

SUPREME COURT OF OHIO

Disciplinary Counsel v. Lawson

130 Ohio St. 3d 184, 2011-Ohio-4673 (2011) · No. 2011-0131 · Decided September 20, 2011

SUMMARY

The Supreme Court of Ohio permanently disbarred Kenneth L. Lawson after finding that he conspired to obtain Schedule II prescription drugs by deception, advised a client to engage in illegal conduct, and committed extensive dishonest and exploitative misconduct. The court rejected the recommended indefinite suspension, citing Lawson's prior disciplinary violations, pervasive pattern of misconduct, felony conviction, and failure to comply with prior court-ordered obligations.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Per Curiam; Pfeifer, J.; Lundberg Stratton, J.; O'Donnell, J.; Cupp, J.; McGee Brown, J.; O'Connor, C.J.; Lanzinger, J.
JURISDICTION	Ohio
DECIDED	September 20, 2011
DOCKET	2011-0131
DISPOSITION	other
PROCEDURAL POSTURE	Attorney-discipline proceeding before the Supreme Court of Ohio on a certified report from the Board of Commissioners on Grievances and Discipline. The board recommended a consecutive indefinite suspension, but Disciplinary Counsel sought permanent disbarment and the court rejected the board's recommendation.
STANDARD OF REVIEW	The Supreme Court of Ohio independently reviewed the certified disciplinary record and determined the appropriate sanction after weighing the rule violations, aggravating and mitigating factors, and sanctions imposed in comparable cases.
PRECEDENTIAL VALUE	Published, precedential decision of the Supreme Court of Ohio
PARTIES	Disciplinary Counsel v. Kenneth L. Lawson

TOPICS

remedies

administrative law

criminal procedure

PRACTICE AREAS

legal ethics

attorney discipline

professional responsibility

criminal misconduct

QUESTIONS PRESENTED

1. Whether Lawson's current misconduct was barred by res judicata because it allegedly formed part of the misconduct underlying his prior disciplinary proceeding.
2. Whether an indefinite suspension was an adequate sanction for Lawson's felony conviction, conspiracy to obtain controlled substances by deception, fraud against a client, counseling illegal conduct, and extensive aggravating misconduct.
3. Whether the aggravating and mitigating factors and comparable disciplinary sanctions warranted permanent disbarment.

HOLDINGS

1. The second disciplinary proceeding was not barred by res judicata because the conspiracy, client fraud, and felony conviction were not charged or adjudicated in Lawson's prior disciplinary proceeding.
2. Lawson violated DR 1-102(A)(3), DR 1-102(A)(4), DR 1-102(A)(5), DR 1-102(A)(6), DR 5-101(A)(1), DR 7-102(A)(7), and DR 7-102(A)(8) through illegal conduct, dishonesty, conduct prejudicial to the administration of justice, conflicts arising from personal interests, counseling illegal conduct, and knowingly engaging in illegal conduct.
3. Permanent disbarment was warranted because Lawson's pervasive and continuing pattern of dishonesty, criminal conduct, exploitation of clients and others, prior discipline, and failure to comply with disciplinary conditions demonstrated that an indefinite suspension would not adequately protect the public, courts, or legal profession.

KEY QUOTATIONS

"The purpose of disbarment is not to punish the individual. It is intended to protect the public, the courts and the legal profession." (at 195)

"Accordingly, we permanently disbar Kenneth L. Lawson from the practice of law in Ohio. Costs are taxed to the respondent." (at 196)

FACTUAL BACKGROUND

Lawson entered a three-and-a-half-year conspiracy with a physician and another coconspirator to obtain Percodan, Percocet, and OxyContin by deception, while providing legal services to the physician in exchange for prescriptions. He also defrauded the physician by falsely claiming that money was needed to bribe state officials and then used the resulting debt to pressure the physician into writing illegal prescriptions. Lawson recruited clients, law-office employees, family members, and others to facilitate the prescription scheme, lied to judges and attorneys, and pleaded guilty in federal court to conspiracy to obtain Schedule II controlled substances by deception. He had previously been indefinitely suspended for extensive client neglect, theft, misuse of client funds, dishonesty, and failure to cooperate with disciplinary investigations.

PROCEDURAL HISTORY

Lawson was previously placed on interim remedial suspension and then indefinitely suspended for extensive misconduct involving multiple clients. A second disciplinary complaint alleged that he conspired to obtain Schedule II drugs by deception, defrauded a client, advised illegal conduct, and committed related ethical violations. The hearing panel and board found violations and recommended another indefinite suspension; the Supreme Court of Ohio instead ordered permanent disbarment.

DISPOSITION

other

CASES CITED

- Disciplinary Counsel v. Lawson, 113 Ohio St. 3d 1508, 2007-Ohio-2333, 866 N.E.2d 508
- Cincinnati Bar Assn. v. Lawson, 119 Ohio St. 3d 58, 2008-Ohio-3340, 891 N.E.2d 749
- In re Lawson, 122 Ohio St. 3d 1485, 2009-Ohio-3752, 910 N.E.2d 1038
- In re Disbarment of Lieberman, 163 Ohio St. 35, 125 N.E.2d 328 (1955)
- Warren Cty. Bar Assn. v. Marshall, 121 Ohio St. 3d 197, 2009-Ohio-501, 903 N.E.2d 280
- Cincinnati Bar Assn. v. Farrell, 129 Ohio St. 3d 223, 2011-Ohio-2879, 951 N.E.2d 390
- Cincinnati Bar Assn. v. Deaton, 102 Ohio St. 3d 19, 2004-Ohio-1587, 806 N.E.2d 503
- Disciplinary Counsel v. Manogg, 74 Ohio St. 3d 213, 658 N.E.2d 257 (1996)
- Trumbull Cty. Bar Assn. v. Kafantaris, 121 Ohio St. 3d 387, 2009-Ohio-1389, 904 N.E.2d 875
- Disciplinary Counsel v. Longo, 94 Ohio St. 3d 219, 761 N.E.2d 1042 (2002)
- Disciplinary Counsel v. Bein, 105 Ohio St. 3d 62, 2004-Ohio-7012, 822 N.E.2d 358
- Cleveland Bar Assn. v. Fatica, 28 Ohio St. 2d 40, 274 N.E.2d 763 (1971)
- Toledo Bar Assn. v. Neller, 98 Ohio St. 3d 314, 2003-Ohio-774, 784 N.E.2d 689
- Disciplinary Counsel v. Phillips, 108 Ohio St. 3d 331, 2006-Ohio-1064, 843 N.E.2d 775