

The Supreme Court of Ohio

CASE ANNOUNCEMENTS AND ADMINISTRATIVE ACTIONS

May 10, 2004

MOTION AND PROCEDURAL RULINGS

2004-0357. McNamara v. Rittman.

Certified Question of State Law, No. 023965. This cause came before the court on the certification of a state law question from the United States Court of Appeals for the Sixth Circuit and has been consolidated with Supreme Court case No. 2004-0363.

IT IS ORDERED by the court, sua sponte, that, to facilitate briefing, respondents, Harry McNamara et al., in case No. 2004-0357, *Harry McNamara et al. v. City of Rittman*, shall now proceed as the petitioners for all further proceedings in this case.

IT IS FURTHER ORDERED by the court, sua sponte, that the parties shall brief this case in accordance with S.Ct.Prac.R. XVIII(7) and that the briefing schedule be set forth as follows:

1. Petitioners' combined merit brief by Harry McNamara and Dorothy Hensley et al. shall be due within 30 days of the date of this entry.
2. Respondents' combined merit brief by the city of Rittman and the city of Columbus et al. shall be due within 20 days of the petitioners' merit brief.
3. Petitioners' reply brief shall be due within 20 days of the respondents' brief.

2004-0363. Hensley v. Columbus.

Certified Question of State Law, No. 023778. This cause came before the court on the certification of a state law question from the United States Court of Appeals for the Sixth Circuit and has been consolidated with Supreme Court case No. 2004-0357.

IT IS ORDERED by the court, sua sponte, that, to facilitate briefing, the respondents, Harry McNamara et al., in case No. 2004-0357, *Harry McNamara et al. v. City of Rittman*, shall now proceed as the petitioners for all further proceedings in this case.

IT IS FURTHER ORDERED by the court, sua sponte, that the parties shall brief this case in accordance with S.Ct.Prac.R. XVIII(7) and that the briefing schedule be set forth as follows:

1. Petitioners' combined merit brief by Harry McNamara and Dorothy Hensley et al. shall be due within 30 days of the date of this entry.
2. Respondents' combined merit brief by the city of Rittman and the city of Columbus et al. shall be due within 20 days of the petitioners' merit brief.
3. Petitioners' reply brief shall be due within 20 days of the respondents' brief.

2004-0423. API Lancaster Ohio, Inc. v. Fairfield Cty. Bd. of Revision.

Board of Tax Appeals, No. 2002-A-1997. This cause is pending before the court as an appeal from the Board of Tax Appeals. Upon consideration of the joint motion for extension of time to file appellant's merit brief pursuant to S.Ct.Prac.R. XIV(6)(C),

IT IS ORDERED by the court that the motion for extension of time be, and hereby is, granted, and that appellant's merit brief be due on or before June 1, 2004.

2004-0733. Talwar v. State Med. Bd. of Ohio.

Franklin App. No. 03AP-644, 156 Ohio App.3d 485, 2004-Ohio-1301. This cause is pending before the court as a discretionary appeal. Upon consideration of appellant's jurisdictional memorandum, it is determined by the court that this cause originated in the court of appeals and therefore should proceed as an appeal of right pursuant to S.Ct.Prac.R. II(1)(A)(1).

IT IS ORDERED by the court that the Clerk shall issue an order for the transmittal of the record from the Court of Appeals for Franklin County. Appellant shall file his merit brief within 40 days of the filing of the record with the Clerk of this court, and the parties shall otherwise proceed in accordance with S.Ct.Prac.R. VI.

DISCIPLINARY CASES

2000-1100. Disciplinary Counsel v. Oglesby.

On petition for reinstatement of Geoffrey Lynn Oglesby, Attorney Registration No. 0023949. Petition denied.

Moyer, C.J., Resnick, F.E. Sweeney and Lundberg Stratton, JJ., concur.

Pfeifer and O'Donnell, JJ., dissent.

O'Connor, J., dissents, would grant, and would order monitoring.

2000-1108. Disciplinary Counsel v. Mandel.

Upon consideration of respondent's motion for leave to file a reply to the answer of relator,

IT IS ORDERED by the court, that the motion be, and hereby is, denied as moot.

2002-0583. Columbus Bar Assn. v. Smith.

