

SUPREME COURT OF OHIO

Disciplinary Counsel v. McKenna

108 Ohio St. 3d 178 (Ohio 2006) · Decided February 22, 2006

SUMMARY

The Supreme Court of Ohio indefinitely suspended Daniel Edward McKenna from the practice of law after finding that he abandoned a client during a jury trial, neglected the client's matter, prejudiced the client, and failed to cooperate with the disciplinary investigation. The court made the suspension effective September 3, 2004, when McKenna assumed inactive status, and taxed costs to him.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Moyer, C.J.; Resnick, J.; Pfeifer, J.; Lundberg Stratton, J.; Lanzinger, J.; O'Connor, J.; O'Donnell, J.
JURISDICTION	Ohio
DECIDED	February 22, 2006
DISPOSITION	other
PROCEDURAL POSTURE	Attorney-discipline proceeding in which the respondent failed to answer the disciplinary complaint; the Supreme Court of Ohio reviewed the board's default findings and recommended sanction.
PRECEDENTIAL VALUE	published precedential opinion

TOPICS

remedies

PRACTICE AREAS

legal ethics

attorney discipline

professional responsibility

QUESTIONS PRESENTED

1. Whether respondent committed the charged violations of the Ohio Disciplinary Rules and Gov.Bar R. V(4)(G).
2. Whether an indefinite suspension from the practice of law was the appropriate sanction for abandoning a client during trial, neglecting the client's matter, failing to return fees, and failing to cooperate with the disciplinary investigation.

HOLDINGS

1. Respondent violated DR 1-102(A)(5), DR 1-102(A)(6), DR 6-101(A)(3), DR 7-101(A)(1), DR 7-101(A)(2), DR 7-101(A)(3), and Gov.Bar R. V(4)(G).
2. Neglect of legal matters combined with failure to cooperate in the ensuing disciplinary investigation warrants an indefinite suspension from the practice of law, and respondent was indefinitely suspended effective September 3, 2004.

KEY QUOTATIONS

“As we have consistently held, neglect of legal matters and the failure to cooperate in the ensuing disciplinary investigation warrant an indefinite suspension from the practice of law.” (181)

“Respondent’s unexplained and unannounced abandonment of his client on the opening day of a jury trial was surely harmful and embarrassing to the client and disruptive to the trial court and the jury.” (181)

FACTUAL BACKGROUND

McKenna represented a client in a civil jury trial but left after opening statements and did not return, causing the trial court to declare a mistrial. He later acknowledged that he had panicked and fled to Virginia, and the client retained new counsel and filed a malpractice action. McKenna also failed to provide information requested during the disciplinary investigation, did not demonstrate that he had notified clients or closed his trust accounts, and did not return more than \$51,000 in fees collected from the client.

PROCEDURAL HISTORY

Disciplinary Counsel filed a complaint charging two counts of professional misconduct. After service through the Clerk of the Supreme Court as respondent's agent, respondent failed to answer, and a master commissioner granted relator's motion for default. The Board of Commissioners on Grievances and Discipline adopted the findings and recommended an indefinite suspension effective September 3, 2004; the Supreme Court of Ohio agreed and imposed that sanction.

DISPOSITION

other

CASES CITED

- 107 Ohio St. 3d 1431, 2005-Ohio-6408, 838 N.E.2d 671
- Disciplinary Counsel v. Treneff, 104 Ohio St. 3d 336, 2004-Ohio-6562, 819 N.E.2d 695, ¶ 16