

[Cite as *Columbus Bar Assn. v. James*, 84 Ohio St.3d 379, 1999-Ohio-357.]

COLUMBUS BAR ASSOCIATION v. JAMES.

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Attorneys at law — Misconduct — Permanent disbarment — History of substance abuse — Conviction of possession of cocaine — Failing to attend scheduled court hearings and obey instructions from trial courts — Neglecting client's interests — Failing to seek client's lawful objectives — Failing to cooperate in disciplinary investigations.

(No. 98-1228 — Submitted August 19, 1998 — Decided January 13, 1999.)

ON CERTIFIED REPORT by the Board of Commissioners on Grievances and Discipline of the Supreme Court, No. 95-68.

On March 27, 1996, relator, Columbus Bar Association, filed an amended nineteen-count complaint charging respondent, Aaron N. James of Columbus, Ohio, Attorney Registration No. 0039988, with violating twelve Disciplinary Rules and one Rule for the Government of the Bar. Respondent answered, denying any misconduct, and the matter was heard by a panel of the Board of Commissioners on Grievances and Discipline of the Supreme Court (“board”).

With respect to count one, the panel found that respondent pled guilty to felony drug abuse in January 1996. He failed to complete a voluntary drug rehabilitation program operated by the court's probation department, and, in June 1997, Judge Nodine Miller of the Franklin County Court of Common Pleas sentenced him to serve six months in jail and fined him \$1,500. Upon being advised of respondent's felony conviction, the Supreme Court suspended him from the practice of law in September 1997. *In re James* (1997), 80 Ohio St.3d 1201, 684 N.E.2d 332. The panel found that respondent's conduct violated DR 1-102(A)(3) (engaging in illegal conduct involving moral turpitude), (4) (engaging

in conduct involving dishonesty, fraud, deceit, or misrepresentation), (5) (engaging in conduct prejudicial to the administration of justice), and (6) (engaging in conduct that adversely reflects upon the attorney's fitness to practice law).

In considering count two, the panel found that after respondent entered an appearance for Janice Doakes, he made representations to Judge Steven B. Hayes of the Franklin County Municipal Court that caused the judge to set aside an arrest warrant. Respondent then attempted to withdraw as counsel of record, but gave no explanation for his request to withdraw, and the judge denied his motion. Respondent then failed to appear at the hearing on probation revocation. When required to show cause for his failure to appear, respondent stated that he was ill and had no phone. The panel concluded that respondent's conduct violated DR 1-102(A)(5), 7-101(A)(1) (failure to seek the lawful objectives of a client), (2) (failure to carry out a contract of employment), and (3) (prejudicing or damaging a client during the course of representation).

Count three involved respondent's failure to appear for three pretrials and for a trial on October 17, 1994, before Judge Hayes in Franklin County Municipal Court. The panel concluded that this conduct of respondent violated DR 1-102(A)(5), and 7-102(A)(1), (2), and (3).

The panel found in count five that respondent failed to appear both at a criminal trial and at any of the partial hearings set by Judge Evelyn Stratton of the Franklin County Common Pleas Court. When respondent's explanations were not acceptable to the court, the judge sentenced him to seven days for contempt, which she was willing to suspend if respondent entered a drug treatment program. Respondent refused to avail himself of this offer. Although respondent appealed, he failed to file a brief in his appeal, and the appeal was dismissed. Respondent

then spent seven days in jail for the contempt. The panel concluded that respondent violated DR 1-102(A)(5), and 7-102(A)(1), (2), and (3).

In considering count seven, the panel found that after respondent requested a continuance in three consolidated drug cases for his client, Aundra White, he did not appear at the trial. To provide representation for White, Judge Patrick M. McGrath of the Franklin County Court of Common Pleas appointed a public defender, who negotiated a plea on White's behalf. Respondent did not contact the court to explain his failure to appear. The panel found similar facts in considering count eight, which involved respondent's failure to appear without any explanation on two occasions for jury trials before Judge Marvin S. Romanoff of the Franklin County Municipal Court.

Count nine also involved respondent's failure to appear timely for a case. In May 1995, after requesting and receiving two continuances, respondent gave Judge Richard S. Sheward of the Franklin County Common Pleas Court inadequate and inconsistent excuses for his tardiness. The panel also found that respondent failed to prepare properly for his case before Judge Sheward and failed to communicate adequately with his client.

In August 1995, respondent was counsel of record for Terrence Peterson in cases before Judge William L. Millard. The panel found in count eighteen that respondent not only failed to appear at Peterson's sentencing hearings and at the reset hearings in August 1995, but also failed to notify the court that he would not be present. The panel concluded that respondent violated DR 1-102(A)(5), and 7-102(A)(1), (2), and (3), in each of counts seven, eight, nine, and eighteen.

The relator withdrew counts four, six, eleven, twelve, and fifteen, and the panel found that relator did not present clear and convincing evidence to support the allegations of counts ten, thirteen, fourteen, sixteen, and nineteen.

The panel concluded in count seventeen that respondent was in violation of Gov.Bar R. V(4)(G) on the basis of its findings that he failed to cooperate with relator's investigation of the complaints by the common pleas and municipal court judges.

A majority of the panel recommended that respondent be indefinitely suspended from the practice of law, with readmission conditioned on his being supervised satisfactorily for a period of time by a monitor as to sobriety, substance abuse, and methods of practice, and upon proof that he did not engage in substance abuse during that period. The board adopted the panel's findings, and conclusions, but recommended an indefinite suspension without readmission conditions.

Bruce A. Campbell, Kathaleen B. Schulte and Lance Tibbles, for relator.

Aaron N. James, pro se.

Per Curiam. Respondent's personal behavior before several judges calls into question his fitness to practice law. He has a history of substance abuse, has pled guilty to a felony charge for possession of cocaine, and has failed to attend scheduled court hearings and obey instructions from trial courts. He has also neglected his clients' interests and failed to seek their lawful objectives. Finally, he has failed to cooperate in disciplinary investigations of his misconduct.

We believe that these violations of the Disciplinary Rules and the Rules for the Government of the Bar warrant a more severe discipline than indefinite suspension. These are not isolated instances. Respondent's pattern of conduct has ill-served his clients who have been prejudiced due to his failure to appear at hearings. To effect the goal of a speedy trial for everyone, trial judges must be

able to rely on the representations of the attorneys who appear before them. Cf. *Cincinnati Bar Assn. v. Nienaber* (1997), 80 Ohio St.3d 534, 537, 687 N.E.2d 678, 681. Respondent has failed in his duty as a member of the bar and is no longer entitled to be listed on the rolls of those permitted to practice law in Ohio.

Respondent is hereby permanently disbarred. Costs are taxed to respondent.

Judgment accordingly.

MOYER, C.J., DOUGLAS, RESNICK, PFEIFER and COOK, JJ., concur.

F.E. SWEENEY, J., dissents and would indefinitely suspend respondent.

LUNDBERG STRATTON, J., not participating.