

SUPREME COURT OF OHIO
COLUMBUS

ANNOUNCEMENT

THURSDAY
September 23, 1999

MOTION DOCKET

99-1439. Thomas v. Vesper.

Ashland App. No. 99COA01291. This cause is pending before the court as a discretionary appeal. Upon consideration of appellant's motion for stay of all proceedings in trial court including discovery,

IT IS ORDERED by the court that the motion for stay be, and hereby is, denied.

Douglas, J., concurs and would also dismiss the appeal.

F.E. Sweeney, J., dissents.

DISCIPLINARY DOCKET

91-856. Mahoning Cty. Bar Assn. v. Davis.

On petition of Richard T. Davis for reinstatement. Petition granted, with conditions. See order.

98-717. Disciplinary Counsel v. Simecek.

On September 30, 1998, this court suspended respondent, David J. Simecek, a.k.a. David Joseph Simecek, for a period of six months, with the entire suspension stayed provided respondent does not engage in the practice of law unless he does so under the guidance of a mentor selected by relator, Disciplinary Counsel. The

court further ordered respondent to pay board costs in the amount of \$493.17 on or before December 29, 1998. The court further ordered that if costs were not paid by that date, interest at the rate of ten per annum would accrue as of December 29, 1998, on the balance of unpaid board costs, and that respondent could be found in contempt and suspended from the practice of law until such time as costs, including any accrued interest, were paid in full. On May 26, 1999, this court ordered respondent to show cause why he should not be found in contempt and suspended from the practice of law for failure to pay board costs. Respondent did not file a response to the show cause order. Upon consideration thereof,

IT IS ORDERED AND ADJUDGED by this court that respondent, David J. Simecek, a.k.a. David Joseph Simecek, be and hereby is found in contempt of this court for failure to comply with this court's September 30, 1998 order. It is further ordered that respondent, David J. Simecek, a.k.a. David Joseph Simecek, Attorney Registration No. 0024035, last known business address in Wadsworth, Ohio, be suspended from the practice of law until he purges himself of contempt by paying board costs, including all accrued interest, in full.

IT IS FURTHER ORDERED that the respondent, David J. Simecek, a.k.a. David Joseph Simecek, 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 thirty days from the date of this order, 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)(G), 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)(G), respondent shall complete one credit hour of instruction related to professional conduct required by Gov.Bar R. X(3)(A)(1), for each six months, or portion of six months, of the suspension.

IT IS FURTHER ORDERED, *sua sponte*, by the court, that within ninety days of the date of this order, respondent shall reimburse any amounts that have been awarded against the respondent by the Clients' Security Fund pursuant to

Gov.Bar R. VIII(7)(F). It is further ordered, *sua sponte*, by the court that if, after the date of this order, the Clients' Security Fund awards any amount against the respondent pursuant to Gov.Bar R. VIII(7)(F), the respondent shall reimburse that amount to the Clients' Security Fund within ninety days of the notice of such award.

IT IS FURTHER ORDERED that respondent shall not be reinstated to the practice of law in Ohio until (1) respondent files a written application with the Clerk of this court requesting that he be purged of contempt and reinstated to the practice of law and respondent complies with the requirements for reinstatement set forth in the Supreme Court Rules for the Government of the Bar; (2) respondent pays costs in full, including all accrued interest; (3) respondent complies with the Supreme Court Rules for the Government of the Bar of Ohio; (4) respondent complies with this and all other orders of the court; and (5) this court orders respondent purged of contempt and reinstated to the practice of law.

IT IS FURTHER ORDERED that on or before thirty days from the date of this order, 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 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.

99-604. Cleveland Bar Assn. v. Szczepinski.

On March 31, 1999, movant, Cleveland Bar Association, filed with this court a motion for an order to show cause why respondent, Mark Szczepinski, should not be held in contempt of the order of the Board of Commissioners on the Unauthorized Practice of Law issued October 13, 1998, compelling him to answer deposition questions pursuant to a subpoena *duces tecum* issued in the name under the seal of the Supreme Court; leave to file a reply to any response respondent may file to a show cause order issued by this court; an award of attorney fees; and any other relief the court deemed appropriate. On May 7, 1999, this court granted the motion and ordered respondent to show cause why he should not be punished for contempt. On May 25, 1999, respondent filed a brief in opposition to relator's motion. Upon consideration thereof,

IT IS ORDERED by this court that respondent be, and is hereby, found not to be in contempt. It is further ordered that attorney fees be, and are hereby, denied.

Douglas, J., would dismiss.

Resnick, J., would find respondent in contempt.

Cook, J., would find respondent in contempt but would permit his purging by answering the deposition questions.

99-1208. In re Resignation of Ludeman.

On affidavit of resignation from the practice of law of John George Ludeman and on report filed under seal by Disciplinary Counsel.

The resignation is accepted as a resignation with disciplinary action pending.
Lundberg Stratton, J., dissents.

MISCELLANEOUS DISMISSALS

99-1475. State v. Noggle.

Crawford App. No. 3-99-08. This cause is pending before the court as a discretionary appeal and a claimed appeal of right. Upon consideration of appellant's application for dismissal,

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

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