

[Cite as *Cleveland Bar Assn. v. Rollins*, 84 Ohio St.3d 408, 1999-Ohio-359.]

CLEVELAND BAR ASSOCIATION v. ROLLINS.

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*Attorneys at law — Misconduct — One-year suspension — Neglect of legal matters — Failure to cooperate in disciplinary investigation.*

(No. 98-1307 — Submitted August 19, 1998 — Decided January 27, 1999.)

ON CERTIFIED REPORT by the Board of Commissioners on Grievances and Discipline of the Supreme Court, No. 96-41.

While employed as a labor negotiator for Cuyahoga County, respondent, Myers Rollins, Jr. of Twinsburg, Ohio, Attorney Registration No. 0030767, practiced law part-time. During the period from 1989 through 1996, respondent undertook and failed to complete the representation of a number of his clients. As a result of grievances filed by several of those clients, relator, Cleveland Bar Association, filed a nine-count amended complaint against respondent on July 31, 1997. Respondent filed an answer, and the matter was submitted to a panel of the Board of Commissioners on Grievances and Discipline of the Supreme Court (“board”).

After receiving stipulations and testimony at a hearing on April 16, 1998, the panel found with respect to count one that in March 1989, Vanessa Schibley hired respondent to handle her mother’s estate and respondent presented the will for probate. In July 1990, the court appointed an executor for the estate contingent on a bond’s being posted, but respondent never posted a bond. For several years thereafter respondent took no action in the case and did not reply to inquiries about the estate. Finally, in May 1994, he turned over papers regarding the estate to another attorney hired by Schibley. The panel concluded that respondent’s inaction violated DR 6-101(A)(2) (a lawyer shall not handle a matter without

adequate preparation) and (3) (a lawyer shall not neglect an entrusted legal matter).

In considering count two, the panel found that the respondent did not answer any of several attempts by the relator to contact him about the Schibley grievance, and concluded that this conduct violated Gov.Bar R. V(4)(G) (no attorney shall refuse to assist or testify in a disciplinary investigation).

The panel found in considering count three of the complaint that Pauletta Williams employed respondent to represent her in a divorce action. Respondent filed the case in March 1996, but the court later dismissed it for want of prosecution. When the relator attempted to investigate the grievance filed by Williams, respondent failed to respond. The panel concluded that respondent had again violated DR 6-101(A)(3) and Gov.Bar R. V(4)(G).

The facts relating to count four as found by the panel were that in February 1993, Barbara Hayes employed respondent to handle the estate of her deceased husband. In May 1994, respondent filed an application to probate the will and an application for authority to administer the estate. A motion to remove Hayes as executor for failure to file the inventory due in August 1994 was dismissed after respondent made the appropriate filing. However, Hayes was later removed as executor when respondent failed to timely file the account due in April 1995. Respondent also failed to attend a hearing on the motion for concealment in which the administrator who succeeded Hayes alleged that respondent received fees for work not performed. As a result, the motion was granted and respondent's fees were disallowed. The panel concluded that respondent's conduct violated DR 6-101(A)(3), and because he failed to cooperate in the investigation, it concluded that he also violated Gov.Bar R. V(4)(G).

The facts supporting count five as found by the panel were that in December 1992, Dana Garcia retained respondent to pursue her claim arising out of an automobile accident. Respondent filed the complaint and a jury demand in December 1994, but did not appear at the initial case management conference. The court rescheduled the conference and warned that respondent's failure to appear a second time might result in dismissal. Respondent, who did not inform Garcia of either conference, failed to appear, and the action was dismissed with prejudice. Under these facts the panel again concluded that respondent violated DR 6-101(A)(3).

Count six involved a complaint that respondent filed in December 1994 on behalf of Garcia against the Woolworth Company. Respondent did not appear at the case management conference, nor did he appear at the pretrial in the matter. In September 1995, the judge granted Garcia's motion to terminate the services of respondent. The panel concluded that by these actions respondent again violated DR 6-101(A)(3).