On May 23, 2002, this court indefinitely suspended respondent, Charles E. Smith, Attorney Registration No. 0023633, last known address in Columbus, Ohio. On November 12, 2003, respondent was found in contempt and ordered to serve seven days in jail. The sentence was suspended on conditions. On April 16, 2004, relator, Columbus Bar Association, filed a motion for order to show cause why respondent should not be held in contempt for failing to obey this court's orders of May 23, 2003, and November 12, 2003. Upon consideration thereof,

IT IS ORDERED by this court that the motion be and is hereby granted to the extent that respondent show cause by filing a written response with the Clerk of this court on or before 20 days from the date of this order why respondent should not be held in contempt.

IT IS FURTHER ORDERED, sua sponte, that all documents filed with this court in this case shall meet the filing requirements set forth in the Rules of Practice of the Supreme Court of Ohio, including requirements as to form, number, and timeliness of filings.

2004-0392. Disciplinary Counsel v. Silverman.

On March 3, 2004, and pursuant to Gov.Bar R. V(5a)(A)(1)(b), relator, Disciplinary Counsel, filed with this court a Motion for Interim Remedial Suspension pursuant to Gov.Bar R. V(5a), alleging that respondent, Perry R. Silverman, has committed numerous violations of the Code of Professional

Responsibility and that he poses a substantial threat of serious harm to his clients and the public. Respondent filed a response to the motion.

Upon consideration thereof and pursuant to Gov.Bar R. V(5a)(B), it is ordered and decreed that an interim remedial suspension be immediately entered against Perry R. Silverman, Attorney Registration No. 0020244, last known business address in Columbus, Ohio, and that the suspension be effective as of the date of this entry, pending final disposition of disciplinary proceedings predicated on the conduct threatening the serious harm.

IT IS FURTHER ORDERED that Perry R. Silverman immediately cease and desist from the practice of law in any form and is hereby forbidden to appear on behalf of another before any court, judge, commission, board, administrative agency, or other public authority.

IT IS FURTHER ORDERED that, effective immediately, he be forbidden to counsel or advise, or prepare legal instruments for others or in any manner perform legal services for others.

IT IS FURTHER ORDERED that he is hereby divested of each, any, and all of the rights, privileges, and prerogatives customarily accorded to a member in good standing of the legal profession of Ohio.

IT IS FURTHER ORDERED that, pursuant to Gov.Bar R. X(3)(G), respondent shall complete one credit hour of continuing legal education for each month, or portion of a month, of the suspension. As part of the total credit hours of continuing legal education required by Gov.Bar R. X(3)(G), respondent shall complete one credit hour of instruction related to professional conduct required by Gov.Bar R. X(3)(A)(1), for each six months, or portion of six months, of the suspension.

IT IS FURTHER ORDERED that respondent shall not be reinstated to the practice of law in Ohio until (1) respondent complies with the requirements for reinstatement set forth in the Supreme Court Rules for the Government of the Bar of Ohio; (2) respondent complies with this and all other orders issued by this court; (3) respondent complies with the Supreme Court Rules for the Government of the Bar of Ohio; and (4) this court orders respondent reinstated.

IT IS FURTHER ORDERED, sua sponte, by the court, that within 90 days of the date of this order, respondent shall reimburse any amounts that have been awarded by the Clients' Security Fund pursuant to Gov.Bar R. VIII(7)(F). It is further ordered, sua sponte, by the court that if, after the date of this order, the Clients' Security Fund awards any amount against the respondent pursuant to Gov.Bar R. VIII(7)(F), the respondent shall reimburse that amount to the Clients' Security Fund within 90 days of the notice of such award.

IT IS FURTHER ORDERED that on or before 30 days from the date of this order, respondent shall:

1. Notify all clients being represented in pending matters and any co-counsel of his suspension and his consequent disqualification to act as an attorney after the effective date of this order and, in the absence of co-counsel, also notify the clients to seek legal service elsewhere, calling attention to any urgency in seeking the substitution of another attorney in his place;

2. Regardless of any fees or expenses due him, deliver to all clients being represented in pending matters any papers or other property pertaining to the client, or notify the clients or co-counsel, if any, of a suitable time and place where the papers or other property may be obtained, calling attention to any urgency for obtaining such papers or other property;

3. Refund any part of any fees or expenses paid in advance that are unearned or not paid, and account for any trust money or property in his possession or control;

4. Notify opposing counsel in pending litigation or, in the absence of counsel, the adverse parties of his disqualification to act as an attorney after the effective date of this order, and file a notice of disqualification of respondent with the court or agency before which the litigation is pending for inclusion in the respective file or files;

5. Send all such notices required by this order by certified mail with a return address where communications may thereafter be directed to respondent;

6. File with the Clerk of this court and the Disciplinary Counsel of the Supreme Court an affidavit showing compliance with this order, showing proof of service of notices required herein, and setting forth the address where the affiant may receive communications; and

7. Retain and maintain a record of the various steps taken by respondent pursuant to this order.

IT IS FURTHER ORDERED that respondent shall keep the Clerk and the Disciplinary Counsel advised of any change of address where respondent may receive communications.

