

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

THURSDAY
December 21, 1995

DISCIPLINARY DOCKET

92-2164. Lorain Cty. Bar Assn. v. Motsch.

On March 17, 1993, this court, pursuant to Gov.Bar R. V(6)(B)(3), suspended respondent, Barry Motsch, a.k.a., Barry Bruce Motsch, Attorney Registration No. 0039535, last known business address in Lorain, Ohio, from the practice of law for six months, but stayed the suspension on the following conditions: that within three years from August 13, 1992, respondent (1) refrain from private practice; (2) complete and provide proof of completion of at least six hours of continuing legal education on practice management in addition to his mandatory continuing legal education; and (3) refund \$100 to Vickie Stipe. It now coming to the attention of this court that respondent is not now and never has been in full compliance with the requirements of Gov.Bar R. X,

IT IS ORDERED by the court, sua sponte, effective December 20, 1995, that the six-month suspension that was originally imposed but stayed on conditions against respondent, Barry Motsch, a.k.a., Barry Bruce Motsch, is now imposed for respondent's failure to comply with this court's March 17, 1993 order, and that, effective immediately, respondent shall be suspended from the practice of law for six months, pursuant to Gov.Bar R. V(6)(B)(3).

IT IS FURTHER ORDERED that the respondent, Barry Motsch, a.k.a., Barry Bruce Motsch, 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 respondent is hereby forbidden to counsel or advise or prepare legal instruments for others or in any manner perform such services.

IT IS FURTHER ORDERED that respondent 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 respondent surrender his certificate of admission to practice to the Clerk of this court on or before January 19, 1996, and that his name be stricken from the roll of attorneys maintained by this court.

IT IS FURTHER ORDERED that, pursuant to Gov.Bar R. X(3)(F), 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)(F), respondent shall complete one credit hour of instruction related to ethics and professional responsibility, including instruction on substance abuse, 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 respondent complies with the requirements for reinstatement set forth in the Supreme Court Rules for the Government of the Bar and this court orders respondent reinstated.

IT IS FURTHER ORDERED that on or before January 19, 1996, 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 respondent, 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 the possession or control of respondent;

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 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 on or before January 19, 1996, respondent surrender his attorney registration card for the 1995-1997 biennium.

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 Office.

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.

For earlier case, see Lorain Cty. Bar Assn. v. Motsch (1993), 66 Ohio St.3d 56, 607 N.E.2d 1069.

Douglas, J., dissents and would issue a show cause order.

MISCELLANEOUS DISMISSALS

95-1046. Doyle v. Akron.

Portage County, No. 94P0076. This cause is pending before the court as an appeal from the Court of Appeals for Portage County. It appears from the records of this court that appellant has not filed a merit brief, due December 19, 1995, in compliance with the Rules of Practice of the Supreme Court and therefore has failed to prosecute this cause with the requisite diligence. Upon consideration thereof,

IT IS ORDERED by the court that this cause be, and hereby is, dismissed sua sponte, effective December 20, 1995.

95-2162. State v. Cutright.

Hamilton County, No. C-930594. This cause is pending before the court as an appeal from the Court of Appeals for Hamilton County. It appears from the records of this court that appellant has not filed a merit brief, due December 15, 1995, in compliance with the Rules of Practice of the Supreme Court and therefore has failed to prosecute this cause with the requisite diligence. Upon consideration thereof,

IT IS ORDERED by the court that this cause be, and hereby is, dismissed sua sponte, effective December 20, 1995.

95-2400. Capital Fin. Serv., Inc. v. Hibbard.

Butler County, No. CA95-04-079. This cause is pending before the court as a discretionary appeal. Upon consideration of appellant's application for dismissal,

IT IS ORDERED by the court that the application for dismissal be, and hereby is, granted, effective December 20, 1995.

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

95-2580. State v. Graves.

Medina County, No. 2372-M. Appellant has filed an untimely appeal of the court of appeals' decision affirming the dismissal of his post-conviction petition and a motion for delayed appeal. This appeal involves a civil, post-conviction matter and not an appeal of a felony case to which the provisions for delayed appeal in S.Ct.Prac.R. II(2)(A)(4) apply. Therefore,

IT IS ORDERED by the court, sua sponte, effective December 20, 1995, that the motion for delayed appeal be, and hereby is, stricken.

IT IS FURTHER ORDERED by the court, sua sponte, that, in that appellant failed to perfect an appeal pursuant to S.Ct.Prac.R. II(2)(A)(1), this case be, and hereby is, dismissed for lack of jurisdiction.

MISCELLANEOUS DOCKET

In re Report of the Commission : 1995 TERM
on Continuing Legal Education :
: To wit: December 20, 1995
James Alexander, Jr. :
(#0033384), : ENTRY
Respondent.

This matter originated in this court on the filing of a report by the Commission on Continuing Legal Education (the "commission") pursuant to Gov.Bar R. X(6)(A)(1)(b) and (A)(2)(d). The commission recommended the imposition of sanctions against certain attorneys, including the above-named respondent, for failure to comply with the provisions of Gov.Bar R. X, Attorney Continuing Legal Education, for the 1992-1993 reporting period.

On August 11, 1995, this court adopted the recommendation of the commission, imposed a sanction fee upon the respondent and suspended the respondent from the practice of law pursuant to Gov.Bar R. X(6)(B)(3), and Gov.Bar R. X(5)(A)(4). The court further ordered that respondent shall not be reinstated to the practice of law in Ohio until respondent complies with the requirements for reinstatement set forth in Gov.Bar R. X(7).

On December 1, 1995, the commission filed a recommendation pursuant to Gov.Bar R. X(7)(B)(2), finding that the respondent has paid all fees assessed for noncompliance, has made up all deficiencies and is now in full compliance with all requirements of Gov.Bar R. X, and recommending that the respondent be reinstated to the practice of law in Ohio. Upon consideration thereof,

IT IS ORDERED by the court that the recommendation of the commission is adopted and respondent, James Alexander, Jr., is hereby reinstated to the practice of law.

In re Report of the Commission : 1995 TERM
on Continuing Legal Education :
: To wit: December 20, 1995
Paul Raymond Brown :
(#0037693), : ENTRY
Respondent.

This matter originated in this court on the filing of a report by the Commission on Continuing Legal Education (the "commission") pursuant to Gov.Bar R. X(6)(A)(1)(b) and (A)(2)(d). The commission recommended the imposition of sanctions against certain attorneys, including the above-named respondent, for failure to comply with the provisions of Gov.Bar R. X, Attorney Continuing Legal Education, for the 1992-1993 reporting period.

On August 11, 1995, this court adopted the recommendation of the commission, imposed a sanction fee upon the respondent and suspended the respondent from the practice of law pursuant to Gov.Bar R. X(6)(B)(3), and Gov.Bar R. X(5)(A)(4). The court further ordered that respondent shall not be reinstated to the practice of law in Ohio until respondent complies with the requirements for reinstatement set forth in Gov. Bar R. X(7).

On December 1, 1995, the commission filed a recommendation pursuant to Gov.Bar R. (X)(7)(B)(2), finding that the respondent has paid all fees assessed for noncompliance, has made up all deficiencies and is now in full compliance

with all requirements of Gov.Bar R. X, and recommending that the respondent be reinstated to the practice of law in Ohio. Upon consideration thereof,

IT IS ORDERED by the court that the recommendation of the commission is adopted and respondent, Paul Raymond Brown, is hereby reinstated to the practice of law.