

**OFFICE OF DISCIPLINARY COUNSEL v. WEST.**

**[Cite as *Disciplinary Counsel v. West*, 1999-Ohio-197.]**

*Attorneys at law—Misconduct—Eighteen-month suspension with twelve months of sanction stayed on conditions—Falsely accusing a judge of criminal misconduct.*

(No. 98-2262—Submitted December 16, 1998—Decided March 3, 1999.)

ON CERTIFIED REPORT by the Board of Commissioners on Grievances and Discipline of the Supreme Court, No. 97-61.

---

{¶ 1} In June 1997, relator, Office of Disciplinary Counsel, filed a complaint charging respondent, Patrick Aloysius Thomas West of Columbus, Ohio, Attorney Registration No. 0029570, with violating two Disciplinary Rules and one Rule for the Government of the Bar by falsely accusing a judge of criminal misconduct. After respondent filed an answer and the parties submitted stipulations and exhibits, a panel of the Board of Commissioners on Grievances and Discipline of the Supreme Court (“board”) held a hearing on the matter.

{¶ 2} Based on the testimony, stipulations, and exhibits, the panel found that in 1995 and 1996, respondent represented Michael E. Carrico in bankruptcy proceedings before Judge Charles M. Caldwell of the United States Bankruptcy Court, Southern District of Ohio, Eastern Division. In March 1996, respondent requested that Judge Caldwell disqualify himself from the bankruptcy case. After Judge Caldwell denied respondent’s motion, respondent filed a petition for a writ of mandamus and a motion for a temporary restraining order in the federal district court to challenge Judge Caldwell’s refusal to recuse himself.

{¶ 3} The panel further found that at a hearing in the federal district court, respondent alleged that Judge Caldwell had a financial interest in the bankruptcy

case because the judge received kickbacks from the bankruptcy trustee, whose fees were increased by the scheduling of numerous unnecessary hearings. Respondent was unable to substantiate his accusations against Judge Caldwell and the bankruptcy trustee at either the federal district court proceeding or his disciplinary hearing. In fact, at the disciplinary hearing, respondent conceded that Judge Caldwell had no financial interest in the bankruptcy case. The bankruptcy trustee testified at both the federal district court and disciplinary proceedings that neither he nor Judge Caldwell had committed any of the misconduct alleged by respondent.

{¶ 4} The panel concluded that respondent violated DR 8-102(B) (knowingly making a false accusation against a judge) by alleging in federal court that Judge Caldwell had been guilty of criminal misconduct in the bankruptcy case.

{¶ 5} In mitigation, the panel found that respondent suffered from clinical depression, that he was undergoing therapy with a psychiatrist at a Veterans Administration Outpatient Clinic, and that he had been taking prescribed medication since September 1997 to control his depression. According to respondent, his untreated depression contributed to his unfounded suspicions and allegations against Judge Caldwell.

{¶ 6} Based on this mitigating evidence, the panel recommended that respondent be suspended from the practice of law in Ohio for eighteen months, with twelve months stayed on the conditions that he continue his treatment and submit to monitoring by the Columbus Bar Association or another agency deemed appropriate by the court. The panel further recommended that before respondent resumes practicing law in Ohio, he must demonstrate that his treatment enables him to properly and effectively practice law. The board adopted the panel's findings, conclusions, and recommendation.

---

*Jonathan E. Coughlan*, Disciplinary Counsel, for relator.

*Patrick A.T. West*, *pro se*.

---

*Per Curiam.*

{¶ 7} We adopt the board’s findings of fact and conclusions of law. Respect for the law and for judicial officers who interpret and apply the law is the *sine qua non* of an attorney’s right to continue to practice law in Ohio. *Disciplinary Counsel v. Trumbo* (1996), 76 Ohio St.3d 369, 372, 667 N.E.2d 1186, 1188-1189. An attorney who publicly criticizes a judge “should be certain of the merit of [the] complaint, use appropriate language, and avoid petty criticisms, for unrestrained and intemperate statements tend to lessen public confidence in our legal system.” EC 8-6.

{¶ 8} Here, respondent’s conduct in knowingly making a false accusation against a judge violated DR 8-102(B). Because this conduct undermines the integrity of the judicial system, a suspension is an appropriate penalty. See *Columbus Bar Assn. v. Hartwell* (1988), 35 Ohio St.3d 258, 260, 520 N.E.2d 226, 227. We therefore adopt the board’s recommendation. Respondent is suspended from the practice of law in Ohio for eighteen months, with twelve months stayed provided that he continue his psychiatric treatment and submit to monitoring by the Columbus Bar Association. In addition, before being permitted to resume practicing law in Ohio, respondent must submit evidence to the court that his treatment enables him to properly and effectively practice law. Costs taxed to respondent.

*Judgment accordingly.*

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

LUNDBERG STRATTON, J., not participating.

---