Counts seven and eight involved respondent's suspension from the practice of law on August 12, 1996 for failure to meet his continuing legal education requirements. *In re Report of the Comm. on Continuing Legal Edn.* (1996), 76 Ohio St.3d 1454, 668 N.E.2d 1387. The panel found on count seven that in December 1996, respondent filed a complaint against Ameritech on behalf of Lisa Stunek. It further found that in March 1997, the complaint was dismissed solely on the ground that respondent had been suspended from the practice of law. Then, considering the evidence in count eight, the panel found that in January 1997, respondent entered an appearance on behalf of Kenneth Williams, a defendant in a case in the Court of Common Pleas of Cuyahoga County. The panel concluded that in each of the Stunek and Williams matters, respondent's actions violated DR

1-102(A)(5) (a lawyer shall not engage in conduct prejudicial to the administration of justice) and (6) (a lawyer shall not engage in conduct that adversely reflects upon his ability to practice law). Because he failed to withdraw as counsel, the panel concluded that in the Stunek and Williams cases, respondent violated DR 2-110(B)(2) (a lawyer shall withdraw if his continued employment would result in the violation of a Disciplinary Rule), and in the Stunek case, Gov.Bar R. V(8)(E)(1) (failing to perform the duties of an attorney who is suspended).

Finally, with respect to count nine, the panel found that in December 1994, respondent filed a complaint on behalf of Pam McMiller for personal injury damages. He then failed to appear at a pretrial conference and a subsequent pretrial conference, and the case was dismissed. The panel concluded that with respect to McMiller, respondent violated DR 6-101(A)(3), and 1-102(A)(5) and (6).

In mitigation, the panel received testimony regarding the quality of respondent's work for Cuyahoga County, and finding little evidence of harm to his clients in the nine counts presented to it, the panel recommended that respondent be suspended from the practice of law for one year to commence immediately after respondent's current suspension is terminated. The board adopted the findings and conclusions of the panel, and, in addition, as to count seven, the Stunek matter, the board found a violation of DR 3-101(B) (practicing in a jurisdiction in violation of the regulations of the profession in that jurisdiction).

The board also adopted the recommendation of the panel.

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*Daniel W. Hammer* and *Kevin M Magnuson*, for relator.

*J. Michael Drain*, for respondent.

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*Per Curiam.* We adopt the findings and conclusions of the board. Neglect of legal matters and a failure to cooperate in the ensuing investigation have generally warranted an indefinite suspension. *Warren Cty. Bar Assn. v. Lieser* (1997), 79 Ohio St.3d 488, 683 N.E.2d 1148, and cases cited therein; *Akron Bar Assn. v. Barnett* (1997), 80 Ohio St.3d 269, 685 N.E.2d 1230; *Disciplinary Counsel v. Boykin* (1998), 82 Ohio St.3d 100, 694 N.E.2d 899. In this case, mindful of the fact that respondent's clients suffered little, if any, damage, we adopt the recommendation of the board. Respondent is hereby suspended from the practice of law for one year.

Costs taxed to respondent.

*Judgment accordingly.*

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

COOK and LUNDBERG STRATTON, JJ., dissent.

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**COOK, J., dissenting.** I would impose the sanction of indefinite suspension based on the recommendation of the relator.

As the board reported, "there is a pattern here of a total lapse of professional conduct. In each instance, there is an abdication of responsibility, and in each instance according to the Respondent, the fault always lay with someone or something else. The Panel, after a thorough review \* \* \*, found reference after reference of carefully worded statements made by the Respondent confessing and/or avoiding his responsibility. The Panel was impressed with the elocution, but not impressed with the substance. \* \* \* The Respondent's statements in mitigation are at best lame excuses rather than valid reasons."

LUNDBERG STRATTON, J., concurs in the foregoing dissenting opinion.