Court of Ohio imposed a five-year suspension from the practice of law in Ohio based on respondent's disbarment by consent in the District of Columbia.
2. Respondent may not be reinstated to the practice of law in Ohio until he is reinstated in the District of Columbia, satisfies the Ohio bar-reinstatement requirements, complies with the court's orders, and obtains an order of reinstatement from the Supreme Court of Ohio.

FACTUAL BACKGROUND

The District of Columbia Court of Appeals disbarred Harold Edmund Brazil by consent. Ohio disciplinary counsel submitted a certified copy of that order to the Supreme Court of Ohio under Ohio's reciprocal-discipline provisions. Brazil did not object to the proposed reciprocal discipline.

PROCEDURAL HISTORY

The District of Columbia Court of Appeals entered an order on January 18, 2018, disbaring Harold Edmund Brazil by consent. Ohio disciplinary counsel filed a certified copy of that order in the Supreme Court of Ohio, which ordered Brazil to show cause why identical or comparable discipline should not be imposed. No objections were filed, and the Supreme Court of Ohio imposed a five-year suspension subject to conditions.

DISPOSITION

other

CASES CITED

- In re Harold E. Brazil, No. 18-BS-3 (D.C. Ct. App. Jan. 18, 2018)

OPINION

PER CURIAM.

[Cite as Disciplinary Counsel v. Brazil, ___ Ohio St.3d ___, 2018-Ohio-1734.] DISCIPLINARY COUNSEL v. BRAZIL. [Cite as Disciplinary Counsel v. Brazil, ___ Ohio St.3d ___, 2018-Ohio-1734.] Attorneys at law—Reciprocal discipline from the District of Columbia Court of Appeals—Five-year suspension—Gov.Bar R. V(11)(F)(4). (No. 2018-0453—Submitted May 3, 2018—Decided May 7, 2018.)

ON CERTIFIED ORDER of the District of Columbia Court of Appeals, No. 18-BS-3. _____ {¶ 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 March 26, 2018, relator, disciplinary counsel, filed with this court a certified copy of an order of the District

of Columbia Court of Appeals entered January 18, 2018, in In re Harold E. Brazil, case No. 18-BS-3, disbaring respondent by consent.

On March 28, 2018, this court ordered respondent to show cause why identical or comparable discipline should not be imposed in this state. No objections to said final report 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, Harold Edmund Brazil, Attorney Registration No. 0026638, last known business address in Washington, District of Columbia, is suspended from the practice of law for a period of five years.

It is further ordered that 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 District of Columbia. {¶ 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 SUPREME COURT OF OHIO another before any court, judge, commission, board, administrative agency, or other public authority. {¶ 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 2 January Term, 2018 amount to the Lawyers' Fund for Client Protection within 90 days of the notice of that award. {¶ 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 the District of Columbia, (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 3 SUPREME COURT OF OHIO 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; {¶ 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 O'DONNELL, KENNEDY, FRENCH, FISCHER, DEWINE, and DEGENARO, JJ., concur. _____ 4