IT IS FURTHER ORDERED, sua sponte, that all documents filed with this court in this case shall meet the filing requirements set forth in the Rules of Practice of the Supreme Court of Ohio, including requirements as to form, number, and timeliness of filings.

IT IS FURTHER ORDERED, sua sponte, that service shall be deemed made on respondent by sending this order, and all other orders in

this case, by certified mail to the most recent address respondent has given to the Attorney Registration Section.

IT IS FURTHER ORDERED that the Clerk of this court issue certified copies of this order as provided for in Gov.Bar R. V(8)(D)(1), that publication be made as provided for in Gov.Bar R. V(8)(D)(2), and that respondent bear the costs of publication.

2004-0584. In re Ross.

On April 7, 2004, and pursuant to Gov.Bar R. V(5)(A), the Secretary of the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio submitted to this court a certified copy of a determination of default of a child support order by Michael A. Ross, an attorney licensed to practice law in the state of Ohio.

Upon consideration thereof and pursuant to Gov.Bar R. V(5)(A)(4), it is ordered and decreed that Michael A. Ross, Attorney Registration No. 0061243, last known business address in Lorain, Ohio, be, and hereby is, suspended from the practice of law for an interim period, effective as of the date of this entry.

IT IS FURTHER ORDERED that this matter be, and hereby is, referred to the Disciplinary Counsel for investigation and commencement of disciplinary proceedings.

IT IS FURTHER ORDERED that Michael A. Ross immediately cease and desist from the practice of law in any form and hereby is forbidden to appear on behalf of another before any court, judge, commission, board, administrative agency, or other public authority.

IT IS FURTHER ORDERED that, effective immediately, he be forbidden to counsel or advise, or prepare legal instruments for others or in any manner perform legal services for others.

IT IS FURTHER ORDERED that he hereby is divested of each, any, and all of the rights, privileges, and prerogatives customarily accorded to a member in good standing of the legal profession of Ohio.

IT IS FURTHER ORDERED that respondent shall not be reinstated to the practice of law until (1) the Board of Commissioners on Grievances and Discipline files in accordance with Gov.Bar R. V(5)(D)(1)(b) with the Supreme Court a certified copy of a judgment entry reversing the determination of default under a child support order, or it files in accordance with Gov.Bar R. V(5)(D)(1)(c) with the Supreme Court a notice from a court or child support enforcement agency that respondent is no longer in default under a child support order or is subject to a withholding or deduction notice or a new or modified child support order to collect current support or any

arrearage due under the child support order that was in default and is complying with that notice or order, and (2) this court orders respondent reinstated to the practice of law.

IT IS FURTHER ORDERED that respondent shall keep the Clerk and the Disciplinary Counsel advised of any change of address where respondent may receive communications.

IT IS FURTHER ORDERED, sua sponte, that all documents filed with this court in this case shall meet the filing requirements set forth in the Rules of Practice of the Supreme Court of Ohio, including requirements as to form, number, and timeliness of filings.

IT IS FURTHER ORDERED, sua sponte, that service shall be deemed made on respondent by sending this order, and all other orders in this case, by certified mail to the most recent address respondent has given to the Attorney Registration Section.

IT IS FURTHER ORDERED that the Clerk of this court issue certified copies of this order as provided for in Gov.Bar R. V(8)(D)(1), that publication be made as provided for in Gov.Bar R. V(8)(D)(2), and that respondent bear the costs of publication.

MISCELLANEOUS DISMISSALS

2004-0111. State ex rel. R.T.G., Inc. v. Ohio Dept. of Natural Resources. In Mandamus. This cause originated in this court on the filing of a complaint for a writ of mandamus. Upon consideration of relator's application for dismissal,

IT IS ORDERED by the court that the application for dismissal be, and hereby is, granted.

ACCORDINGLY, IT IS FURTHER ORDERED by the court that this cause be, and hereby is, dismissed.

MEDIATION REFERRALS

The following cases have been returned to the regular docket pursuant to S.Ct.Prac.R. XIV(6)(E):

2004-0273. Federated Dept. Stores, Inc. v. Wilkins.
Board of Tax Appeals, No. 2002-V-103.
