

The Supreme Court of Ohio

CASE ANNOUNCEMENTS AND ADMINISTRATIVE ACTIONS

September 2, 2004

MOTION AND PROCEDURAL RULINGS

2004-1012. Disciplinary Counsel v. Bein.

This cause is pending before the court upon respondent's motion for continuance of oral argument scheduled for September 15, 2004. Upon consideration thereof,

IT IS ORDERED by the court that the motion for continuance of oral argument be, and hereby is, granted.

IT IS FURTHER ORDERED by the court that oral argument be, and hereby is, rescheduled for Wednesday, October 13, 2004.

2004-1196. State v. Yeager.

Summit App. No. 21510, 2004-Ohio-2368. On review of order certifying a conflict. The court determines that a conflict exists. The conflict cases are *State v. Fair* (Sept. 17, 1996), Franklin App. Nos. 96-APA01-93 and 96-APA01-94, *State v. Longworth* (Oct. 16, 2001), Allen App. Nos. 1-01-08 and 1-01-51, 2001-Ohio-2295, and *State v. Overholt* (Sept. 10, 1991), Auglaize App. Nos. 2-90-23 and 2-90-24, 77 Ohio App.3d 111. Sua sponte, cause consolidated with 2004-1006, *State v. Yeager*, Summit App. No. 21510, 2004-Ohio-2368; cause held for the decision in 2003-0929, *State v. Martin*, Cuyahoga App. No. 80198, 2003-Ohio-1499; and briefing schedule stayed.

Pfeifer and O'Connor, JJ., would accept the cause without holding.

F.E. Sweeney, J., dissents.

2004-1304. State ex rel. Gonzalez v. McCall.

In Mandamus. This cause originated in this court on the filing of a complaint for a writ of mandamus involving an expedited election matter. On August 27, 2004, respondent filed a memorandum in opposition to relators' motion for reconsideration. Whereas respondent's memorandum in opposition was untimely

under S.Ct.Prac.R. XI(3), and should not have been filed pursuant to S.Ct.Prac.R. XIV(1)(C),

IT IS ORDERED by the court, sua sponte, that respondent's memorandum in opposition be, and hereby is, stricken.

2004-1364. State v. Fears.

Hamilton App. No. C-020697. This cause is pending before this court as a discretionary appeal and claimed appeal of right. On August 25, 2004, appellant filed a document entitled "Motion to Certify Conflict." However, appellant has not filed a notice that the court of appeals has certified a conflict, and the motion appears to be a duplicate of appellant's memorandum in support of jurisdiction. Whereas, S.Ct.Prac.R. III(3), prohibits the supplementation of a jurisdictional memorandum,

IT IS ORDERED by the court, sua sponte, that appellant's motion to certify conflict be, and hereby is, stricken.

2004-1452. State ex rel. Qualls v. Story.

Meigs App. No. 04CA4. This cause was filed as a discretionary appeal and claimed appeal of right. Upon consideration of appellant's jurisdictional memorandum, it is determined by the court that this cause originated in the court of appeals and therefore should proceed as an appeal of right pursuant to S.Ct.Prac.R. II(1)(A)(1).

IT IS ORDERED by the court that the Clerk shall issue an order for the transmittal of the record from the Court of Appeals for Meigs County. Appellant shall file his merit brief within forty days of the filing of the record with the Clerk of this court, and the parties shall otherwise proceed in accordance with S.Ct.Prac.R. VI.

APPEALS ACCEPTED FOR REVIEW

2004-1006. State v. Yeager.

Summit App. No. 21510, 2004-Ohio-2368. Discretionary appeal allowed; cause consolidated with 2004-1196, *State v. Yeager*, Summit App. No. 21510, 2004-Ohio-2368; cause held for the decision in 2003-0929, *State v. Martin*, Cuyahoga App. No. 80198, 2003-Ohio-1499; and briefing schedule stayed.

