

The Supreme Court of Ohio

CASE ANNOUNCEMENTS AND ADMINISTRATIVE ACTIONS

September 24, 2004

MOTION AND PROCEDURAL RULINGS

2003-0779. Case Western Reserve Univ. v. Wilkins.

Board of Tax Appeals, No. 1999-L-417. This cause is pending before the court as an appeal from the Board of Tax Appeals. Oral argument is currently scheduled before a Master Commissioner for October 5, 2004. Upon consideration of appellant's motion to reschedule oral argument,

IT IS ORDERED by the court that the motion to reschedule oral argument be, and hereby is, denied.

2003-1572. State ex rel. Howard v. Indus. Comm.

Franklin App. No. 97AP-860. This cause came on for further consideration of appellant's response to this court's July 27, 2004, show cause order. Upon consideration thereof, the court finds the following:

On September 9, 2003, in case No. 03-1061, this court placed filing restrictions on appellant for engaging in frivolous litigation. In addition, the court ordered that the continued filing of frivolous actions or documents by respondent would result in additional sanctions. Appellant has continued to habitually, persistently, and without reasonable cause engage in frivolous conduct, as defined by S.Ct.Prac.R. XIV(5)(A). Accordingly,

IT IS ORDERED by the court, sua sponte, that appellant Gregory T. Howard is found to be a vexatious litigator under S.Ct.Prac.R. XIV(5)(B).

IT IS FURTHER ORDERED by the court, sua sponte, that Gregory T. Howard is prohibited from continuing or instituting legal proceedings in this court without first obtaining leave. Any request for leave shall be submitted to the Clerk of this court for the court's review.

IT IS FURTHER ORDERED by the court that all previous orders sanctioning appellant remain in effect, including the March 3, 2004, order in this case requiring appellant to pay appellees' attorney fees. In addition, appellant shall pay any

additional attorney fees and expenses appellees have incurred since the date of that order. Appellees shall file a revised statement of attorney fees and expenses within 10 days of the date of this order; appellant may file a response within 10 days of the filing of the statement; and appellees may file a reply within 5 days of the filing of the response.

2003-2036. State v. Barton.

Warren C.P. No. 03CR20526. This cause is pending before the court as a death penalty appeal from the Court of Common Pleas of Warren County. Upon consideration of appellant's motion for leave to add a proposition of law to the appellant's merit brief and motion for the court to set a revised and expedited briefing schedule,

IT IS ORDERED by the court that a ruling on the motions be, and hereby is, stayed until further notice.

2004-1139. State ex rel. Puckett v. Indus. Comm.

Franklin App. No. 03AP-640, 2004-Ohio-2817. The court hereby returns this case to the regular docket under S.Ct.Prac.R. XIV(6). Appellant shall file her merit brief within 40 days of the date of this entry and the parties shall otherwise proceed in accordance with S.Ct.Prac.R. VI. As provided in S.Ct.Prac.R. VI(7), the court may dismiss this case or take other action if the parties fail to timely file merit briefs.

2004-1276. State v. Hall.

Lake App. No. 2001-L-230, 2004-Ohio-3186. This cause is pending before the court as a discretionary appeal and claimed appeal of right. On September 2, 2004, appellee filed a memorandum in response to appellant's memorandum in support of jurisdiction which did not contain a certificate of service. Whereas, S.Ct.Prac.R. XIV(2)(C)(1) prohibits the filing of any document that does not contain a certificate of service,

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

DISCIPLINARY CASES

2002-1086. Dayton Bar Assn. v. Suarez.

This cause came on for further consideration upon the filing of an application for reinstatement by respondent, Isabel Suarez, Attorney Registration No. 000015899, last known business address in Dayton, Ohio.

The court coming now to consider its order of November 13, 2002, wherein the court, pursuant to Gov.Bar R. V(6)(B)(3), suspended respondent for a period of eighteen months with nine months stayed on condition, finds that respondent has substantially complied with that order and with the provisions of Gov.Bar R. V(10)(A). Therefore,

IT IS ORDERED by this court that respondent be, and hereby is, reinstated to the practice of law in the state of Ohio.

