

SUPREME COURT OF OHIO

Akron Bar Ass'n v. Dietz

108 Ohio St. 3d 343 (Ohio 2006) · Decided March 22, 2006

SUMMARY

The Supreme Court of Ohio considered disciplinary charges against attorney David Robert Dietz arising from improper withdrawals and transfers of funds from two estates, misleading accountings, and false statements during the disciplinary investigation. The court dismissed one count for lack of clear and convincing evidence but found violations on the remaining counts. In light of the misconduct and mitigating factors including restitution and an otherwise unblemished career, the court imposed an indefinite suspension from the practice of law.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Per Curiam; Moyer, C.J.; Resnick, J.; Pfeifer, J.; Lundberg Stratton, J.; O'Connor, J.; O'Donnell, J.; Lanzinger, J.
JURISDICTION	Ohio
DECIDED	March 22, 2006
DISPOSITION	other
PROCEDURAL POSTURE	Attorney-discipline proceeding arising from the Akron Bar Association's complaint against respondent. The case came before the Supreme Court of Ohio on respondent's objections to the Board of Commissioners on Grievances and Discipline's recommendation of permanent disbarment.
STANDARD OF REVIEW	The court independently reviewed the board's report and the record, requiring clear and convincing evidence of misconduct.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Ohio
PARTIES	Akron Bar Association v. David Robert Dietz

TOPICS

estate administration probate procedure probate estate litigation

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether clear and convincing evidence established the charged professional misconduct in Counts I through VII.
2. Whether Count III was proven by clear and convincing evidence.
3. What sanction was appropriate for respondent's misappropriation, dishonest accountings and statements, improper commingling, failure to cooperate, and improper handling of client funds.

HOLDINGS

1. The court found that respondent violated all provisions identified in the board's report for Counts I, II, and IV through VII, including provisions prohibiting dishonest conduct, conduct prejudicial to the administration of justice, conduct adversely reflecting on fitness to practice, improper handling of client funds, and failure to cooperate with the disciplinary investigation.
2. Count III was dismissed because the record contained no clear and convincing evidence that respondent committed the alleged misconduct concerning his explanation for the tardy accountings.
3. An indefinite suspension from the practice of law in Ohio, rather than permanent disbarment, was the appropriate sanction.

KEY QUOTATIONS

"Accordingly, respondent is hereby indefinitely suspended from the practice of law in Ohio. Costs are taxed to respondent." (347)

FACTUAL BACKGROUND

David Robert Dietz served as executor of the estates of Charles J. Boyd and Susanne Doris Judson. He transferred \$13,500 from the Boyd estate to his personal account, filed an accounting that falsely reported no disbursements, and transferred \$13,622.78 from the Judson estate to replenish the Boyd estate account without authorization. He also made deceptive statements during the disciplinary investigation and deposited a client's \$600 fee into his business account rather than a client trust account.

PROCEDURAL HISTORY

The Akron Bar Association filed a professional-misconduct complaint on October 5, 2004. After a hearing, a panel of the Board of Commissioners on Grievances and Discipline made findings and recommendations; the board adopted the findings, modified the panel's recommendation, and recommended permanent disbarment. The Supreme Court of Ohio rejected the board's sanction recommendation, dismissed Count III for lack of clear and convincing evidence, found the remaining charged violations proven, and imposed an indefinite suspension.

DISPOSITION

other

CASES CITED

- In re Dietz, 106 Ohio St. 3d 1527, 2005-Ohio-5296, 835 N.E.2d 377
- Disciplinary Counsel v. Lantz, 102 Ohio St. 3d 93, 2004-Ohio-1806, 807 N.E.2d 298, ¶ 16
- Cleveland Bar Assn. v. Belock, 82 Ohio St. 3d 98, 694 N.E.2d 897 (1998)
- Cuyahoga Cty. Bar Assn. v. Churilla, 78 Ohio St. 3d 348, 350, 678 N.E.2d 515 (1997)
- Akron Bar Assn. v. Holder, 105 Ohio St. 3d 443, 2005-Ohio-2695, 828 N.E.2d 621, ¶ 51
- Disciplinary Counsel v. Nagorny, 105 Ohio St. 3d 97, 2004-Ohio-6899, 822 N.E.2d 1233, ¶ 15
- Disciplinary Counsel v. Smith, 101 Ohio St. 3d 27, 2003-Ohio-6623, 800 N.E.2d 1129, ¶ 9
- Columbus Bar Assn. v. Hamilton, 88 Ohio St. 3d 330, 332, 725 N.E.2d 1116 (2000)

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