

OFFICE OF DISCIPLINARY COUNSEL v. WILLIAMS.

[Cite as *Disciplinary Counsel v. Williams* (1999), \_\_\_ Ohio St.3d \_\_\_\_.]

*Attorneys at law — Misconduct — Indefinite suspension — Misuse of client funds  
— Federal felony conviction.*

(No. 98-1797 — Submitted October 28, 1998 — Decided January 13, 1999.)

ON CERTIFIED REPORT by the Board of Commissioners on Grievances and  
Discipline of the Supreme Court, No. 97-63.

On April 27, 1998, relator, Office of Disciplinary Counsel, filed an amended four-count complaint charging respondent, Kenneth Allan Williams of Columbus, Ohio, Attorney Registration No. 0063836, with several violations of the Code of Professional Responsibility. The parties submitted joint stipulations of fact and the matter was heard by a panel of the Board of Commissioners on Grievances and Discipline of the Supreme Court (“panel”). At the hearing, the panel permitted respondent to orally answer the amended complaint.

The panel found that in 1996, a bill of information was filed in the United States District Court, Southern District of Ohio, Eastern Division, charging respondent with knowingly and with intent to defraud using one or more unauthorized access devices within a one-year period and thereby obtaining money and property valued at more than \$1,000, in violation of Section 1029(a)(2), Title 18, U.S.Code, a felony. More specifically, the information charged that from February 1995 through August 1996, respondent obtained eighteen different credit cards in four different names and charged \$82,839.52 on the cards. Respondent entered a guilty plea to the charge. In May 1997, the federal court convicted respondent of the charged offense and sentenced him to six months in prison, followed by three years of supervised release, including four months of electronically monitored home confinement. The federal court also

fined respondent \$50 and ordered him to pay restitution of \$82,839.52 to the financial institutions that issued the credit cards to him. On July 1, 1997, we suspended respondent from the practice of law for an interim period under Gov.Bar R. V(5)(A)(4) based on his felony conviction. *In re Williams* (1997), 79 Ohio St.3d 1442, 680 N.E.2d 1016.

In addition, the panel found that in July 1996, Eleanor Harmon, n.k.a. Eleanor Wheeler, retained respondent to assist her in the dissolution of her marriage. Respondent prepared and filed a petition for dissolution but failed to prepare a final dissolution decree or appear at the final hearing in October 1996. Wheeler obtained a continuance of the hearing and, after numerous unsuccessful attempts to contact respondent, she and her husband completed the dissolution in November 1996 without the assistance of counsel.

The panel further found that in January 1996, Mary Ochieng paid respondent \$24,100 as a retainer for legal representation. Respondent deposited the money in his IOLTA. Respondent withdrew all or part of Ochieng's money from his IOLTA and used it for his personal benefit. Respondent's withdrawal and use of this money were not authorized by Ochieng or justified by any services rendered by respondent. In April 1996, respondent withdrew \$10,000 from his trust account and provided it to Ochieng and also signed a promissory note for the remaining \$14,100 to DeWitt Ochieng. Except for one additional payment of \$1,200 in October 1996, respondent has not returned any additional money to Ochieng.

The panel concluded that by his conduct, respondent committed two violations of DR 1-102(A)(4) (engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation), two violations of DR 1-102(A)(6) (engaging in conduct adversely reflecting on his fitness to practice law), and further violated

DR 1-102(A)(3) (engaging in illegal conduct involving moral turpitude), 1-102(A)(5) (engaging in conduct prejudicial to the administration of justice), 6-101(A)(3) (neglecting a legal matter entrusted to him), 7-101(A)(2) (failing to carry out an employment contract), and 9-102(B)(4) (failing to return client funds upon request).

In mitigation, the panel noted that Williams admitted at the hearing that his misconduct resulted from his own stupidity, that he apologized and was genuinely remorseful for his actions, and that he had been fully cooperative at every level of the criminal and disciplinary investigations. Williams also assured the panel that he was committed to making full restitution and that he would like to make a positive contribution to society and the legal profession in the future. Relator recommended that Williams be indefinitely suspended from the practice of law in Ohio with the requirement that respondent make full restitution in accordance with his federal sentence and reimburse Ochieng. The panel further recommended that respondent be permitted to practice law upon reinstatement only after a mentor is appointed by the Columbus Bar Association to work with him for the first year following reinstatement. The board adopted the findings, conclusions, and recommendation of the board.

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*Jonathan E. Coughlan*, Disciplinary Counsel, and *John K. McManus*, Assistant Disciplinary Counsel, for relator.

*Larry Thomas*, for respondent.

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***Per Curiam.*** We adopt the findings, conclusions, and recommendation of the board. Respondent's misconduct, including his misuse of client funds and his federal felony conviction, represents a serious ethical breach that establishes his

present unfitness to practice law in Ohio. See, e.g., *Cincinnati Bar Assn. v. Edwards* (1998), 81 Ohio St.3d 72, 73, 689 N.E.2d 535, 536. The record, however, also exhibits his full cooperation with the law enforcement and disciplinary investigations, his willingness to make full restitution, his remorse, and his potential for rehabilitation. Under these circumstances, the recommendation of relator and the board of an indefinite suspension is appropriate. *Disciplinary Counsel v. Stanford* (1993), 66 Ohio St.3d 39, 41, 607 N.E.2d 830, 831; see, also, *Disciplinary Counsel v. Yajko* (1997), 77 Ohio St.3d 385, 674 N.E.2d 684 (attorney's theft of funds from his law firm on twenty separate occasions, each involving a different client, warranted indefinite suspension).

Accordingly, respondent is indefinitely suspended from the practice of law in Ohio. As a condition of his reinstatement, respondent must make full restitution to the various financial institutions in accordance with his federal sentence, and he must also make full restitution to Ochieng. Upon reinstatement, a mentor appointed by the Columbus Bar Association shall work with respondent during the first year following his reinstatement.

*Judgment accordingly.*

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