

OPINIONS OF THE SUPREME COURT OF OHIO

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Dayton Bar Association v. Jessup.

[Cite as Dayton Bar Assn. v. Jessup (1993),
Ohio St.3d .]

Attorneys at law -- Misconduct -- Two-year suspension with final year suspended on conditions -- Conduct involving dishonesty, fraud, deceit or misrepresentation -- Failure to notify client of funds received -- Failure to promptly deliver funds to client -- Neglect of an entrusted legal matter.

(No. 92-2162 - - Submitted January 6, 1993 -- Decided February 24, 1993.)

On Certified Report by the Board of Commissioners on Grievances and Discipline of the Supreme Court, No. 91-54.

In an amended complaint filed April 13, 1992, relator, Dayton Bar Association, charged respondent, Janice L. Jessup (Attorney Registration No. 0032410), with seven counts of disciplinary infractions. In her answers, respondent generally denied the allegations. Thereafter, a panel of the Board of Commissioners on Grievances and Discipline of the Supreme Court held a hearing on the matter on June 12, 1992.

The parties' stipulations and evidence at the hearing established several disciplinary violations. As to Count I, respondent in June 1989, settled a client's personal-injury lawsuit and received an insurer's check for \$4,500. However, respondent failed to obtain her client's authorization to settle. Then, respondent held the funds without permission or notification to her client. In September 1991, respondent remitted to her client the full settlement amount minus \$50 for a filing fee.

In Count II, respondent represented a long-time close friend in a personal-injury claim. Respondent obtained her client's authority to settle for \$11,000, but in fact settled the claim for \$14,000. Nonetheless, respondent used a previously prepared statement, reflecting a \$11,000 settlement, and did not tell her client of the higher settlement achieved. Respondent asserted she held the additional money "to handle other things that I knew would be coming up." When her client needed more money, respondent informed her client of the

discrepancy and remitted the balance owed.

In both Counts I and II, the parties and panel agreed that respondent violated DR 1-102(A)(4) (conduct involving dishonesty, fraud, deceit, or misrepresentation), 9-102(B)(1) (failing to notify a client of funds), and 9-102(B)(4) (failing to promptly deliver client funds received). The panel found no violation as to Counts III and IV of the complaint, and relator withdrew Count VI.

Count V involved respondent's employment as an attorney for a minor's guardianship. During this representation, Charlene Stevens, a paralegal employed by respondent, misappropriated funds belonging to the guardianship. Respondent, who represented both the guardian and Stevens on general legal matters, thereafter prepared portions of a settlement agreement between Stevens and the guardian to resolve the guardian's claim. The board found that respondent violated DR 5-105(B) (continuing multiple representation adversely affecting an attorney's independent judgment).

In Count VII, respondent provided legal services to assist with the administration of an estate. Respondent did prepare a variety of documents for the estate. However, respondent failed to ensure that estate accountings were filed between 1987 and 1991. The panel concluded that respondent had violated DR 6-101(A)(3) (neglect of an entrusted legal matter).

Other evidence established that respondent had rendered public service as a legal-aid attorney and as an assistant county prosecuting attorney. Moreover, respondent had a drug-dependency problem with a prescription drug. However, her psychiatrist was of the opinion that respondent had been drug free for the five months preceding the time of the hearing.

The panel recommended that respondent be suspended for two years with the final year being suspended on the following conditions being satisfied within the first year: (a) respondent enter, and successfully complete, an out-patient chemical-dependency rehabilitation program; (b) respondent continue on a regular basis outpatient psychiatric treatment; and (c) respondent meet continuing-legal-education requirements during her suspension. Following the initial one-year suspension, respondent's legal activities are to be monitored for a full year by relator. The board adopted the findings, conclusions of law, and recommendation of the panel, and further recommended that costs be taxed to respondent.

Gary J. Leppla for relator.

Gwendolyn Bowers and Charles Smiley for respondent.

Per Curiam. We agree with the board's findings and recommendation. Accordingly, we order that respondent be suspended from the practice of law in Ohio for two years, with the final year being suspended upon the conditions set forth in the board's report. Costs taxed to respondent.

Judgment accordingly.

Moyer, C.J., A.W. Sweeney, Douglas, Wright, Resnick, F.E. Sweeney and Pfeifer, JJ., concur.