

SUPREME COURT OF OHIO

In re Toohig

127 Ohio St. 3d 1496 (Ohio 2011) · Decided January 7, 2011

SUMMARY

The Supreme Court of Ohio imposed an interim suspension from the practice of law on Kevin Thomas Toohig after receiving a certified copy of a felony conviction. The court referred the matter for disciplinary investigation and specified obligations concerning cessation of practice, client notification, continuing legal education, reinstatement, and reimbursement of Clients' Security Fund awards.

CASE DETAILS

COURT	Supreme Court of Ohio
JURISDICTION	Ohio
DECIDED	January 7, 2011
DISPOSITION	other
PROCEDURAL POSTURE	The secretary of the Board of Commissioners on Grievances and Discipline certified to the Supreme Court of Ohio a judgment entry showing that respondent Kevin Thomas Toohig, an Ohio attorney, had been convicted of a felony. The Supreme Court entered an interim suspension and referred the matter for investigation and disciplinary proceedings.
PRECEDENTIAL VALUE	Published disciplinary order

TOPICS

administrative law

agency adjudication

PRACTICE AREAS

legal ethics and attorney discipline

administrative law

QUESTIONS PRESENTED

1. Whether certification of an attorney's felony conviction required the Supreme Court of Ohio to impose an interim suspension under Gov.Bar R. V(5)(A)(4).

2. What restrictions, compliance obligations, and disciplinary referral should accompany the interim suspension.

HOLDINGS

1. Upon certification of a judgment entry showing the attorney's felony conviction, the Supreme Court of Ohio imposed an interim suspension from the practice of law pursuant to Gov.Bar R. V(5)(A)(4).
2. During the interim suspension, Toohig was required to cease and desist from practicing law, was prohibited from performing legal services or appearing on behalf of others, and was subject to reinstatement, continuing-legal-education, client-notification, property-transfer, reimbursement, filing, and reporting requirements.

KEY QUOTATIONS

“Upon consideration thereof and pursuant to Gov.Bar R. V(5)(A)(4), it is ordered and decreed that Kevin Thomas Toohig, Attorney Registration No. 0067447, last known business address in Beachwood, Ohio, is suspended from the practice of law for an interim period, effective as of the date of this entry.” (1496)

“It is further ordered that this matter is referred to the Cleveland Metropolitan Bar Association for investigation and commencement of disciplinary proceedings.” (1496)

FACTUAL BACKGROUND

Kevin Thomas Toohig was an attorney licensed to practice law in Ohio. A felony judgment of conviction had been entered against him, and that judgment was certified to the Supreme Court of Ohio by the secretary of the Board of Commissioners on Grievances and Discipline.

PROCEDURAL HISTORY

On December 30, 2010, the secretary of the Board of Commissioners on Grievances and Discipline certified a copy of Toohig's felony-conviction judgment entry to the Supreme Court of Ohio. The court acted pursuant to the Supreme Court Rules for the Government of the Bar of Ohio, imposed an interim suspension, and referred the matter to the Cleveland Metropolitan Bar Association.

DISPOSITION

other

OPINION

PER CURIAM.

On December 30, 2010, and pursuant to Gov.Bar R. V(5)(A)(3), the secretary of the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio certified to the Supreme Court a certified copy of a judgment entry of a felony conviction against Kevin Thomas Toohig, an attorney licensed to practice law in the state of Ohio. Upon consideration thereof and

pursuant to Gov.Bar R. V(5)(A)(4), it is ordered and decreed that Kevin Thomas Toohig, Attorney Registration No. 0067447, last known business address in Beachwood, Ohio, is suspended from the practice of law for an interim period, effective as of the date of this entry.

It is further ordered that this matter is referred to the Cleveland Metropolitan Bar Association for investigation and commencement of disciplinary proceedings. 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 another before any court, judge, commission, board, administrative agency, or other public authority.

It is further ordered that effective immediately, respondent is forbidden to counsel or advise or prepare legal instruments for others or in any manner perform legal services for others. 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. 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(8)(G)(3).

If employed pursuant to Gov.Bar R. V(8)(G), respondent shall refrain from direct client contact except as provided in Gov.Bar R. V(8)(G)(1) and from receiving, disbursing, or otherwise handling any client trust funds or property. It is further ordered that pursuant to Gov.Bar R. X(3)(G), 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(3)(G), respondent shall complete one credit hour of instruction related to professional conduct required by Gov.Bar R. X(3)(A)(1) for each six months or portion of six months of the suspension. 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 this and all other orders issued by this court, (3) respondent complies with the Supreme Court Rules for the Government of the Bar of Ohio, and (4) this court orders respondent reinstated.

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 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 respondent pursuant to Gov.Bar R. VIII(7)(F), respondent shall reimburse that amount to the Clients' Security Fund within 90 days of the notice of such award.

It is further ordered that on or before 30 days from the date of this order, respondent shall: 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 *1497attention to any urgency in seeking the substitution of another attorney in respondent's place; 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; 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 respondent's possession or control; 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; 5.

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

Retain and maintain a record of the various steps taken by respondent pursuant to this order. It is further ordered that respondent shall keep the Clerk, the Cleveland Metropolitan Bar Association, and the Disciplinary Counsel advised of any change of address where respondent may receive communications. 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.

All case documents are subject to Rules 44 through 47 of the Rules of Superintendence for the Courts of Ohio, which govern access to court records. 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 to respondent's last known address. 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.