

SUPREME COURT OF OHIO

In re Resignation of Sterling

110 Ohio St. 3d 1260 (Ohio 2006) · Decided August 23, 2006

SUMMARY

The Supreme Court of Ohio accepted Howard Thomas Sterling’s resignation from the practice of law with disciplinary action pending. The order withdrew his license and imposed related obligations, including notifying clients and opposing parties, accounting for client funds and property, reimbursing Clients’ Security Fund awards, and filing proof of compliance.

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	August 23, 2006
DISPOSITION	approved
PROCEDURAL POSTURE	Respondent attorney submitted an affidavit of resignation and waiver under Gov. Bar R. V(11)(G)(1). Disciplinary Counsel submitted its report to the Supreme Court of Ohio, which acted on the resignation under Gov. Bar R. V(11)(G)(3).
PRECEDENTIAL VALUE	Published Ohio Supreme Court disciplinary order; no broader precedential treatment is stated in the opinion.

TOPICS

administrative law agency adjudication

PRACTICE AREAS

legal ethics attorney discipline professional responsibility

QUESTIONS PRESENTED

- Whether the Supreme Court of Ohio should accept Sterling's affidavit of resignation and waiver as a resignation with disciplinary action pending.
- What restrictions and compliance obligations should accompany acceptance of the resignation.

HOLDINGS

1. The Supreme Court of Ohio accepted Sterling's resignation as an attorney and counselor at law with disciplinary action pending pursuant to Gov. Bar R. V(11)(G)(3).
2. Upon acceptance of the resignation, Sterling's rights and privileges to practice law in Ohio were withdrawn, his name was ordered stricken from the roll of attorneys, and he was required to surrender his certificate of admission and comply with specified client-notification, property-delivery, fee-refund, recordkeeping, and reimbursement obligations.

KEY QUOTATIONS

“It is ordered by the court that pursuant to Gov.Bar R. V(11)(G)(3) the resignation as an attorney and counselor at law is accepted as a resignation with disciplinary action pending.” (¶ 2)

“It is further ordered and adjudged that from and after this date all rights and privileges extended to respondent to practice law in the state of Ohio be withdrawn” (¶ 3)

FACTUAL BACKGROUND

Howard Thomas Sterling was admitted to practice law in Ohio in 1975 and maintained a last known business address in University Heights, Ohio. On May 25, 2006, he submitted an affidavit of resignation and waiver pursuant to the Ohio disciplinary rules. Disciplinary Counsel subsequently filed a report with the Supreme Court of Ohio, which accepted the resignation with disciplinary action pending.

PROCEDURAL HISTORY

Howard Thomas Sterling submitted an Affidavit of Resignation and Waiver on May 25, 2006. The affidavit was referred to Disciplinary Counsel, which filed a sealed report with the Supreme Court of Ohio on July 25, 2006. The Supreme Court accepted the resignation as one made while disciplinary action was pending and imposed the associated practice restrictions and compliance obligations.

DISPOSITION

approved

OPINION

PER CURIAM.

{¶ 1} On May 25, 2006, respondent, Howard Thomas Sterling, Attorney Registration No. 0034274, last known business address in University Heights, Ohio, who was admitted to the bar of this state on the 7th day of November, 1975, submitted an Affidavit of Resignation and Waiver pursuant to Gov.Bar R. V(11)(G)(1).

The affidavit and waiver were referred to Disciplinary Counsel pursuant to Gov.Bar R. V(11)(G)(2). On July 25, 2006, Disciplinary Counsel filed under seal its report with this court in accordance

with Gov.Bar R. V(11)(G)(2). Upon consideration thereof, {¶ 2} It is ordered by the court that pursuant to Gov.Bar R. V(11)(G)(3) the resignation as an attorney and counselor at law is accepted as a resignation with disciplinary action pending. *1261{¶ 3} It is further ordered and adjudged that from and after this date all rights and privileges extended to respondent to practice law in the state of Ohio be withdrawn; that henceforth respondent shall cease to hold himself forth as an attorney authorized to appear in the courts of this state; that respondent shall not attempt, either directly or indirectly, to render services as an attorney or counselor at law to or for any individuals, corporation or society, nor in any way perform or seek to perform services for anyone, no matter how constituted, that must, by law, be executed by a duly appointed and qualified attorney within the state of Ohio. {¶ 4} It is further ordered that respondent desist and refrain from the practice of law in any form, either as principal or agent or clerk or employee of another, and hereby is forbidden to appear in the state of Ohio as an attorney and counselor at law before any court, judge, board, commission or other public authority, and hereby is forbidden to give another an opinion as to the law or its application or advise with relation thereto. {¶ 5} It is further ordered that respondent surrender respondent's certificate of admission to practice to the clerk of the court on or before 30 days from the date of this order, and that respondent's name be stricken from the roll of attorneys maintained by this court. {¶ 6} 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 against the respondent 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. {¶ 7} It is further ordered that on or before 30 days from the date of this order, respondent shall: {¶ 8} 1.

Notify all clients being represented in pending matters and any co-counsel of respondent's resignation 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; {¶ 9} 2.

Regardless of any fees or expenses due respondent, 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; *1262{¶ 10} 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; {¶ 11} 4. Notify opposing counsel in pending litigation or, in the absence of counsel, the adverse parties 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; {¶ 12} 5.

Send all such notices required by this order by certified mail with a return address where communications may thereafter be directed to respondent; {¶ 13} 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 {¶ 14} 7.

Retain and maintain a record of the various steps taken by respondent pursuant to this order. {¶ 15} It is further ordered that until such time as respondent fully complies with this order, respondent shall keep the clerk and the Disciplinary Counsel advised of any change of address where respondent may receive communications. {¶ 16} 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. {¶ 17} 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 Section. {¶ 18} 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)(1), that publication be made as provided for in Gov.Bar R. V(8)(D)(2), and that respondent bear the costs of publication.

Moyer, C.J., Resnick, Pfeifer, Lundberg Stratton, O'Connor, O'Donnell and Lanzinger, JJ., concur.