

OFFICE OF DISCIPLINARY COUNSEL v. JACKSON.

[Cite as *Disciplinary Counsel v. Jackson*, 1999-Ohio-485.]

*Attorneys at law—Misconduct—Public reprimand—Uncivil behavior toward
opposing parties and counsel.*

(No. 98-781—Submitted July 15, 1998—Decided January 13, 1999.)

ON CERTIFIED REPORT by the Board of Commissioners on Grievances and
Discipline of the Supreme Court, No. 97-8.

{¶ 1} This disciplinary case arose when a dispute between adjacent residential property owners resulted in uncivil behavior by the attorneys for the parties. As a consequence, on February 18, 1997, relator, Office of Disciplinary Counsel, filed a complaint charging that respondent, Michael P. Jackson of Columbus, Ohio, Attorney Registration No. 0019891, violated DR 1-102(A)(5) (a lawyer shall not engage in conduct that is prejudicial to the administration of justice), 1-102(A)(6) (a lawyer shall not engage in conduct that adversely reflects upon his fitness to practice law), 7-102(A)(1) (in representing a client a lawyer shall not take an action which he knows will merely harass or maliciously injure another), and 7-102(A)(5) (a lawyer shall not knowingly make a false statement of law or fact). After respondent answered, a panel of the Board of Commissioners on Grievances and Discipline of the Supreme Court (“board”) heard the matter.

{¶ 2} The panel found that respondent represented the plaintiff in a dispute between adjacent property owners, in which a third party was joined as an additional defendant. During the case, relations between the attorneys for the two property owners had so deteriorated that depositions were taken in the common pleas courthouse in order that the judge could be close at hand. At one point in such a deposition, when the parties submitted a question about the scope of the

examination to the judge, she expressed her concern about the conduct of counsel. One of the opposing counsel in the case then accused respondent of improper behavior during a break in the depositions.

{¶ 3} Upon being advised of the accusations, the common pleas court judge convened an emergency hearing regarding respondent's behavior. At that time attorneys for the two defendant parties and the principal defendant stated that during the break, respondent shouted obscene and vulgar language at one of the opposing parties and racial epithets at his attorney. Respondent denied these actions, although he admitted that he may have quietly muttered some obscene statements under his breath. The judge found respondent in contempt and fined him \$500.

{¶ 4} The panel concluded that respondent's conduct violated the Disciplinary Rules as charged, and recommended that he be suspended from the practice of law for six months with the entire suspension stayed pending good behavior and conduct. The board adopted the findings and conclusions of the panel, and recommended that respondent be suspended from the practice of law for six months with the entire suspension stayed, provided that during the stay period respondent complete twelve hours of continuing legal education on professionalism.

Jonathan E. Coughlan, Disciplinary Counsel, *Lori J. Brown* and *Kevin L. Williams*, Assistant Disciplinary Counsel, for relator.

Michael P. Jackson, *pro se*.

Per Curiam.

{¶ 5} We adopt the findings and conclusions of the board but not the recommended sanction. As we noted in *Toledo Bar Assn. v. Bell* (1997), 78 Ohio St.3d 88, 91, 676 N.E.2d 527, 529, "Our Ethical Considerations, specifically EC 1-

5, which encourage lawyers to maintain high standards of professional conduct, do not countenance the use of epithets and racial slurs.” We said in *Toledo Bar Assn. v. Batt* (1997), 78 Ohio St.3d 189, 192, 677 N.E.2d 349, 352, that “an attorney has a duty to be civil to opposing counsel and the court.” In *Columbus Bar Assn. v. Riebel* (1982), 69 Ohio St.2d 290, 292, 23 O.O.3d 279, 280, 432 N.E.2d 165, 166-167, where an attorney used offensive and abusive language against opposing counsel and his client, we issued a public reprimand, saying:

“It is within the real meaning and intent of our Code of Professional Responsibility that lawyers should always be cognizant of the necessity for good manners, courtesy and discourse, both to client and other practitioners, as being part of our professional ethics.

“The zeal employed by an attorney in guarding the interests of his clients must always be tempered so as not to inject his personal feelings or display a demeanor that subjects parties to a proceeding or opposing counsel to certain indignities.”

{¶ 6} Our review of the record in this case suggests that respondent’s conduct might have been a reaction to aggressive behavior by opposing counsel. Nevertheless, respondent was not justified in failing to maintain his composure. Part of the role of an attorney is to remove himself from the emotions of the moment and provide objective counsel and representation to clients. To perform that role, attorneys must hold themselves to the highest standards of professionalism. The facts in this case indicate that respondent should receive a public reprimand, and it is so ordered. Costs are taxed to respondent.

Judgment accordingly.

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

MOYER, C.J., would suspend respondent from the practice of law for six months, stayed.

SUPREME COURT OF OHIO
