

OPINIONS OF THE SUPREME COURT OF OHIO

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Dayton Bar Association v. Lewis.

[Cite as Dayton Bar Assn. v. Lewis (1993), Ohio St.3d .]

Attorneys at law -- Misconduct -- Two-year suspension stayed pending successful completion of two-year probationary period with conditions -- Violating a Disciplinary Rule -- Engaging in conduct adversely reflecting on fitness to practice law -- Handling a legal matter without adequate preparation -- Neglecting an entrusted legal matter -- Failing to carry out a contract of employment -- Prejudicing or damaging a client during course of professional relationship.

(No. 93-1330 -- Submitted September 22, 1993 -- Decided December 8, 1993.)

On Certified Report by the Board of Commissioners on Grievances and Discipline of the Supreme Court, No. 91-56.

On March 11, 1992, relator, Dayton Bar Association, filed an amended two-count complaint against respondent, Gordon H. Lewis of Dayton, Ohio, Attorney Registration No. 0023561, alleging violations of DR 1-102(A)(1) (violating a Disciplinary Rule), 1-102(A)(6) (engaging in conduct adversely reflecting on one's fitness to practice law), 6-101(A)(2) (handling a legal matter without adequate preparation), 6-101(A)(3) (neglecting a legal matter entrusted), 7-101(A)(2) (failing to carry out a contract of employment), and 7-101(A)(3) (prejudicing or damaging a client during the course of the professional relationship). Respondent timely answered the amended complaint and the matter was heard by a panel of the Board of Commissioners on Grievances and Discipline of the Supreme Court on November 29, 1992.

Respondent stipulated to essentially all the factual allegations in the complaint. As to Count I, respondent was retained by Eddie Sue Soete on September 28, 1989 to investigate whether her husband had obtained a final decree of divorce against her in the state of Kentucky and, further, to pursue support for the children born of the marriage. Respondent contacted Soete to provide him with documentation pertaining to the case on October 13, 1989 and again on May 1,

1990; however, during the intervening period respondent failed to return Soete's telephone calls. Respondent's next contact with Soete was by letter dated April 8, 1991, in which he informed her that a hearing had been set for April 30, 1991 on a petition to register for an order of support. Respondent failed to appear at the hearing and the petition was ultimately dismissed for failure to prosecute.

As to Count II, respondent was retained by Lillian Fields on August 25, 1988 to handle a case involving the possible wrongful detention of her son. Respondent spoke with Fields two to three weeks after their initial consultation, but failed to return her numerous telephone calls until he received a letter from her dated March 19, 1989, inquiring about the status of the case. Although Fields attempted to contact respondent on subsequent occasions, she did not succeed until August 1991, at which time respondent explained that he had not contacted her because he had lost all records pertaining to the case. Thereafter, respondent interviewed Fields' son, but canceled a subsequent meeting which he requested with Fields. By the time of the interview, the statute of limitations for filing suit had expired.

In mitigation, respondent testified that his misconduct was attributable to alcoholism, that he has since stopped drinking, and that he is currently enrolled in an alcohol dependency program. Upon the subsequent order of the panel, respondent submitted to a medical and psychiatric examination. The examining physician, Dr. Arthur A. Greenfield, concluded that respondent suffers from chronic alcoholism and that his alcohol dependency directly resulted in his professional misconduct. Dr. Greenfield further concluded that respondent's prognosis for continued remission was "fair to good."

The panel found respondent guilty of each violation alleged. It recommended that he be suspended from the practice of law for two years, and that one year be suspended upon the condition that he (1) continue to participate in an alcohol dependency program and (2) participate in a practice monitoring program prepared and supervised by relator. The board adopted the panel's findings and recommendation of a two-year suspension; however, it recommended that eighteen months of the suspension be stayed, subject to the conditions recommended by the panel.

Respondent filed objections to the board's recommendation, arguing that the entire two-year suspension should be stayed. In support, he states, inter alia, that he attends an alcohol dependency program daily and that he has made the appropriate changes to his lifestyle to render him fit to practice law.

Dennis A. Lieberman, for relator.  
Robert E. Renshaw, for respondent.

Per Curiam. Having thoroughly reviewed the record, we agree with the board's findings of fact and adopt its recommendation of a two-year suspension. However, we order that the entire suspension be stayed pending respondent's successful completion of a two-year probationary period under the conditions recommended by the board. Costs taxed to respondent.

Judgment accordingly.

A.W. Sweeney, Douglas, Wright, Resnick and Pfeifer, JJ.,  
concur.

Moyer, C.J., dissents and would order a two-year  
suspension with eighteen months stayed.

F.E. Sweeney, J., dissents and would order a one-year  
suspension with six months stayed.