

SUPREME COURT OF OHIO

In re Resignation of Mamone

139 Ohio St. 3d 1206, 2014-Ohio-1630 (2014) · No. 2013-2025 · Decided April 18, 2014

SUMMARY

The Supreme Court of Ohio accepted Joseph Anthony Mamone’s resignation from the practice of law while disciplinary action was pending under Gov.Bar R. VI(7)(C). The order withdrew his privileges to practice law, struck his name from the roll of attorneys, and imposed related client-notification, restitution, compliance, and publication requirements.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Maureen O'Connor, C.J.; Pfeifer, J.; O'Donnell, J.; Lanzinger, J.; Kennedy, J.; French, J.; O'Neill, J.
JURISDICTION	Ohio
DECIDED	April 18, 2014
DOCKET	2013-2025
DISPOSITION	other
PROCEDURAL POSTURE	An attorney submitted an application for retirement or resignation under Gov.Bar R. VI(7) while disciplinary action was pending. After disciplinary counsel filed a report under seal, the Supreme Court of Ohio accepted the resignation with disciplinary action pending and imposed the associated practice restrictions and compliance obligations.
PRECEDENTIAL VALUE	Published Ohio Supreme Court opinion concerning acceptance of an attorney resignation with disciplinary action pending

TOPICS

civil procedure

PRACTICE AREAS

legal ethics

attorney discipline

professional responsibility

QUESTIONS PRESENTED

1. Whether the court should accept Mamone's resignation under Gov.Bar R. VI(7) as a resignation with disciplinary action pending.
2. What restrictions and compliance obligations should accompany acceptance of the resignation.

HOLDINGS

1. The Supreme Court of Ohio accepted Mamone's resignation as an attorney and counselor at law with disciplinary action pending pursuant to Gov.Bar R. VI(7)(C).
2. Upon acceptance of the resignation, Mamone's rights and privileges to practice law in Ohio were withdrawn, he was prohibited from holding himself out as an attorney or performing legal services, and his name was ordered stricken from the roll of attorneys.

KEY QUOTATIONS

“the resignation as an attorney and counselor at law is accepted as a resignation with disciplinary action pending.” (§ 2)

“all rights and privileges extended to respondent to practice law in the state of Ohio be withdrawn” (§ 3)

FACTUAL BACKGROUND

Joseph Anthony Mamone was an Ohio attorney admitted to practice in 1961. He submitted an application for retirement or resignation, and disciplinary counsel filed a report concerning the application. The Supreme Court accepted his resignation with disciplinary action pending and directed him to cease practicing law, notify clients and opposing parties, address client property and unearned fees, reimburse applicable Clients' Security Fund awards, and surrender his certificate of admission and registration card.

PROCEDURAL HISTORY

Joseph Anthony Mamone applied for retirement or resignation pursuant to Gov.Bar R. VI(7). The application was referred to disciplinary counsel, whose report was filed with the Supreme Court of Ohio on December 23, 2013. The court then accepted the resignation with disciplinary action pending and entered detailed orders governing Mamone's cessation of practice, client notifications, reimbursement obligations, and surrender of his admission credentials.

DISPOSITION

other

OPINION

PER CURIAM.

[Cite as In re Resignation of Mamone, 139 Ohio St. 3d 1206, 2014-Ohio-1630.] IN RE RESIGNATION OF MAMONE. [Cite as In re Resignation of Mamone, 139 Ohio St. 3d 1206, 2014-Ohio-1630.] Attorneys at law—Resignation with disciplinary action pending—Gov.Bar R.

VI(7)(C). (No. 2013-2025—Submitted February 5, 2014—Decided April 18, 2014.) ON APPLICATION FOR RETIREMENT OR RESIGNATION PURSUANT TO GOV.BAR R. VI(7).
_____ {¶ 1} Joseph Anthony Mamone, Attorney Registration No. 0025283, last known business address in Cleveland, Ohio, who was admitted to the bar of this state on May 25, 1961, submitted an application for retirement or resignation pursuant to Gov.Bar R. VI(7).

The application was referred to disciplinary counsel pursuant to Gov.Bar R. VI(7)(B). On December 23, 2013, the Office of Attorney Services filed disciplinary counsel's report, under seal, with this court in accordance with Gov.Bar R. VI(7)(B)(2). {¶ 2} On consideration thereof, it is ordered by the court that pursuant to Gov.Bar R. VI(7)(C) the resignation as an attorney and counselor at law is accepted as a resignation with disciplinary action pending. {¶ 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; and 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. SUPREME COURT OF OHIO {¶ 4} It is further ordered that respondent desist and refrain from the practice of law in any form, either as principal, agent, clerk, or employee of another, that he 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 that he 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 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. {¶ 6} It is further ordered that respondent shall not enter into an employment, contractual, or consulting relationship with an attorney or law firm with which respondent was associated as a partner, shareholder, member, or employee at the time respondent engaged in the misconduct that resulted in this acceptance of respondent's resignation with discipline pending. {¶ 7} It is further ordered that respondent shall surrender his 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. {¶ 8} 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 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 respondent 2 January Term, 2014 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 that award. {¶ 9} It is further ordered that on or before 30 days from the date of this order, respondent shall do the following: {¶ 10} 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; {¶ 11} 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; {¶ 12} 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; {¶ 13} 4. Notify opposing counsel or, in the absence of counsel, the adverse parties in pending litigation 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; {¶ 14} 5.

Send all notices required by this order by certified mail with a return address where communications may thereafter be directed to respondent; {¶ 15} 6. File with the clerk of this court and disciplinary counsel of the Supreme Court an affidavit showing compliance with this order, showing proof of 3 SUPREME COURT OF OHIO service of the notices required herein, and setting forth the address where the affiant may receive communications; and {¶ 16} 7.

Retain and maintain a record of the various steps taken by respondent pursuant to this order. {¶ 17} It is further ordered that on or before 30 days from the date of this order, respondent shall surrender his attorney-registration card for the 2013/2015 biennium. {¶ 18} It is further ordered that until such time as respondent fully complies with this order, respondent shall keep the clerk and disciplinary counsel advised of any change of address where respondent may receive communications. {¶ 19} 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 Sup.R. 44 through 47, which govern access to court records. {¶ 20} 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. {¶ 21} 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. _____ O'CONNOR, C.J., and PFEIFER, O'DONNELL, LANZINGER, KENNEDY, FRENCH, and O'NEILL, JJ., concur.