O'Connor, J., would allow without holding.

F.E. Sweeney and Pfeifer, JJ., dissent.

APPEALS NOT ACCEPTED FOR REVIEW

2004-1039. Rust v. Harris-Gordon.

Lucas App. No. L-03-1091, 2004-Ohio-1636. On discretionary appeal, motion to dismiss, and motion for sanctions for frivolous action. Appeal not accepted and motion to dismiss denied as moot. Upon consideration of motion for sanctions,

IT IS ORDERED by the court that appellant shall pay attorney fees.

IT IS FURTHER ORDERED by the court, sua sponte, that appellees shall file a bill and documentation in support of an award for attorney fees, in accordance with guidelines set forth in DR 2-106, within 20 days of the date of this entry; appellant may file objections to appellees' bill and documentation within 10 days of the filing of the bill and documentation; appellees may file a reply to appellant's objections, if any, within 5 days of the filing of objections.

O'Donnell, J., dissents and would deny the motion for sanctions.

Resnick, J., not participating.

RECONSIDERATION OF PRIOR DECISIONS

2004-0663. Grenga v. Ohio Edison Co.

Mahoning App. No. 03MA41, 2004-Ohio-822. Reported at 102 Ohio St.3d 1533, 811 N.E.2d 1151, 2004-Ohio-3580. On motion for reconsideration, appellee's motion for sanctions for frivolous action, appellant's motion to strike motion for sanctions, and appellant's motion for sanctions for frivolous action. Motions denied.

Lundberg Stratton, J., dissents and would allow appellee's motion for sanctions.

Pfeifer, J., dissents and would allow the motion for reconsideration.

DISCIPLINARY CASES

99-1158. Stark Cty. Bar Assn. v. Leb.

This cause came on for further consideration upon the filing on September 22, 2003, of a petition for reinstatement by respondent, Gerald P. Leb, Attorney Registration No. 0014971. In accordance with Gov.Bar R. V(10)(F), respondent's petition for reinstatement was referred to the Board of Commissioners on Grievances and Discipline. The board filed its final report in this court on June 18, 2004, recommending that respondent be reinstated to the practice of law in Ohio. No objections to said final report were filed. Upon consideration thereof,

IT IS ORDERED by this court that the petition for reinstatement of respondent be, and hereby is, granted, and that respondent, Gerald P. Leb, last known address in Stow, Ohio, be and hereby is, reinstated to the practice of law in Ohio.

IT IS FURTHER ORDERED by the court that respondent be taxed the costs of these proceedings in the amount of \$644.50, less the deposit of \$500, for a total balance due of \$144.50 payable by respondent on or before ninety days from the date of this order. If costs are not paid on or before 90 days from the date of this order, interest at the rate of 10% per annum will accrue until costs are paid in full. It is further ordered that if costs are not paid in full on or before 90 days from the date of this order, respondent may be found in contempt and suspended until all costs and accrued interest are paid in full.

IT IS FURTHER ORDERED, sua sponte, by the court, that within 90 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 90 days of the notice of such award.

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 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.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton and O'Connor, JJ., concur.

O'Donnell, J., would reinstate and require mentoring for a period of eighteen months.

2003-0359. Cuyahoga Cty. Bar Assn. v. Lazzaro.

On May 7, 2003, pursuant to a consent to discipline agreement, this court suspended respondent Charles Lazzaro, for a period of one year and stayed the suspension on conditions that respondent abide by his abstinence contract and remain free of all mood-altering or mind-altering substances, participate in the recommended OLAP program, and participate in relator's mentoring program for a period of two years from the date of the order. It was further ordered that if he failed to meet the conditions, the stay would be lifted and respondent would serve the full suspension. On July 2, 2004, relator filed a motion to show cause and invoke suspension for failure to comply with this court's May 7, 2003 order. Upon consideration thereof,

IT IS ORDERED AND ADJUDGED by this court that respondent, Charles Lazzaro, Attorney Registration No. 0022281, last known business address in Mayfield Heights, Ohio, be and hereby is, found in contempt for failure to comply with the court's May 7, 2003, order. It is further ordered that respondent is suspended from the practice of law in Ohio for a period of one year from the date of this order.

