

IN THE SUPREME COURT OF OHIO

DISCIPLINARY COUNSEL,)	
)	
Relator,)	Case No. 2011-0408
)	
vs.)	
)	
JOSEPH GREGORY STAFFORD,)	
)	
Respondent.)	
)	

**RESPONDENT'S RESPONSE TO RELATOR'S MOTION
SEEKING CLARIFICATION OF THIS COURT'S JUNE 3, 2011 ENTRY**

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THE SUPREME COURT OF OHIO

In Re:)	
)	Case No. 2011-0408
Complaint against:)	
)	
Joseph G. Stafford,)	
)	
Respondent,)	RESPONDENT'S RESPONSE TO
)	RELATOR'S MOTION SEEKING
Disciplinary Counsel,)	CLARIFICATION OF THIS COURT'S
)	JUNE 3, 2011 ENTRY
Relator.)	
)	

Respondent, by and through counsel, submits his Response to Relator's Motion Seeking Clarification of This Court's June 3, 2011 Entry, which was filed with this Court on June 7, 2011.

PROCEDURAL HISTORY

The hearing of this matter before the panel members was held on July 26-30, 2010. The Findings of Fact, Conclusions of Law and Recommendation issued by the Board of Commissioners on Grievances and Discipline were filed with this Court on March 14, 2011. Relator and Respondent each filed objections to the Board's Recommendation on May 2, 2011.

On May 4, 2011, the Board filed a Motion to Supplement Record, seeking to supplement the record with the May 6, 2010 deposition of Randy T. McGough. On May 9, 2011, Respondent filed an Opposition to the Motion to Supplement Record, articulating therein that Randy T. McGough "testified at the hearing" before the Panel. *Id.* at p. 2. Relator did not respond in any fashion to the Board's May 4, 2011 Motion. On May 17, 2011, Relator and Respondent each filed their respective Answer Brief to the other's objections filed on May 2, 2011. On June 3, 2011, this Court issued an Order providing "this matter is remanded to the

board so that the investigator may appear before the panel and be subjected to examination and cross-examination.” *Appendix Exhibit A*. On June 7, 2011, Relator swiftly filed a Motion Seeking Clarification of This Court’s June 3, 2011 Entry. (“Relator’s Motion”)

ARGUMENT

Relator’s Motion appears to be deficient as the Motion does not specifically request any relief from this Court, or relief which this Court can grant under the Supreme Court Rules of Practice. Relator has not sought to vacate or otherwise modify this Court’s June 3, 2011 Order. Relator has not filed a motion for reconsideration pursuant to S.Ct Prac. R. 11.2. Relator’s Motion does not appear to comply with S.Ct Prac. R. 14.4, which provides the following in part:

(A) Unless otherwise prohibited by these rules, an application for an order or other relief shall be made by filing a motion for the order or relief. The motion shall state with particularity the grounds on which it is based. * * *

Relator’s Motion appears to speculate as to what the purpose was of the Board’s May 4, 2011 Motion to Supplement Record, without any support or authority.

Respondent respectfully submits that there is no need for clarification of this Court’s June 3, 2011 Order, as pursuant to the plain and unambiguous language of the Order, this Court ordered the following: “[u]pon consideration thereof, it is ordered by the court that this matter is remanded to the board so that the investigator may appear before the panel and be subjected to examination and cross-examination.”

The June 3, 2011 Order was issued after this Court considered Respondent’s Opposition filed on May 9, 2011, which clearly articulated that Randy T. McGough “testified at the hearing”. *Id.* at p. 2. Respondent opposed the supplementation of the record in reference to the deposition transcript of Randy T. McGough. Relator chose not to file a responsive pleading to either the Board’s motion or the Respondent’s opposition. Relator should not now be permitted

to weigh in on and be heard in regard to this Court's June 3, 2011 Order, when Relator remained silent after the Board filed its May 4, 2011 Motion to Supplement Record.

Respondent respectfully requests that this Court deny Relator's Motion Seeking Clarification of This Court's June 3, 2011 Entry, as there is nothing to clarify, the June 3, 2011 Order speaks for itself. *Bank of Wooster v. Stevens* (1853), 1 Ohio St. 233 (“[i]t speaks for itself, and when it has spoken, the parties to it at the least, are bound to be silent.”) A court of record speaks only through its journal. It is well settled under Ohio law that a court of record speaks only through its journal and not by oral pronouncements or mere written minute or memorandum.¹ “The oral announcement of a judgment or decree by the trial court binds no one. It is axiomatic that the court speaks only through its journal. Any other holding would necessarily produce a chaotic condition.”²

Respectfully submitted,



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¹ *Schenley v. Kauth* (1953), 160 Ohio St. 109, 111, citing *State ex rel. Indus. Comm. V. Day* (1940), 136 Ohio St. 477, 479; *Bittman v. Bittman* (1934), 129 Ohio St. 123; *State ex rel. Marshall v. Glavas* (2003), 98 Ohio St.3d 297, 298; *Angerman v. Burick* (March 29, 2003), Wayne App. No. 02CA0028, 2003 WL 1524505 (a court of record speaks only through its journal and not by oral pronouncement); *Glick v. Glick* (1999), 133 Ohio App.3d 821, 831; *In re Adoption of Klonowski* (1993), 87 Ohio App.3d 352, 357; *Howard v. Wills* (1991), 77 Ohio App.3d 133, 142; *San Filipo v. San Filipo* (1991), 81 Ohio App.3d 111, 112; *Weinberger v. Weinberger* (1974), 43 Ohio App.2d 129, 133.

² *Bittman, supra* at 127; *Rose v. Rose* (May 23, 1996), Franklin App. No. 95APF12-1626, 1996 WL 274101; *State v. Clements* (December 24, 1990), Clermont App. No. CA90-04-033, 1990 WL 210809.

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Respondent's Response to Relator's Motion Seeking Clarification of this Court's June 3, 2011 Entry was mailed via regular, U.S. Mail to the following on this 9th day of June 2011:

Jonathan W. Marshall
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The Supreme Court of Ohio

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Disciplinary Counsel,
Relator,
v.
Joseph G. Stafford,
Respondent.



Case No. 2011-0408

ORDER

This cause is pending before the court upon the filing by the Board of Commissioners on Grievances and Discipline of a Report recommending that respondent be suspended for a period of twelve months with the entire suspension stayed on conditions. On May 4, 2011, the board filed a Motion to Supplement the Record. Respondent filed a memo opposing the motion on May 9, 2011.

Upon consideration thereof, it is ordered by the court that this matter is remanded to the board so that the investigator may appear before the panel and be subjected to examination and cross-examination.

A handwritten signature in black ink, appearing to read "Maureen O'Connor", written over a horizontal line.

Maureen O'Connor
Chief Justice

EXHIBIT

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