

Supreme Court of Kentucky

2000-SC-0014-KB

FINAL

MAR 06 2000
COMPLAINANT

KENTUCKY BAR ASSOCIATION,
CLE COMMISSION

V. IN SUPREME COURT

J. GREGG CLENDENIN

RESPONDENT

OPINION AND ORDER

On December 6, 1999, this Court entered a Show Cause Order for Respondent, J. Gregg Clendenin, to show cause if any why he should not be suspended from the practice of law for failing to comply with the Continuing Legal Education requirements of SCR 3.661. Respondent has filed a response to the order and the Kentucky Bar Association has filed a reply to the response. For the reasons set forth below, we adopt the recommendation of the KBA.

Respondent admits that he did not meet the CLE requirements for the educational year ending on June 30, 1999. He further admits that he has not shown cause for his failure. Rather, he argues that his deficiency in CLE credits is due to failure to read the applicable rules and a failure of the post office to properly postmark

his letter on the day it was mailed. He further argues that he subjectively believed that he was in compliance when he completed 2.0 CLE credits on September 14, 1999.

In reply, the KBA notes that Respondent was sent four notices advising him of his deficiency and that he did not respond to any of the notices. Further, the KBA notes that Respondent has a long history of non-compliance with the CLE rules, which is set forth in a previous order of this Court. See Kentucky Bar Association. CLE Commission v. Clendenin, Ky., 941 S.W.2d 477 (1997). While in that order we fined Respondent \$3,000.00 in lieu of suspension, we noted that the imposition of suspension "would not be too severe." Id. at 478. The fact that suspension would punish not only Respondent but would punish his clients and the courts as well, tipped the balance in Respondent's favor. Id. The same considerations carry the day here. However, we caution Respondent that this is his last chance to avoid suspension for failure to comply with CLE requirements.

IT IS THEREFORE ORDERED:

1. Respondent, J. Gregg Clendenin, shall earn 37.5 CLE credits, including 6.0 ethics credits for the 1999-2000 educational year, which ends June 30, 2000. This shall be the minimum requirement for Respondent for the 1999-2000 educational year and no credits from the 1999-2000 educational year shall carry forward into subsequent educational years.

2. Respondent is hereby sanctioned pursuant to SCR 3.669(4) and is directed to pay a fine of a \$1,500.00 within twenty (20) days of the date of this Order, for which execution may issue from this Court upon finality of this Order.

3. Respondent shall not have available to him the relief provided under SCR 3.667 for the educational years ending June 30, 2000, June 30, 2001, and June 30, 2002.

4. Respondent shall pay a \$50.00 per credit fee for the 2.0 CLE credits reported on September 14, 1999, which shall be applied to the 1998-1999 educational year, payable within twenty (20) days of the date of this Order, for which execution may issue from this Court upon finality of this Order.

5. Failure to strictly comply with the terms of this Order will be grounds for immediate suspension.

All concur.

Entered: February 24, 2000.



CHIEF JUSTICE