IT IS FURTHER ORDERED that the respondent 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 the 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, 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 90 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 90 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 complies with the requirements for reinstatement set forth in the Supreme Court Rules for the Government of the Bar of Ohio; (2) respondent complies with the Supreme Court Rules for the Government of the Bar of Ohio; (3) respondent complies with this and all other orders of the court; and (4) this court orders respondent reinstated.

IT IS FURTHER ORDERED that on or before 30 days from the date of this order, respondent shall:

1. Notify all clients being represented in pending matters and any co-counsel of respondent's suspension and 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 respondent's 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 respondent's 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 respondent 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 on or before thirty days from the date of this order, respondent shall surrender the attorney registration card for the 2003/2005 biennium.

IT IS FURTHER ORDERED that respondent shall keep the Clerk, the Cuyahoga County Bar Association, 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 Section.

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.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

2004-1111. In re Resignation of Harp.

On July 12, 2004, respondent, Edward Luther Harp, Attorney Registration No. 0023236, last known business address in Georgetown, Ohio, who was admitted to the Bar of this State on the 10th day of May, 1975, submitted an Affidavit of Resignation and Waiver pursuant to Gov.Bar R. V(11)(G)(1). The affidavit and waiver were referred to Disciplinary Counsel pursuant to Gov.Bar R. V(11)(G)(2). On August 3, 2004, Disciplinary Counsel filed under seal its report with this Court in accordance with Gov.Bar R. V(11)(G)(2). Upon consideration thereof,

IT IS ORDERED BY the court that pursuant to Gov.Bar. R. V(11)(G)(3) the resignation as an attorney and counselor at law is accepted as a resignation with disciplinary action pending.

IT IS FURTHER ORDERED AND ADJUDGED that from and after this date all rights and privileges extended to respondent to practice law in the state of Ohio be withdrawn; that henceforth respondent shall cease to hold himself forth as an attorney authorized to appear in the courts of this State; that respondent shall not attempt, either directly or indirectly, to render services as an attorney or counselor at law to or for any individuals, corporation or society, nor in any way perform or seek to perform services for anyone, no matter how constituted, that must, by law, be executed by a duly appointed and qualified attorney within the state of Ohio.

IT IS FURTHER ORDERED that respondent desist and refrain from the practice of law in any form, either as principal or agent or clerk or employee of another, and hereby is forbidden to appear in the state of Ohio as an attorney and counselor at law before any court, judge, board, commission or other public authority, and hereby is forbidden to give another an opinion as to the law or its application or advise with relation thereto.

IT IS FURTHER ORDERED that respondent surrender respondent's certificate of admission to practice to the Clerk of the court on or before 30 days from the date of this order, and that respondent's name be stricken from the roll of attorneys maintained by this court.

IT IS FURTHER ORDERED, sua sponte, by the court, that within 90 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 90 days of the notice of such award.

IT IS FURTHER ORDERED that on or before 30 days from the date of this order, respondent shall:

1. Notify all clients being represented in pending matters and any co-counsel of respondent's resignation and 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 respondent's 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 respondent's 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 such 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 until such time as respondent fully complies with this order, 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 Section.

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.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

2004-1140. In re Roth.

On July 14, 2004, and pursuant to Gov.Bar R. V(5)(A)(3), the Secretary of the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio certified to the Supreme Court a certified copy of a judgment entry of a felony conviction against David B. Roth, an attorney licensed to practice law in the state of Ohio.

Upon consideration thereof and pursuant to Gov.Bar R. V(5)(A)(4), it is ordered and decreed that David B. Roth, Attorney Registration No. 0038264, last known business address in Cleveland, Ohio, be, and hereby is, suspended from the practice of law for an interim period, effective as of the date of this entry.

