

OPINIONS OF THE SUPREME COURT OF OHIO

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Office of Disciplinary Counsel v. Mosely.

[Cite as Disciplinary Counsel v. Mosely (1994), Ohio St.3d .]

Attorneys at law -- Judges -- Misconduct -- Permanent disbarment -- Conviction on six felony counts of interference with commerce by extortion in violation of Section 1951, Title 18 U.S. Code -- Conspiring to use position as judge to unlawfully obtain property not due him -- Conviction on three counts of grand theft and three counts of theft while in office -- Receiving illegal payments or kickbacks.

(No. 93-2171 -- Submitted March 1, 1994, -- Decided June 8, 1994.)

On Certified Report by the Board of Commissioners on Grievances and Discipline of the Supreme Court, No. 89-09.

On October 30, 1985, the relator, Office of Disciplinary Counsel, filed a two-count complaint against respondent, Freddie Melvin Mosely of East Cleveland, Ohio, Attorney Registration No. 0043053, with the Board of Commissioners on Grievances and Discipline of the Supreme Court. The original complaint was subsequently amended January 9, 1986 to include a third count.

Count one of the amended complaint alleged that respondent was convicted of six felony counts of interference with commerce by extortion in violation of Section 1951, Title 18, U.S. Code, in that he conspired to use his position as judge to unlawfully obtain property not due him. On October 9, 1985, the federal court found the respondent guilty on all six counts and sentenced him to ten years on each count to run concurrently. The complaint alleged violation of Judicial Canon 2A of the Code of Judicial Conduct (failing to avoid impropriety or the appearance of impropriety) and DR 1-102(A)(3) (engaging in illegal conduct involving moral turpitude).

The second count of the amended complaint alleged that respondent received in excess of \$230,000 in illegal payments or kickbacks from certain persons, including court-appointed contractors. The complaint alleged that this action violated

Judicial Canon 1 of the Code of Judicial Conduct (upholding the integrity of the judiciary), as well as DR 1-102(A)(4) (conduct involving dishonesty, fraud, deceit or misrepresentation), 1-102(A)(5) (engaging in conduct that is prejudicial to the administration of justice), and 1-102(A)(6) (engaging in conduct that adversely reflects on fitness to practice law). Respondent was involved in two schemes to obtain money. In the first scheme, a contractor would mail form letters to people who had delinquent or expired traffic tickets. As the fines were paid, the money was apparently divided among the respondent and his criminal associates, the contractor and the city manager. The second scheme apparently involved the respondent in taking kickbacks from a bogus company involved in condemnation proceedings overseen by respondent's court.

Count three alleged that respondent violated Judicial Canon 2A of the Code of Judicial Conduct, and DR 1-102(A)(3), stemming from respondent's indictment by the state of Ohio in September 1985 on three counts of grand theft and three counts of theft while in office. After entering a plea of no contest, respondent was found guilty of all counts and was sentenced to two years on each of the six counts to run consecutively with each other but concurrently with the federal sentence.

On November 6, 1985, we automatically suspended respondent indefinitely from the practice of law for conviction of a felony. After respondent was released from prison, he and relator filed a joint stipulation of facts on June 11, 1993, in which respondent agreed to nearly all the facts and allegations contained in the amended complaint. Concerning Counts I and III, respondent stipulated that while he was an elected judge of the East Cleveland Municipal Court, he violated Canons 1 and 2 of the Code of Judicial Conduct. It was further stipulated that the respondent violated DR 1-102(A)(3), 1-102(A)(4), and 1-102(A)(5). With regard to Count II, respondent admitted violating Canons 1 and 2 of the Code of Judicial Conduct and DR 1-102(A)(4), 1-102(A)(5), and 1-102(A)(6).

Relator and respondent recommended an indefinite suspension as the sanction for respondent's conduct. A hearing before the panel was held on June 15, 1993. The panel accepted the recommendation of an indefinite suspension. The board adopted the findings of fact and conclusions of law of the panel, but recommended that the respondent be permanently disbarred and that costs of the proceedings be taxed to respondent.

Geoffrey Stern, Disciplinary Counsel, and Sally Ann Steuk, Assistant Disciplinary Counsel, for relator.

Freddie Melvin Mosely, pro se.

Per Curiam. We concur in the findings and recommendation of the board. Respondent is hereby permanently disbarred from the practice of law in Ohio. Costs taxed to respondent.

Judgment accordingly.

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