

**OFFICE OF DISCIPLINARY COUNSEL v. CAYWOOD.**

**[Cite as *Disciplinary Counsel v. Caywood*, 1996-Ohio-294.]**

*Attorneys at law—Misconduct—Permanent disbarment—Repeated violations of Disciplinary Rules over a relatively short period of time—Continuing to practice law after suspension—Engaging in conduct that adversely reflects on fitness to practice law.*

(No. 95-2556—Submitted January 24, 1996—Decided February 28, 1996.)

ON CERTIFIED REPORT by the Board of Commissioners on Grievances and Discipline of the Supreme Court, No. 95-55.

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{¶ 1} In a complaint filed June 5, 1995, relator, Office of Disciplinary Counsel, charged respondent, James Edward Caywood of Willoughby, Ohio, Attorney Registration No. 0020157, with having violated DR 1-102(A)(6) (misconduct by engaging in conduct that adversely reflects on fitness to practice law) and 3-101(B) (practicing law in a jurisdiction where to do so would be in violation of regulations of the profession in that jurisdiction). A panel of the Board of Commissioners on Grievances and Discipline of the Supreme Court (“board”) heard the matter on October 27, 1995.

{¶ 2} The parties stipulated to the facts and misconduct charged in the complaint as follows:

“1. Respondent, James Edward Caywood, an attorney at law, was admitted to the practice of law in the State of Ohio on May 7, 1979. Respondent has been the subject of three (3) prior disciplinary proceedings. On November 15, 1989, the Supreme Court of Ohio, after finding that [r]espondent had violated DR 6-101(3) (neglect of a legal matter), DR 7-101(A)(2) (failure to carry out a contract of employment), and Gov. Bar Rule V, §4(G) (assist in disciplinary investigations),

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suspended [r]espondent from the practice of law for two (2) years, staying said suspension pending [r]espondent's successful completion of two (2) years of monitored probation. *Disciplinary Counsel v. Caywood* (1989), 46 Ohio St.3d 186 [546 N.E.2d 411].

"2. On December 11, 1991, the Supreme Court of Ohio suspended [r]espondent from the practice of law for one (1) year, with additional conditions to be met before his reinstatement. *Cuyahoga [Cty.] Bar Assn. v. Caywood* (1991), 62 Ohio St.3d 185 [588 N.E.2d 1076]. Respondent had failed to file suit in a personal injury action until after the statute of limitations had expired and then knowingly misrepresented the date of injury in an effort to render the action timely.

"3. On December 14, 1994, the Supreme Court of Ohio ordered that [r]espondent be indefinitely suspended from the practice of law for violating DR 6-101(A)(3) (neglect of a legal matter entrusted to him), DR 1-101(A)(4) (misconduct involving deceit and misrepresentation), and DR 7-102(A)(5) (knowingly make a false statement of fact). *Cuyahoga [Cty.] Bar Assn. v. Caywood* (1994), 71 Ohio St.3d 164 [642 N.E.2d 625].

"4. Pursuant to his suspension, [r]espondent was ordered to notify his clients of the suspension, and to immediately cease and desist from the practice of law in any form. On January 13, 1995, while indefinitely suspended from the practice of law, [r]espondent made a pretrial appearance as an attorney before Referee David E. Koerner in the Willoughby Municipal Court. *Shree Rajendra Corp. v. Tipton*, Case No. 94-CVF-01789. Respondent admits his appearance at the pretrial hearing: 'this was the only instance since my suspension was announced that something such as this occurred. \*\*\*'

"5. In its Order of December 14, 1994, the Supreme Court of Ohio decreed that, as a result of his suspension, [r]espondent 'is hereby forbidden to counsel or advise or prepare legal instruments for others or in any manner perform such services.'"

{¶ 3} The respondent stated before the panel that at the time of his attendance at the pretrial hearing in the Willoughby Municipal Court, he was an employee of Shree Rajendra Corporation. At that time, his employer, Mohan Jain, had undergone surgery and was unable to attend the pretrial hearing. Respondent allegedly acceded to pressure from his employer to attend the pretrial hearing, even though respondent was aware that it was improper for him to do so.

{¶ 4} The parties also stipulated to two mitigating factors:

“1. Respondent has cooperated with disciplinary authorities throughout these proceedings.

“2. This is the only occasion during his suspension that Respondent has appeared in court in the capacity of an attorney.”

{¶ 5} The panel found that respondent had engaged in misconduct as charged in the complaint. The panel recommended that, given respondent’s current indefinite suspension in *Cuyahoga Cty. Bar Assn. v. Caywood* (1994), 71 Ohio St.3d 164, 642 N.E. 2d 625, his eligibility for reinstatement should be extended eighteen months to June 14, 1998. The board adopted the findings of fact and conclusions of law of the panel and, further, that the costs of the proceedings be taxed to respondent.

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

*James Edward Caywood*, *pro se*.

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***Per Curiam.***

{¶ 6} We concur in the board’s findings of fact and conclusions of law. However, respondent’s repeated violations of the Disciplinary Rules over a relatively short period of time merit a more severe penalty than that recommended by the board. Respondent’s most recent violations took place approximately one

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month after his suspension was announced by this court in *Cuyahoga Cty. Bar Assn. v. Caywood*, (71 Ohio St.3d 164, 642 N.E.2d 625). In defiance of our ordered suspension, respondent continued to practice law by appearing in court as an attorney, even though he knew that it was clearly improper for him to do so. In light of respondent's current violations and history of professional misconduct, respondent is hereby ordered permanently disbarred from the practice of law in Ohio. Costs taxed to respondent.

*Judgment accordingly.*

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

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