IT IS FURTHER ORDERED that this matter be, and is hereby, referred to the Disciplinary Counsel for investigation and commencement of disciplinary proceedings.

IT IS FURTHER ORDERED that respondent 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, effective immediately, respondent be forbidden to counsel or advise, or prepare legal instruments for others or in any manner perform legal services for others.

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, 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 that respondent shall not be reinstated to the

practice of law in Ohio until (1) respondent complies with the requirements for reinstatement set forth in the Supreme Court Rules for the Government of the Bar of Ohio; (2) respondent complies with this and all other orders issued by this court; (3) respondent complies with the Supreme Court Rules for the Government of the Bar of Ohio; and (4) this court orders respondent reinstated.

IT IS FURTHER ORDERED, sua sponte, by the court, that within 90 days of the date of this order, respondent shall reimburse any amounts that have been awarded 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 90 days of the notice of such award.

IT IS FURTHER ORDERED that on or before 30 days from the date of this order, respondent shall:

1. Notify all clients being represented in pending matters and any co-counsel of respondent's suspension and 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 respondent's 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 respondent's possession or control;

4. Notify opposing counsel in pending litigation or, in the absence of counsel, the adverse parties of respondent's 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 such 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 Section.

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.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

2004-1141. In re Lazzaro.

On July 14, 2004, and pursuant to Gov.Bar R. V(5)(A)(3), the Secretary of the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio certified to the Supreme Court a certified copy of a judgment entry of a felony conviction against Charles Blaise Lazzaro, an attorney licensed to practice law in the state of Ohio.

Upon consideration thereof and pursuant to Gov.Bar R. V(5)(A)(4), it is ordered and decreed that Charles Blaise Lazzaro, Attorney Registration No. 0022281, last known business address in Mayfield Heights, Ohio, be, and hereby is, suspended from the practice of law for an interim period, effective as of the date of this entry.

IT IS FURTHER ORDERED that this matter be, and is hereby, referred to the Cuyahoga County Bar Association for investigation and commencement of disciplinary proceedings.

IT IS FURTHER ORDERED that respondent 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, effective immediately, respondent be forbidden to counsel or advise, or prepare legal instruments for others or in any manner perform legal services for others.

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, 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 that respondent shall not be reinstated to the practice of law in Ohio until (1) respondent complies with the requirements for reinstatement set forth in the Supreme Court Rules for the Government of the Bar of Ohio; (2) respondent complies with this and all other orders issued by this court; (3) respondent complies with the Supreme Court Rules for the Government of the Bar of Ohio; and (4) this court orders respondent reinstated.

IT IS FURTHER ORDERED, sua sponte, by the court, that within 90 days of the date of this order, respondent shall reimburse any amounts that have been awarded 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 90 days of the notice of such award.

IT IS FURTHER ORDERED that on or before 30 days from the date of this order, respondent shall:

1. Notify all clients being represented in pending matters and any co-counsel of respondent's suspension and 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 respondent's 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 respondent's possession or control;

4. Notify opposing counsel in pending litigation or, in the absence of counsel, the adverse parties of respondent's 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 such 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, the Cuyahoga County Bar Association 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 Section.

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.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

2004-1142. In re Billiter.

On July 14, 2004, pursuant to Gov.Bar R. V(5)(A)(3), the Secretary of the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio certified to the Supreme Court a certified copy of a judgment entry of a felony conviction against Gary Franklin Billiter, an attorney licensed to practice law in the state of Ohio.

Upon consideration thereof and pursuant to Gov.Bar R. V(5)(A)(4), it is ordered and decreed that Gary Franklin Billiter, Attorney Registration No. 0061746, last known business address in Portsmouth, Ohio, be, and hereby is, suspended from the practice of law for an interim period, effective as of the date of this entry.

