

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

September 24, 2010

[Cite as *09/24/2010 Case Announcements*, 2010-Ohio-4502.]

MOTION AND PROCEDURAL RULINGS

1995-0112. State v. Benge.

Butler App. No. CA93-06-116. By entry filed February 19, 2010, this court ordered that appellant's sentence be carried into execution on Wednesday, October 6, 2010. In order to facilitate this court's timely consideration of any matters relating to the execution of appellant's sentence,

It is ordered by the court that the Chief Justice may suspend application of any provisions of the Rules of Practice of the Supreme Court, including, but not limited to, the filing requirements imposed by S.Ct.Prac.R. 14.1.

It is further ordered that service of documents as required by S.Ct.Prac.R. 14.2, shall be personal, by facsimile transmission, or by email.

It is further ordered that counsel of record for the parties shall provide this court with a copy of any document relating to this matter that is filed in or issued by any other court in this state or any federal court, as well as any commutation, pardon, or warrant of reprieve issued by the governor. A copy of the document shall be delivered to the office of the Clerk as soon as possible, either personally, by facsimile transmission, or by email.

DISCIPLINARY CASES

1997-2183. Disciplinary Counsel v. Sanborn.

On petition for reinstatement of Thomas H. Sanborn, Attorney Registration No. 0024624. Petition granted and respondent is reinstated to the practice of law in Ohio.

2008-0762. Cleveland Metro. Bar Assn. v. Poole.

On December 4, 2008, this court suspended respondent, Marcus Poole, for a period of one year and stayed the entire suspension on conditions, including probation. On July 7, 2010, the Board of Commissioners on Grievances and Discipline filed a certified panel report recommending that the stay of the one-year suspension be lifted and the entire one-year suspension imposed. On July 15, 2010, the court ordered respondent to show cause why the recommendation of the board should not be imposed. No objections were filed. Upon consideration thereof,

It is ordered and adjudged by the court that the previously imposed stay of the one-year suspension is revoked and that respondent, Marcus Poole, Attorney Registration Number 0040030, last known address in Cleveland, Ohio, shall serve the entire one-year suspension. It is further ordered that all other terms of the December 4, 2008, order shall remain in effect.

It is further ordered that respondent be taxed the costs of these proceedings in the amount of \$951.76, which costs shall be payable to this court by certified check or money order on or before 90 days from the date of this order. It is further ordered that if these costs are not paid in full on or before 90 days from the date of this order, interest at the rate of 10% per annum shall accrue as of 90 days from the date of this order and the matter may be referred to the Attorney General for collection. It is further ordered that respondent may not apply for reinstatement until costs and all accrued interest are paid in full.

It is further ordered that before entering into an employment, contractual, or consulting relationship with any attorney or law firm, respondent shall verify that the attorney or law firm has complied with the registration requirements of Gov.Bar R. V(8)(G)(3). If employed pursuant to Gov.Bar R. V(8)(G), respondent shall refrain from direct client contact except as provided in Gov.Bar R. V(8)(G)(1) and from receiving, disbursing, or otherwise handling any client trust funds or property.

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 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 respondent pursuant to Gov.Bar R. VIII(7)(F), respondent shall reimburse that amount to the Clients' Security Fund within 90 days of the notice of such award.

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 will 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 respondent shall keep the Clerk, the Cleveland Metropolitan 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. All case documents are subject to Rules 44 through 47 of the Rules of Superintendence for the Courts of Ohio, which govern access to court records.

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, to respondent's last known address.

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.

2010-0253. Columbus Bar Assn. v. Williams.

On February 8, 2010, 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, Columbus Bar Association, and the respondent, Lewis Eugene Williams Jr. The agreement set forth the misconduct and the agreed, recommended sanction of a two year suspension with the entire two years stayed. 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 June 17, 2010, the court remanded this matter to the board for further proceedings. On August 17, 2010, the board filed a report accepting the amended agreement to a two-year suspension with the entire two years stayed. 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, including consideration of a more severe sanction. Proceedings before this court in this case are stayed until further order of this court. Costs to abide final determination of the case.

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.

Brown, C.J., Pfeifer, and Lanzinger, JJ., dissent.

2010-1409. In re Resignation of Bobb.

On affidavit of resignation from the practice of law of Rebecca Elizabeth Bobb, Attorney Registration No. 0074654, and on report filed under seal by Disciplinary Counsel. Resignation accepted with disciplinary action pending.

2010-1508. In re Resignation of Payne.

On affidavit of resignation from the practice of law of Kevin Francis Payne, Attorney Registration No. 0033396, and on report filed under seal by Disciplinary Counsel. Resignation accepted with disciplinary action pending.

MISCELLANEOUS ORDERS

2004-2150. Ohio State Bar Assn. v. Allen.

This cause came on for further consideration upon the filing by respondent, John Allen, of a motion and demand to cease all activities due to bankruptcy and an emergency motion to stay and/or vacate all proceedings. Upon consideration thereof,

It is ordered by this court that these motions are denied.

2010-0840. Ohio State Bar Assn. v. West.

On May 11, 2010, movant, Ohio State Bar Association, filed a motion for an order to show cause why respondent should not be found in contempt for failure to comply with the subpoena duces tecum issued by the Board on the Unauthorized Practice of Law. This court ordered respondent, Andrea L. West, to appear before the court on August 10, 2010. Respondent did not appear as ordered. On August 26, 2010, respondent was found in contempt and ordered to comply with the board's subpoena duces tecum on or before September 7, 2010. It was further ordered that if respondent did not comply with the board's subpoena duces tecum, a warrant for respondent's arrest would be issued, and she would be incarcerated for period of 5 days.

Respondent did not comply with the subpoena duces tecum as ordered. Accordingly,

It is ordered by the court that Andrea L. West shall serve 5 days in jail and that a warrant be issued for her arrest to the sheriff of Franklin County and to the sheriffs of such other counties as the contemnor may frequent.

It is further ordered, sua sponte, that the Clerk of the Supreme Court of Ohio is authorized to release to the appropriate law enforcement officials any information concerning respondent that is otherwise confidential for the purpose of facilitating execution of the warrant issued for the arrest of respondent.

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. All documents are subject to Rules 44 through 47 of the Rules of Superintendence for the Courts of Ohio, which govern access to court records.

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 to respondent's last known address.