

1 Office of Disciplinary Counsel v. Crowley.

2 [Cite as *Disciplinary Counsel v. Crowley* (1996), ___ Ohio St.3d ____.]

3 *Attorneys at law -- Misconduct -- Two-year suspension with one year*
4 *stayed on condition -- Dishonesty towards clients -- Misconduct*
5 *prejudicial to the administration of justice -- Misconduct adversely*
6 *reflecting on fitness to practice law -- Neglect of an entrusted legal*
7 *matter -- Prejudice or damage to a client -- Failure to assist and*
8 *cooperate in disciplinary investigation -- Late registration as an*
9 *attorney while continuing to engage in the practice of law.*

10 (No. 96-918--Submitted June 25, 1996--Decided August 21, 1996.)

11 On Certified Report by the Board of Commissioners on Grievances and
12 Discipline of the Supreme Court, No. 95-71.

13 In a four-count complaint filed on August 7, 1995, relator, Office of
14 Disciplinary Counsel, charged respondent, Michaele T. Crowley of Bowling
15 Green, Ohio, Attorney Registration No. 0006066, with violations of DR 1-
16 102(A)(4) (misconduct involving dishonesty, fraud, deceit, or misrepresentation);
17 1-102(A)(5) (misconduct prejudicial to the administration of justice); 1-102(A)(6)
18 (misconduct adversely reflecting on fitness to practice law); 6-101(A)(3) (neglect
19 of an entrusted legal matter); 7-101(A)(3) (prejudice or damage to a client);
20 Gov.Bar R. V(4)(G) (failure to assist and cooperate in disciplinary investigation);

1 and Gov.Bar R. VI(1) (late registration as an attorney). In her answer, respondent
2 admitted some facts alleged in the complaint, denied others, and added
3 explanations.

4 On January 25, 1996, a panel of the Board of Commissioners on Grievances
5 and Discipline of the Supreme Court (“board”) held a hearing on the matter. The
6 complaint, answer, stipulations, and evidence established that respondent was
7 admitted to the Ohio Bar in 1982. From 1982 until 1988, she served both as an
8 assistant city prosecutor and as Bowling Green’s Chief City Prosecutor. Since
9 1988, she has been in the private practice of law in Bowling Green.

10 As to Count One, Lawrence and Deanna Appelhans, the parents of LaDeana
11 Appelhans, retained respondent in April 1990 to represent LaDeana in connection
12 with a charge of driving under the influence of alcohol (DUI) arising from a
13 single-car accident in which LaDeana was injured. In the fall of 1990, after the
14 DUI charge was resolved, respondent also agreed to represent the Appelhans
15 family in pursuing a medical malpractice claim against the Wood County Hospital
16 for alleged misdiagnosis of LaDeana’s injuries.

17 Thereafter, respondent repeatedly told the Appelhans family that the
18 malpractice claim against the hospital was progressing but would take time to

1 resolve. In fact, respondent never filed a lawsuit or sent a letter of representation
2 to the hospital concerning this malpractice claim. At times, respondent told the
3 Appelhans family that she had received hospital settlement offers from three
4 thousand to twelve thousand dollars, but respondent advised that these offers were
5 unsatisfactory. In fact, the hospital had made no settlement offers. Respondent
6 told the Appelhans family that court hearings had been scheduled, and respondent
7 had them prepare for telephone conferences and meetings with judges. Later,
8 respondent represented to the Appelhans family that these meetings and
9 conferences had been postponed. On one occasion, respondent had the Appelhans
10 family visit her office to assist in preparing a response to interrogatories from
11 opposing counsel. Respondent took notes and advised she would prepare the
12 responses. In fact, no interrogatories had been received.

13 On March 16, 1995, respondent told Mrs. Appelhans that the malpractice
14 claim had no merit and should be dropped. After Mrs. Appelhans asked to see a
15 copy of the filed complaint, respondent admitted she had never filed the lawsuit
16 and recommended the family consult other counsel.

