

1 Office of Disciplinary Counsel v. Caywood.

2 [Cite as *Disciplinary Counsel v. Caywood* (1996), _____ Ohio St.3d _____.]

3 *Attorneys at law -- Misconduct -- Permanent disbarment --*
4 *Repeated violations of Disciplinary Rules over a relatively short*
5 *period of time -- Continuing to practice law after suspension --*
6 *Engaging in conduct that adversely reflects on fitness to practice*
7 *law.*

8 (No. 95-2556--Submitted January 24, 1996--Decided February 28,
9 1996.)

10 ON CERTIFIED REPORT by the Board of Commissioners on Grievances
11 and Discipline of the Supreme Court, No. 95-55.

12 In a complaint filed June 5, 1995, relator, Office of Disciplinary
13 Counsel, charged respondent, James Edward Caywood of Willoughby,
14 Ohio, Attorney Registration No. 0020157, with having violated DR 1-
15 102(A)(6) (misconduct by engaging in conduct that adversely reflects on
16 fitness to practice law) and 3-101(B) (practicing law in a jurisdiction where
17 to do so would be in violation of regulations of the profession in that
18 jurisdiction). A panel of the Board of Commissioners on Grievances and

1 Discipline of the Supreme Court (“board”) heard the matter on October 27,
2 1995.

3 The parties stipulated to the facts and misconduct charged in the
4 complaint as follows:

5 “1. Respondent, James Edward Caywood, an attorney at law, was
6 admitted to the practice of law in the State of Ohio on May 7, 1979.

7 Respondent has been the subject of three (3) prior disciplinary proceedings.

8 On November 15, 1989, the Supreme Court of Ohio, after finding that

9 [r]espondent had violated DR 6-101(3) (neglect of a legal matter), DR 7-

10 101(A)(2) (failure to carry out a contract of employment), and Gov. Bar

11 Rule V, §4(G) (assist in disciplinary investigations), suspended [r]espondent

12 from the practice of law for two (2) years, staying said suspension pending

13 [r]espondent’s successful completion of two (2) years of monitored

14 probation. *Disciplinary Counsel v. Caywood* (1989), 46 Ohio St.3d 186

15 [546 N.E.2d 411].

16 “2. On December 11, 1991, the Supreme Court of Ohio suspended

17 [r]espondent from the practice of law for one (1) year, with additional

18 conditions to be met before his reinstatement. *Cuyahoga [Cty.] Bar Assn. v.*

1 *Caywood* (1991), 62 Ohio St.3d 185 [588 N.E.2d 1076]. Respondent had
2 failed to file suit in a personal injury action until after the statute of
3 limitations had expired and then knowingly misrepresented the date of
4 injury in an effort to render the action timely.

5 “3. On December 14, 1994, the Supreme Court of Ohio ordered that
6 [r]espondent be indefinitely suspended from the practice of law for violating
7 DR 6-101(A)(3) (neglect of a legal matter entrusted to him), DR 1-
8 101(A)(4) (misconduct involving deceit and misrepresentation), and DR 7-
9 102(A)(5) (knowingly make a false statement of fact). *Cuyahoga [Cty.]*
10 *Bar Assn. v. Caywood* (1994), 71 Ohio St.3d 164 [642 N.E.2d 625].

11 “4. Pursuant to his suspension, [r]espondent was ordered to notify his
12 clients of the suspension, and to immediately cease and desist from the
13 practice of law in any form. On January 13, 1995, while indefinitely
14 suspended from the practice of law, [r]espondent made a pretrial appearance
15 as an attorney before Referee David E. Koerner in the Willoughby
16 Municipal Court. *Shree Rajendra Corp. v. Tipton*, Case No. 94-CVF-
17 01789. Respondent admits his appearance at the pretrial hearing: ‘this was

1 the only instance since my suspension was announced that something such
2 as this occurred. ***’

3 “5. In its Order of December 14, 1994, the Supreme Court of Ohio
4 decreed that, as a result of his suspension, [r]espondent ‘is hereby forbidden
5 to counsel or advise or prepare legal instruments for others or in any manner
6 perform such services.’”

7 The respondent stated before the panel that at the time of his
8 attendance at the pretrial hearing in the Willoughby Municipal Court, he
9 was an employee of Shree Rajendra Corporation. At that time, his
10 employer, Mohan Jain, had undergone surgery and was unable to attend the
11 pretrial hearing. Respondent allegedly acceded to pressure from his
12 employer to attend the pretrial hearing, even though respondent was aware
13 that it was improper for him to do so.

14 The parties also stipulated to two mitigating factors:

15 “1. Respondent has cooperated with disciplinary authorities
16 throughout these proceedings.

17 “2. This is the only occasion during his suspension that Respondent
18 has appeared in court in the capacity of an attorney.”

1 The panel found that respondent had engaged in misconduct as
2 charged in the complaint. The panel recommended that, given respondent's
3 current indefinite suspension in *Cuyahoga Cty. Bar Assn. v. Caywood*
4 (1994), 71 Ohio St.3d 164, 642 N.E. 2d 625, his eligibility for reinstatement
5 should be extended eighteen months to June 14, 1998. The board adopted
6 the findings of fact and conclusions of law of the panel and, further, that the
7 costs of the proceedings be taxed to respondent.

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9 *Geoffrey Stern*, Disciplinary Counsel, and *Sally Ann Steuk*, Assistant
10 Disciplinary Counsel, for relator.

11 *James Edward Caywood*, *pro se*.

12

13 *Per Curiam*. We concur in the board's findings of fact and
14 conclusions of law. However, respondent's repeated violations of the
15 Disciplinary Rules over a relatively short period of time merit a more severe
16 penalty than that recommended by the board. Respondent's most recent
17 violations took place approximately one month after his suspension was
18 announced by this court in *Cuyahoga Cty. Bar Assn. v. Caywood*, (71 Ohio

1 St.3d 164, 642 N.E.2d 625). In defiance of our ordered suspension,
2 respondent continued to practice law by appearing in court as an attorney,
3 even though he knew that it was clearly improper for him to do so. In light
4 of respondent's current violations and history of professional misconduct,
5 respondent is hereby ordered permanently disbarred from the practice of law
6 in Ohio. Costs taxed to respondent.

7 *Judgment accordingly.*

8 MOYER, C.J., DOUGLAS, WRIGHT, RESNICK, F.E. SWEENEY, PFEIFER
9 and COOK, JJ., concur.

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