

The Supreme Court of Ohio

CASE ANNOUNCEMENTS AND ADMINISTRATIVE ACTIONS

June 29, 2006

[Cite as *06/29/2006 Case Announcements, 2006-Ohio-3295.*]

MOTION AND PROCEDURAL RULINGS

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

Franklin App. No. 97AP-860. This cause came on for further consideration of appellant's motion for leave to file a response to this court's December 14, 2005, order,

IT IS ORDERED by the court that the motion for leave is denied.

2005-2264. State v. Diar.

Lorain C.P. No. 04CR065248. This cause is pending before the court as a death penalty appeal from the Court of Common Pleas of Lorain County. Upon consideration of the motions to withdraw as counsel of Michael C. Alberty and Carl J. Rose,

IT IS ORDERED by the court that the motions are granted.

IT IS FURTHER ORDERED, sua sponte, that the Ohio Public Defender is appointed to represent the appellant in this appeal, and that the time for filing appellant's merit brief shall be calculated from the date of this entry.

2005-2364. State v. Perez.

Clark C.P. No. 03CR1010. This cause is pending before the court as a death penalty appeal from the Clark County Court of Common Pleas. Upon consideration of appellant's motion for an extension of time to transmit the record,

IT IS ORDERED by the court that the motion is granted, and the time for transmitting the record is extended to July 19, 2006.

2006-0367. Vectren Energy Delivery of Ohio, Inc. v. Pub. Util. Comm.

Public Utilities Commission, No. 02-220-GA-GCR. This cause is pending before the court as an appeal from the Public Utilities Commission. Upon consideration of the motion of intervening appellee Ohio Consumers' Counsel to allocate or extend argument time,

IT IS ORDERED by the court that the motion is denied as premature.

2006-0423. State v. Abney.

Cuyahoga App. No. 84190, 2006-Ohio-273. This cause is pending before the court as a discretionary appeal and claimed appeal of right. On February 27, 2006, appellant filed a notice that a motion to certify a conflict was pending in the court of appeals and, pursuant to S.Ct.Prac.R. IV(4)(A), this court stayed consideration of the jurisdictional memoranda filed in this appeal. Whereas appellant has neither notified this court that the court of appeals determined that a conflict does not exist as provided by S.Ct.Prac.R. IV(4)(B) nor filed a copy of the court of appeals' order certifying the existence of a conflict as provided by S.Ct.Prac.R. IV(4)(C),

IT IS ORDERED by the court, sua sponte, that appellant show cause within fourteen days of the date of this entry why this court should not proceed to consider the jurisdictional memoranda in this appeal pursuant to S.Ct.Prac.R. III(6).

2006-0788. Ohio Consumers' Counsel v. Pub. Util. Comm.

Public Utilities Commission, No. 05-276-EL-AIR. This cause is pending before this court as an appeal from the Public Utilities Commission. Upon consideration of the motion of Industrial Energy Users-Ohio for leave to intervene as an appellee or, in the alternative, notice of its filing of an amicus brief in support of the appellee,

IT IS ORDERED by the court that the motion for leave to intervene is granted.

2006-0830. Elyria Foundry Co. v. Pub. Util. Comm.

Public Utilities Commission, No. 05-704-EL-ATA. This cause is pending before the court as an appeal from the Public Utilities Commission. Upon consideration of the motion of Industrial Energy Users-Ohio for leave to intervene as appellee or, in the alternative, notice of its filing of an amicus brief in support of the appellee,

IT IS ORDERED by the court that the motion for leave to intervene is granted.

RECONSIDERATION OF PRIOR DECISIONS

2006-0589. State v. Trouten.

Jefferson App. No. 04JE18, 2005-Ohio-6592. Reported at 109 Ohio St.3d 1454, 2006-Ohio-2226, 847 N.E.2d 4. On motion for reconsideration. Motion denied.

DISCIPLINARY CASES

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

On December 31, 2003, this court suspended respondent, Joni Elizabeth Statzer, for a period of six months and stayed the suspension on the condition that she commit no further misconduct. The court further ordered that she pay board costs in the amount of \$5,282.00 within ninety days of the date of the order or she would be found in contempt and suspended until costs, including accrued interest, are paid in full. These costs and all accrued interest remain unpaid. On September 29, 2004, respondent was held in contempt for failure to pay board costs. On May 11, 2006, the court issued a show cause order allowing respondent twenty days to show cause why the stay of her suspension should not be revoked and why she should not be suspended for failure to pay board costs. Respondent did not respond. Upon consideration thereof,

IT IS ORDERED that the previously imposed stay is revoked and respondent, Joni Elizabeth Statzer, Attorney Registration No. 0067179, last known address in Nampa, Idaho, is suspended until board costs, plus accrued interest, are paid in full.

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 respondent shall keep the Clerk, the Cincinnati 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.

2006-0735. Disciplinary Counsel v. Levin.

On Certified Order of the Supreme Court of Illinois. David Michael Levin, Attorney Registration No. 0031492, is suspended from the practice of law in Ohio for 90 days and until restitution is made pursuant to an order of the Supreme Court of Illinois.

MISCELLANEOUS DISMISSALS

2005-0201. Gass v. Massachusetts Mut. Life Ins. Co.

Summit App. No. 21956. This cause is pending before the court as an appeal from the Court of Appeals for Summit County. Upon consideration of the joint application for dismissal,

IT IS ORDERED by the court that the application for dismissal is granted. Accordingly, this cause is dismissed.

2006-0862. State ex rel. Richard v. Anderson.

Lorain App. No. 06CA008887. This cause is pending before the court as an appeal from the Court of Appeals for Lorain County. Upon consideration of appellant's application for dismissal,

IT IS ORDERED by the court that the application for dismissal is granted. Accordingly, this cause is dismissed.

2006-0911. Abbott v. Young.

In Procedendo. This cause originated in this court on the filing of a complaint for a writ of procedendo. Upon consideration of relator's application for dismissal,

IT IS ORDERED by the court that the application for dismissal is granted. Accordingly, this cause is dismissed.

2006-1060. Tyus v. Russo.

In Prohibition. This cause originated in this court on the filing of a complaint for a writ of prohibition. Upon consideration of relator's application for dismissal,

IT IS ORDERED by the court that the application for dismissal is granted. Accordingly, this cause is dismissed.

MEDIATION REFERRALS

The following case has been returned to the regular docket pursuant to S.Ct.Prac.R. XIV(6)(E):

2006-0884. St. Bernard Self-Storage LLC v. Hamilton Cty. Bd. of Revision.
Board of Tax Appeals, No. 2003-T-1532.