IT IS FURTHER ORDERED that this matter be, and is hereby, referred to the Disciplinary Counsel for investigation and commencement of disciplinary proceedings.

IT IS FURTHER ORDERED that respondent 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, effective immediately, respondent be forbidden to counsel or advise, or prepare legal instruments for others or in any manner perform legal services for others.

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, 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 that respondent shall not be reinstated to the practice of law in Ohio until (1) respondent complies with the requirements for reinstatement set forth in the Supreme Court Rules for the Government of the Bar of Ohio; (2) respondent complies with this and all other orders issued by this court; (3) respondent complies with the Supreme Court Rules for the Government of the Bar of Ohio; and (4) this court orders respondent reinstated.

IT IS FURTHER ORDERED, sua sponte, by the court, that within 90 days of the date of this order, respondent shall reimburse any amounts that have been awarded 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 90 days of the notice of such award.

IT IS FURTHER ORDERED that on or before 30 days from the date of this order, respondent shall:

1. Notify all clients being represented in pending matters and any co-counsel of respondent's suspension and 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 respondent's 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 respondent's possession or control;

4. Notify opposing counsel in pending litigation or, in the absence of counsel, the adverse parties of respondent's 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 such 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 Section.

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.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

2004-1143. In re McCord.

On July 14, 2004, and pursuant to Gov.Bar R. V(5)(A), the Secretary of the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio submitted to this court a certified copy of a determination of default of a child support order by Michael McCord, an attorney licensed to practice law in the state of Ohio.

Upon consideration thereof and pursuant to Gov.Bar R. V(5)(A)(4), it is ordered and decreed that Michael McCord, Attorney Registration No. 0020304, last known business address in Columbus, Ohio, be, and hereby is, suspended from the practice of law for an interim period, effective as of the date of this entry.

IT IS FURTHER ORDERED that this matter be, and hereby is, referred to the Disciplinary Counsel for investigation and commencement of disciplinary proceedings.

IT IS FURTHER ORDERED that Michael McCord immediately cease and desist from the practice of law in any form and hereby is forbidden to appear on behalf of another before any court, judge, commission, board, administrative agency or other public authority.

IT IS FURTHER ORDERED that, effective immediately, respondent be forbidden to counsel or advise, or prepare legal instruments for others or in any manner perform legal services for others.

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 shall not be reinstated to the practice of law until (1) the Board of Commissioners on Grievances and Discipline files in accordance with Gov.Bar R. V(5)(D)(1)(b) with the Supreme Court a certified copy of a judgment entry reversing the determination of default under a child support order, or it files in accordance with Gov.Bar R. V(5)(D)(1)(c) with the Supreme Court a notice from a court or child support enforcement agency that respondent is no longer in default under a child support order or is subject to a withholding or deduction notice or a new or modified child support order to collect current support or any arrearage due under the child support order that was in default and is complying with that notice or order, and (2) this court orders respondent reinstated to the practice of law.

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.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

MISCELLANEOUS DISMISSALS

2004-0850. State ex rel. Ryan's Restaurant Group, Inc. v. Mount Vernon.

In Mandamus. This cause originated in this court on the filing of a complaint for a writ of mandamus. Upon consideration of relator'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.

2004-1236. Fortuna v. Court of Claims.

In Prohibition. This cause originated in this court on the filing of a complaint for a writ of prohibition. Upon consideration of the joint 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.

MEDIATION REFERRALS

2004-1366. State ex rel. Advantage Tank Lines v. Indus. Comm.

Franklin App. No. 03AP-584. The court refers this case to mediation under S.Ct.Prac.R. XIV(6), and stays the briefing schedule for this case until further notice. The court will not issue any decision on the merits of this case until mediation has concluded. The lifting of this stay of briefing or the return of this case to the court's regular docket will begin de novo the time for briefing prescribed in S.Ct.Prac.R. VI.