

SUPREME COURT OF OHIO

Cuyahoga County Bar Ass'n v. Vala

92 Ohio St. 3d 107 (Ohio 2001) · Decided June 13, 2001

SUMMARY

The Supreme Court of Ohio considered disciplinary charges against attorney Joseph S. Vala based on repeated neglect of client matters, failure to communicate, misrepresentation, and failure to refund fees or return client property. The court adopted the disciplinary board's findings and permanently disbarred Vala from practicing law in Ohio, taxing costs to him.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Per Curiam; Moyer, C.J.; Douglas, J.; Resnick, J.; F.E. Sweeney, J.; Pfeifer, J.; Cook, J.; Lundberg Stratton, J.
JURISDICTION	Ohio
DECIDED	June 13, 2001
DISPOSITION	other
PROCEDURAL POSTURE	Attorney-discipline proceeding initiated by the Cuyahoga County Bar Association after respondent failed to answer a ten-count amended complaint. The matter proceeded by default before a master commissioner, whose findings, rule-violation conclusions, and disbarment recommendation were adopted by the Board of Commissioners on Grievances and Discipline and then by the Supreme Court of Ohio.
PRECEDENTIAL VALUE	published and precedential Ohio Supreme Court opinion

TOPICS

default judgment bankruptcy family law procedure civil procedure remedies

PRACTICE AREAS

legal ethics and professional responsibility attorney discipline civil procedure bankruptcy family law

QUESTIONS PRESENTED

1. Whether respondent's conduct violated the charged provisions of the Ohio Code of Professional Responsibility.
2. Whether respondent's repeated neglect, dishonesty, failure to perform professional obligations, and prior disciplinary history warranted permanent disbarment.

HOLDINGS

1. The court adopted the findings and conclusions that respondent violated Disciplinary Rules governing dishonesty or misrepresentation, conduct prejudicial to the administration of justice or a client, conduct adversely reflecting on fitness to practice, neglect of entrusted legal matters, failure to carry out employment contracts, failure to refund unearned fees, and failure to deliver client papers and property.
2. Permanent disbarment from the practice of law in Ohio was warranted.

KEY QUOTATIONS

"We adopt the findings, conclusions, and recommendation of the board. Respondent is hereby permanently disbarred from the practice of law in Ohio." (92 Ohio St. 3d at 108)

FACTUAL BACKGROUND

Respondent represented a client in an automobile-injury case, voluntarily dismissed the case without the client's consent, failed to respond to a later motion to dismiss based on the statute of limitations, and misrepresented the status of the case. The client obtained a \$25,000 malpractice judgment, which respondent failed to pay. In two other matters, respondent accepted a \$200 fee but provided no services in a bankruptcy adversary proceeding, and failed to notify or attend a contested domestic-relations hearing or return the client's papers and retainer.

PROCEDURAL HISTORY

Relator filed a ten-count amended disciplinary complaint against respondent. After respondent failed to answer, the matter was referred to Master Commissioner Harry W. White, who made findings based on the motion for default and attached affidavits, concluded that respondent violated multiple Disciplinary Rules, and recommended permanent disbarment. The board adopted the recommendation, and the Supreme Court of Ohio adopted the board's findings, conclusions, and recommendation.

DISPOSITION

other

CASES CITED

- Lake Cty. Bar Assn. v. Vala, 82 Ohio St. 3d 57, 693 N.E.2d 1083 (1998)
- Lake Cty. Bar Assn. v. Vala, 87 Ohio St. 3d 1401, 716 N.E.2d 1164 (1999)

OPINION

PER CURIAM.

Per Curiam. On January 25, 2000, relator, Cuyahoga County Bar Association, filed a ten-count amended complaint charging respondent, Joseph S. Vala of Cleveland, Ohio, Attorney Registration No. 0038112, with violating numerous rules of the Code of Professional Responsibility. When respondent failed to answer, relator moved for default, and the matter was referred by the Board of Commissioners on Grievances and Discipline of the Supreme Court (“board”) to Master Commissioner Harry W. White.

Based upon the motion for default and attached affidavits, the master commissioner found that in October 1996, Ruth Burgardt retained respondent to represent her with respect to injuries she sustained in an automobile accident.

Although respondent filed the case in January 1997, he later voluntarily dismissed it under Civ.R. 41(A)(1) without Burgardt’s consent. Respondent refiled the case in November 1998, but he failed to respond to a motion to dismiss that was based upon the expiration of the statute of limitations. Respondent did not inform Burgardt that her case on motion had been dismissed with prejudice; instead, he told her that the case was scheduled for a status hearing.

After Burgardt discovered the dismissal, she sued respondent for malpractice and obtained a judgment of \$25,000. Respondent, who was and is without malpractice insurance, failed to pay the award. The master commissioner concluded that respondent’s conduct violated DR 1-102(A)(4) (a lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation), 1-102(A)(5) (a lawyer shall not engage in conduct prejudicial to the administration of justice), 1-102(A)(6) (a lawyer shall not engage in conduct reflecting adversely on the lawyer’s fitness to practice law), 6-101(A)(3) (a lawyer shall not neglect an entrusted legal matter), 7-101(A)(2) (a lawyer shall not fail to carry out a contract of employment), and 7-101(A)(3) (a lawyer shall not engage in conduct prejudicial to a client).

Howard Mishkind, Robert Steely and Thomas E. Kocovsky, Jr., for relator. In April 1999, Giovanna Tavano engaged respondent and paid him \$200 to represent her in an adversary proceeding in bankruptcy court. Respondent failed to file an answer on behalf of Tavano or provide any professional services for her, and the bankruptcy court entered judgment against Tavano in the amount of \$7,187.18.

The master commissioner concluded that respondent’s conduct toward Tavano violated DR 1 — 102(A)(5), 1-102(A)(6), 2-110(A)(3) (when requested, a lawyer shall promptly refund any part of an unearned fee paid in advance), 6-101(A)(3), 7-101(A)(2), and 7-101(A)(3).

In November 1998, John Moravec hired respondent to represent him in a domestic relations action. Respondent not only failed to notify Moravec of a contested hearing to be held in December 1999 but failed to attend the hearing himself. When Moravec learned of respondent’s

failure to appear, he demanded the return of his papers and the retainer he had paid. Respondent returned neither.

The master commissioner concluded that respondent's conduct toward Moravec violated DR 1-102(A)(5), 1-102(A)(6), 2-110(A)(2) (when requested, a lawyer shall promptly deliver all papers and property to which a client is entitled), 2-110(A)(3), 6-101(A)(3), 7-101(A)(2), and 7-101(A)(3).

The master commissioner noted that respondent had previously been the subject of disciplinary action in *Lake Cty. Bar Assn. v. Vala* (1998), 82 Ohio St.3d 57, 693 N.E.2d 1083, and *Lake Cty. Bar Assn. v. Vala* (1999), 87 Ohio St.3d 1401, 716 N.E.2d 1164.

In view of respondent's past disciplinary violations and his constant and repeated neglect of his professional duties, the master commissioner recommended that respondent be disbarred from the practice of law. The board adopted the findings, conclusions, and recommendation of the master commissioner.

We adopt the findings, conclusions, and recommendation of the board. Respondent is hereby permanently disbarred from the practice of law in Ohio. Costs are taxed to respondent. ' Judgment accordingly. Moyer, C.J., Douglas, Resnick, F.E. Sweeney, Pfeifer, Cook and Lundberg Stratton, JJ., concur.