2003-1074. Cincinnati Bar Assn. v. Blake.

IT IS ORDERED by this court, sua sponte, that Wilton E. Blake, II, Attorney Registration No. 0061255, last known business address in Cincinnati, Ohio, is found in contempt for failure to comply with this court's order of November 12, 2003, to wit: failure to surrender his certificate of admission and failure to file an affidavit of compliance on or before December 10, 2003, and failure to pay Board costs in the amount of \$145.67 on or before February 10, 2004.

2003-1075. Greene Cty. Bar Assn. v. Fodal.

IT IS ORDERED by this court, sua sponte, that Joe R. Fodal, Attorney Registration No. 0011515, last known business address in Fairborn, Ohio, is found in contempt for failure to comply with this court's order of November 19, 2003, to wit: failure to surrender his certificate of admission and failure to file an affidavit of compliance on or before December 19, 2003, and failure to pay Board costs in the amount of \$182.56 on or before February 17, 2004.

2003-1109. Cincinnati Bar Assn. v. Statzer.

IT IS ORDERED by this court, sua sponte, that Joni Elizabeth Statzer, Attorney Registration No. 0067179, last known business address in Cleves, Ohio, is found in contempt for failure to comply with this court's order of December 31, 2004, to wit: failure to pay Board costs in the amount of \$5,282.00 on or before March 30, 2004.

2003-1110. Stark Cty. Bar Assn. v. McKinney.

IT IS ORDERED by this court, sua sponte, that Patrick L. McKinney, Attorney Registration No. 0058443, last known business address in North Canton, Ohio, is found in contempt for failure to comply with this court's order of December 31, 2003, to wit: failure to file an affidavit of compliance on or before January 31, 2004.

2003-1117. Disciplinary Counsel v. Smith.

IT IS ORDERED by this court, sua sponte, that Stanford Smith, Attorney Registration No. 0030754, last known business address in Cleveland, Ohio, is found in contempt for failure to comply with this court's order of December 31, 2003, to wit: failure to file an affidavit of compliance on or before January 30, 2004.

2003-1517. Mahoning Cty. Bar Assn. v. Longenhagen.

IT IS ORDERED by this court, sua sponte, that Je'Anne Longenhagen, Attorney Registration No. 0029166, last known business address in Youngstown, Ohio, is found in contempt for failure to comply with this court's order of December 24, 2003, to wit: failure to pay Board costs in the amount of \$139.65 on or before March 23, 2004.

2003-1530. Disciplinary Counsel v. Grdina.

IT IS ORDERED by this court, sua sponte, that Michael Grdina, Attorney Registration No. 0038399, last known business address in Hudson, Ohio, is found in contempt for failure to comply with this court's order of February 11, 2004, to wit: failure to file an affidavit of compliance on or before March 12, 2004.

2003-1534. Cincinnati Bar Assn. v. Deaton.

IT IS ORDERED by this court, sua sponte, that J. Reno Deaton, II, Attorney Registration No. 0066990, last known business address in Cincinnati, Ohio, is found in contempt for failure to comply with this court's order of April 14, 2004, to wit: failure to surrender his certificate of admission and failure to file an affidavit of compliance on or before May 14, 2004.

2003-1555. In re Resignation of Crummey.

IT IS ORDERED by this court, sua sponte, that George Francis Crummey, Attorney Registration No. 0032558, last known business address in Van Wert, Ohio, is found in contempt for failure to comply with this court's order of November 14, 2003, to wit: failure to file an affidavit of compliance on or before December 15, 2003.

2003-1811. Toledo Bar Assn. v. Pommeranz.

IT IS ORDERED by this court, sua sponte, that Melvin R. Pommeranz, Attorney Registration No. 0031840, last known business address in Toledo, Ohio, is found in contempt for failure to comply with this court's order of April 14, 2004, to wit: failure to surrender his certificate of admission and failure to file an affidavit of compliance on or before May 14, 2004.

2003-1844. In re Muhlbach.

IT IS ORDERED by this court, sua sponte, that Peter Michael Muhlbach, Attorney Registration No. 0058412, last known business address in Parma, Ohio, is found in contempt for failure to comply with this court's order of January 2, 2004, to wit: failure to file an affidavit of compliance on or before February 3, 2004.

