

1 Warren County Bar Association v. West.

2 [Cite as *Warren Cty. Bar Assn. v. West* (1995), ____ Ohio St.3d ____.]

3 Attorneys at law -- Misconduct -- Two-year suspension, with one year suspended

4 on condition of continued compliance with Ohio Lawyers Assistance

5 Program, Inc. and credit for the interim suspension -- Conviction of carrying

6 a concealed weapon.

7 (No. 95-797 -- Submitted May 23, 1995 -- Decided August 30, 1995.)

8 ON CERTIFIED REPORT by the Board of Commissioners on Grievances and

9 Discipline of the Supreme Court, No. 94-65.

10 Relator, Warren County Bar Association, charged respondent, Richard E.

11 West of Franklin, Ohio, Attorney Registration No. 0033319, with having violated,

12 *inter alia*, DR 1-102(A)(6) (conduct that adversely reflects on fitness to practice

13 law). Respondent answered the complaint, admitting many of the factual

14 allegations and that he had violated the cited Disciplinary Rule. A panel of the

15 Board of Commissioners on Grievances and Discipline of the Supreme Court

16 (“board”) heard the matter on February 6, 1995.

17 Evidence, stipulations, and a supplemental answer submitted for the panel’s

18 review established that respondent became intoxicated at his office on May 24,

1 1993, after his fiancée (now, his wife) told him that she was ending their
2 relationship. While speaking with her on the telephone, respondent threatened
3 suicide with a client's gun that had been returned to him by court order. His
4 fiancée alerted respondent's mother, who immediately went to his office to reason
5 with him. When his mother arrived, respondent called the police and asked for
6 assistance in removing her as a trespasser on his property. Two officers
7 responded, and they were met by respondent's father, who confirmed that his wife
8 and son were arguing inside the building in which respondent's office was located
9 and that his son had a gun. Respondent then came to the back door of the
10 building, holding on to his mother's arm with one hand and brandishing a gun
11 with the other. Respondent's mother was able to escape his grasp and run away.
12 However, for the next hour or two, respondent continued to waive the gun and
13 shout obscenities through open windows or doors of the building, even after back-
14 up officers arrived. He told the officers to leave his property, he threatened to sue
15 them, and then he threatened to shoot them if they did not comply. He even called
16 a local common pleas judge during the course of this incident to lodge more
17 threats. At one point, respondent stepped outside his office building and
18 discharged his gun, but without shooting anyone.

1 Respondent eventually left his office building and got behind the wheel of a
2 police cruiser parked close to the entrance. He backed the car toward another
3 parked cruiser that police officers were using to shield themselves. Respondent
4 got out of the car and walked to the other cruiser, still waving the gun in his hand.
5 Finally, one of the officers persuaded him to put the gun down, and respondent
6 was taken into custody and to the hospital.

7 At the hospital, respondent was diagnosed as suffering from acute alcohol
8 intoxication and as alcohol dependent. He was subsequently charged with
9 numerous offenses, but pled guilty and was convicted only of carrying a concealed
10 weapon in violation of R.C. 2923.12. On June 3, 1994, he was sentenced to
11 eighteen months' confinement, fined \$5,000, and ordered to pay the costs for the
12 police officers' response on May 24, 1993. Respondent's sentence was suspended
13 and, after spending several days in the county jail, he was placed on a five-year
14 probation period, a condition of which required his continuing treatment for
15 alcohol and/or drug addiction. On July 1, 1994, he was suspended from the
16 practice of law pursuant to Gov.Bar R. V(5)(A) (interim suspension for conviction
17 of a felony). See (1994), 69 Ohio St.3d 1485, ____ N.E.2d ____ (case No. 94-
18 1204).

1 Based on this evidence, the panel determined that respondent had violated
2 DR 1-102(A)(6). In recommending a sanction for this misconduct, the panel
3 considered respondent's efforts to recover from alcoholism.

4 Respondent entered the Shephard Hill Treatment Program in Newark, Ohio,
5 on August 11, 1993 and completed the program on October 15, 1993. He reported
6 at the panel hearing that he had maintained sobriety since that time. On October
7 23 or 29, 1993, respondent became a participant in the Ohio Lawyer's Support
8 System, now, the Ohio Lawyers Assistance Program, Inc. ("OLAP"). He also
9 continued his treatment by attending Horizans Outpatient Recovery Program for
10 eleven months.

11 Dr. Richard Pelham, the Clinical Director for OLAP, testified to
12 respondent's success in the program and his confidence in respondent's continued
13 recovery. Respondent remains under an OLAP contract until 1996, at a minimum,
14 that requires him to abstain from alcohol and mood-altering drugs except as
15 prescribed by a physician or psychiatrist in consultation with Dr. Pelham, to attend
16 three Alcoholics Anonymous/ Narcotics Anonymous meetings per week, to
17 maintain regular contact with his assigned lawyer monitor, and to submit to the
18 OLAP's random testing procedures. Respondent has enthusiastically cooperated

1 with the terms of this contract, including having received negative test results at
2 least thirty times. He has also assisted others seeking recovery through Alcoholics
3 Anonymous, and he is now serving by appointment on the Ohio State Bar
4 Association's Lawyers Assistance Committee.

5 The panel also considered the testimony of seven witnesses and twenty-
6 three letters from respondent's friends and professional acquaintances. All
7 described respondent's competence and integrity as a practitioner.

8 Relator recommended that respondent receive a two-year suspension from
9 the practice of law for his misconduct, with credit to be given for the suspension
10 of his license on July 1, 1994. Respondent recommended a one-year suspension
11 with credit given for the July 1, 1994 interim suspension and a stay of any
12 remaining part of that year, plus a two-year probation period during which
13 respondent would be required to continue compliance with his OLAP contract.
14 The panel recommended that respondent's license be suspended for two years, that
15 one year of this sanction be suspended, and that he be placed on probation
16 contingent on his continued compliance with OLAP requirements. The panel
17 further recommended that respondent receive credit for the interim suspension of
18 his license.

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Judgment accordingly.

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MOYER, C.J., DOUGLAS, WRIGHT, RESNICK, F.E. SWEENEY, PFEIFER and

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COOK, JJ., concur.

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