

SUPREME COURT OF OHIO

Cuyahoga County Bar Ass'n v. Aldrich

104 Ohio St. 3d 159 (Ohio 2004) · Decided December 8, 2004

SUMMARY

The Ohio Supreme Court reviewed disciplinary charges against Thomas P. Aldrich arising from his neglect of a divorce client’s matter, failure to return unearned fees, and related dishonest conduct. Given the misconduct, prior indefinite suspension, and failure to participate in the disciplinary proceedings, the court ordered that Aldrich be permanently disbarred and taxed costs to him.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Per Curiam; Moyer, C.J.; Resnick, J.; Pfeifer, J.; Lundberg Stratton, J.; O'Connor, J.; O'Donnell, J.; Sweeney, J.
JURISDICTION	Ohio
DECIDED	December 8, 2004
DISPOSITION	other
PROCEDURAL POSTURE	Attorney-discipline proceeding in which the Cuyahoga County Bar Association charged respondent with additional violations of the Code of Professional Responsibility. The Board of Commissioners on Grievances and Discipline recommended an indefinite suspension, but the Supreme Court of Ohio independently imposed permanent disbarment.
STANDARD OF REVIEW	The Supreme Court of Ohio reviewed the disciplinary findings and sanction and determined the appropriate sanction based on the established misconduct, aggravating factors, and prior disciplinary history. The misconduct findings were based on clear and convincing evidence.
PRECEDENTIAL VALUE	published
PARTIES	Cuyahoga County Bar Association v. Thomas P. Aldrich III

TOPICS

- sanctions
- civil procedure

PRACTICE AREAS

legal ethics

attorney discipline

QUESTIONS PRESENTED

1. Whether respondent violated the specified provisions of the Ohio Code of Professional Responsibility by neglecting the client's divorce matter, failing to return unearned fees, misappropriating client funds, and causing client prejudice.
2. What sanction was appropriate for respondent's misconduct in light of his prior indefinite suspension, failure to cooperate in the disciplinary proceeding, and absence of mitigating factors.

HOLDINGS

1. Respondent violated DR 2-110(A)(3), DR 1-102(A)(4), DR 1-102(A)(6), DR 6-101(A)(3), DR 7-101(A)(2), and DR 7-101(A)(3).
2. Permanent disbarment was the appropriate sanction for respondent's misappropriation of client funds coupled with neglect, particularly in light of his prior indefinite suspension and refusal to participate in the disciplinary proceedings.

KEY QUOTATIONS

"Misappropriation coupled with neglect of a client's interests typically warrants disbarment." (160)

"Accordingly, respondent is permanently disbarred from the practice of law in Ohio." (161)

FACTUAL BACKGROUND

Respondent accepted filing fees and a retainer from a client seeking a divorce, then repeatedly failed to communicate with her or perform work on the case. He did not return the unearned fees, and the client ultimately retained another attorney to obtain the divorce. Respondent claimed he had sent a refund and that the client's sister owed him money, but the client denied receiving the letter or money order, and the sister denied owing respondent money.

PROCEDURAL HISTORY

Respondent had previously been indefinitely suspended for neglect and other improprieties and had been cited for contempt for failing to comply with that suspension order. After a panel hearing at which respondent did not appear despite notice, the panel recommended permanent disbarment, while the board recommended an indefinite suspension consecutive to the existing suspension. The Supreme Court agreed with the board's misconduct findings but imposed disbarment.

DISPOSITION

other

CASES CITED

- Cleveland Bar Assn. v. Aldrich, 93 Ohio St. 3d 625, 758 N.E.2d 180 (2001)
- Cleveland Bar Assn. v. Aldrich, 97 Ohio St. 3d 1407, 2002-Ohio-5557, 776 N.E.2d 1123 (2002)
- Cleveland Bar Assn. v. Glatki, 88 Ohio St. 3d 381, 384, 726 N.E.2d 993 (2000)
- Disciplinary Counsel v. France, 97 Ohio St. 3d 240, 2002-Ohio-5945, 778 N.E.2d 573

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