2003-1855. In re Phillips.

IT IS ORDERED by this court, sua sponte, that Aaron L. Phillips, Attorney Registration No. 0062879, last known address in Cleveland, Ohio, is found in contempt for failure to comply with this court's order of November 21, 2003, to wit: failure to file an affidavit of compliance on or before December 22, 2003.

2003-2005. In re Resignation of Evans.

IT IS ORDERED by this court, sua sponte, that Jonathon Paul Evans, Attorney Registration No. 0063147, last known business address in Chardon, Ohio, is found in contempt for failure to comply with this court's order of January 28, 2004, to wit: failure to surrender his certificate of admission and failure to file an affidavit of compliance on or before February 27, 2004.

2003-2221. In re Resignation of Jackson.

IT IS ORDERED by this court, sua sponte, that Otha M. Jackson, Attorney Registration No. 0010036, last known business address in Cleveland, Ohio, is found in contempt for failure to comply with this court's order of March 29, 2004, to wit: failure to file an affidavit of compliance on or before April 28, 2004.

2004-0024. In re DiGiantonio.

IT IS ORDERED by this court, sua sponte, that Edward DiGiantonio, Attorney Registration No. 0014358, last known business address in Akron, Ohio, is found in contempt for failure to comply with this court's order of February 10, 2004, to wit: failure to file an affidavit of compliance on or before March 11, 2004.

2004-0345. In re Stern.

IT IS ORDERED by this court, sua sponte, that Ira Sidney Stern, Attorney Registration No. 0028725, last known business address in Columbus, Ohio, is found in contempt for failure to comply with this court's order of March 29, 2004, to wit: failure to file an affidavit of compliance on or before April 28, 2004.

2004-1418. Cleveland Bar Assn. v. Herron.

On August 25, 2004, the Board of Commissioners on Grievances and Discipline filed a final report in the office of the Clerk of this court pursuant to BCGD Proc.Reg. 11(D), in

which it accepted the agreement entered into by the relator, Cleveland Bar Association, and the respondent, Mark P. Herron. The agreement set forth the misconduct and the agreed, recommended sanction of a six month suspension, stayed on conditions. The Board recommended that the agreement be accepted. The court, sua sponte, issued an order waiving the issuance of a show cause order and this matter was submitted to the court on the report and record filed by the Board. On consideration thereof,

IT IS HEREBY ORDERED by the court, sua sponte, that the recommended sanction is rejected. It is further ordered that, pursuant to Gov.Bar R. V(8)(D), this cause is remanded to the Board of Commissioners on Grievances and Discipline for further proceedings. It is further ordered that these proceedings include consideration of an actual period of suspension. It is further ordered, sua sponte, that proceedings before this court in this case are stayed until further order of this court. Costs to abide final determination of the case.

MISCELLANEOUS DISMISSALS

2004-1128. State ex rel. Poignon v. Ohio Bd. of Pharmacy.

Franklin App. No. 03AP-178. This cause is pending before the court as an appeal from the Court of Appeals for Franklin County. It appears from the records of this court that appellant has not filed a merit brief, due September 20, 2004, in compliance with the Rules of Practice of the Supreme Court and therefore has failed to prosecute this cause with the requisite diligence. Upon consideration thereof,

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

MEDIATION REFERRALS

2004-1409. State ex rel. Wagner v. Miami Cty. Bd. of Commrs.

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.

2004-1435. State ex rel. Bryson v. GAC Merchandising, Inc.

Franklin App. No. 03AP-650, 2004-Ohio-3723. 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.

2004-1439. State ex rel. Ace v. Toyota of Cincinnati Co.

Franklin App. No. 03AP-517, 2004-Ohio-3971. 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.

2004-1454. State ex rel. Meris v. Indus. Comm.

Franklin App. No. 03AP-810, 2004-Ohio-3883. 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.

2004-1472. State ex rel. GMRI, Inc. v. Indus. Comm.

Franklin App. No. 03AP-931, 2004-Ohio-3842. 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.