

LORAIN COUNTY BAR ASSOCIATION v. PINCURA.

[Cite as *Lorain Cty. Bar Assn. v. Pincura*, 1999-Ohio-460.]

Attorneys at law—Misconduct—Public reprimand—Failing to carry out employment contract.

(No. 98-2683—Submitted February 10, 1999—Decided March 31, 1999.)

ON CERTIFIED REPORT by the Board of Commissioners on Grievances and Discipline of the Supreme Court, No. 96-36.

{¶ 1} On April 15, 1996, relator, Lorain County Bar Association, filed a complaint charging respondent, John D. Pincura III of Avon Lake, Ohio, Attorney Registration No. 0029094, with violating certain Disciplinary Rules. After respondent answered, the matter was submitted to a panel of the Board of Commissioners on Grievances and Discipline of the Supreme Court (“board”) on the parties’ joint stipulations.

{¶ 2} The panel found that in August 1994, Eleanor Hanna, who was residing in a nursing home, retained respondent to represent her in a divorce case. On behalf of Hanna, her mother participated in most of the discussions with respondent. Respondent filed an answer for Hanna in the divorce proceeding and negotiated with opposing counsel. Based on discussions with Hanna and her mother, respondent believed that he had Hanna’s approval to proceed to settle the case under specified terms and guidelines.

{¶ 3} Believing that a scheduled contested hearing on March 9, 1995 was just another pretrial hearing, respondent appeared without his client or her mother. At the hearing, respondent consented to a proposed judgment entry, which recited most of the terms of the agreement that respondent believed had been reached and that were, in his mind, in his client’s best interest. But respondent did not contact

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either Hanna or her mother to discuss the terms of the agreement, which included minor changes. The trial court entered a final divorce decree based on the proposed entry. Due to an error in his office procedures, respondent did not timely forward a copy of the decree to Hanna or her mother.

{¶ 4} When Hanna's mother subsequently inquired about the status of the case, respondent advised her about the decree and immediately sent copies to her of all relevant documents. Hanna's mother then filed a grievance against respondent, who fully cooperated with the disciplinary investigation, including admitting that he had not notified his client about the divorce hearing, that he had signed the divorce decree without consulting his client, and that he had failed to promptly inform her about the decree.

{¶ 5} In mitigation, the panel found that respondent had practiced law for over thirty years, had no prior disciplinary record, and had an excellent reputation for honesty, integrity, and good character. The panel further found that respondent cooperated throughout the proceedings, that there were no suspected problems concerning respondent's law office management, that there was no evidence of any dishonest or selfish motive by respondent, that respondent made good-faith efforts to rectify any unintended consequences, and that he expressed remorse and regret for his conduct.

{¶ 6} The panel adopted the parties' joint recommendation regarding a Disciplinary Rule violation and sanction, by concluding that respondent's conduct violated DR 7-101(A)(2) (failing to carry out an employment contract) and that respondent should be publicly reprimanded. The board adopted the findings, conclusions, and recommendation of the panel.

Fauver, Tattersall & Gallagher and John L. Keyse-Walker, for relator.
Charles W. Kettlewell, for respondent.

Per Curiam.

{¶ 7} We adopt the findings and conclusions of the board. In determining the appropriate sanction, we find that respondent's violation of DR 7-101(A)(2) constituted an isolated act in a lengthy legal career and that respondent fully and promptly cooperated in the disciplinary proceeding. We find further that respondent expressed genuine remorse for his actions, and that there was no evidence of quantifiable harm to his client. Based on the foregoing, we agree with the parties and the board that a public reprimand is the appropriate sanction. See *Stark Cty. Bar Assn. v. Tscholl* (1991), 57 Ohio St.3d 211, 567 N.E.2d 265 (public reprimand for attorney found guilty of neglecting an entrusted legal matter where misconduct was isolated act in an otherwise unblemished legal career, client did not suffer any permanent loss, attorney expressed remorse, and he fully cooperated in disciplinary investigation); see, also, *Disciplinary Counsel v. Eisenberg* (1998), 81 Ohio St.3d 295, 690 N.E.2d 1282; *Cincinnati Bar Assn. v. Holtmeier* (1991), 60 Ohio St.3d 50, 572 N.E.2d 683 (isolated misconduct that included violation of DR 7-101[A][2] warranted public reprimand). Respondent is hereby publicly reprimanded. Costs taxed to respondent.

Judgment accordingly.

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