17 As to Count Two, respondent undertook in September 1990, to represent the
18 Reverend Stacey Swalley, a missionary, to pursue his claim for reparations as a

1 crime victim. See R.C. 2743.51 *et. seq.* Reverend Swalley had been robbed,
2 assaulted, and injured in May 1990, and had incurred medical and dental expenses
3 less than \$400 as a result. Respondent failed to file the claim by May 1992, the
4 deadline for that claim specified in R.C. 2743.56(C)(2). As a result of
5 respondent's failure, Swalley lost any opportunity for reimbursement of these
6 expenses. In October 1992, relator sent two certified letters of inquiry to
7 respondent concerning Swalley's complaint, but respondent did not reply.

8 As to Count III, the city of Rossford appointed respondent in the summer of
9 1993 as a special prosecutor to investigate a citizen's complaint of criminal
10 damage to property. After her investigation, respondent determined that criminal
11 prosecution was inappropriate, and that any issues should be resolved in civil
12 litigation. However, respondent failed to notify the city or the complaining
13 witnesses of her determination, and failed to return phone calls from a
14 complaining witness as to the status of the matter. In January and February 1994,
15 relator sent two certified letters of inquiry to respondent about this matter, but
16 respondent did not respond to these inquiries.

1 As to Count IV, respondent registered as an attorney for the 1991/1993
2 biennium in February 1992, five months late. Although respondent was not
3 registered during this five-month period, she engaged in the practice of law.

4 The panel found that respondent's conduct violated DR 1-102(A)(4), 1-
5 102(A)(5), 1-102(A)(6), 6-101(A)(3), 7-101(A)(3), Gov Bar R. V(4)(G) and VI(1).

6 In mitigation, three witnesses testified on respondent's behalf as character
7 witnesses, and respondent presented other mitigating evidence. In March 1991,
8 respondent's mother died; in 1993, she and her husband separated and dissolved
9 their marriage; and in 1994, she suffered from a ruptured disc requiring surgery
10 and the extended wearing of a cervical collar brace. Further, she suffered from
11 serious depression and underwent counseling and treatment.

12 In addition, respondent enjoyed an outstanding reputation as a conscientious
13 and trusted city prosecutor. When she left office, she practiced in domestic
14 relations, real estate, and criminal law, but she had virtually no personal injury
15 practice. Respondent possessed a strong work ethic, had exceptional legal
16 abilities, and was regarded as honest and highly professional.

17 Respondent testified that \$15,000 had been transferred to LaDeana
18 Appelkans's new attorney to settle LaDeana's claim against respondent.

1 Respondent had also given her attorney \$400 in trust for Reverend Swalley, whose
2 present whereabouts are unknown. The board noted by way of mitigation that
3 respondent readily admitted her misconduct and offered no excuse. Respondent
4 understood that a period of suspension was required, had stopped taking new
5 clients, and was in the process of winding down her practice at the time of the
6 panel's hearing.

7 Relator recommended an indefinite suspension, and counsel for respondent
8 recommended a six-month suspension. The panel recommended a two-year
9 suspension, with one year stayed on condition that respondent continue treatment
10 for her depression and provide proof of that treatment or a medical statement that
11 treatment was no longer necessary. The board adopted the panel's findings of fact,
12 conclusions of law, and recommendation.

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14 *Geoffrey Stern*, Disciplinary Counsel, and *Sally Ann Steuk*, Assistant
15 Disciplinary Counsel, for relator.

16 *Mark H. Aultman*, for respondent.

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1 MOYER, C.J., DOUGLAS, F.E. SWEENEY, PFEIER and STRATTON, JJ., concur.

2 COOK, J., dissents.

3 RESNICK, J., not participating.

4 COOK, J., dissenting. I would indefinitely suspend the respondent as

5 recommended by relator.

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