



## INTRODUCTION

Respondent Christopher T. Cicero objects to the sanction of permanent disbarment recommended by the Board of Commissioners on Grievances and Discipline. The Board sua sponte modified the decision of the panel to impose a more severe penalty after the panel recommended that Mr. Cicero be indefinitely suspended from practice, with an opportunity to lift the suspension after two years. Mr. Cicero does not object to the panel's findings of fact and conclusions of law (nor does he object to the modified findings and conclusions reached by the Board), but he urges this Court to adopt the sanction of indefinite suspension as recommended by the Panel.

## STATEMENT OF THE CASE

This case arises from an ethics complaint filed by Relator alleging that after Mr. Cicero received a speeding ticket he obtained a blank entry from Judge Scott VanDerKarr, unilaterally reduced the charge to a headlight violation, and filed the entry without prosecutor approval.

The matter was heard on August 8 and 9 before a three-person panel of the Board of Commissioners on Grievances and Discipline. Despite conflicting evidence from Judge VanDerKarr and the assistant City Prosecutor (Brandon Shroy), the panel concluded that Mr. Cicero took advantage of a lax system and turned a minor speeding infraction into an "ethical tar pit." The panel then concluded that Mr. Cicero violated Prof.Cond.R. 3.3 and Prof.Cond.R. 8.4(c), (d), and (h). (Board Report, ¶ 49). The Panel recommended an indefinite suspension. The Board rejected the panel's recommendation and instead recommended that Mr. Cicero be permanently disbarred.

## STATEMENT OF FACTS

For purposes of his objections, Mr. Cicero accepts the facts as stated in the panel's report.

## LAW AND ARGUMENT

### **PROPOSITION OF LAW NO. I: The Panel's recommendation of an indefinite suspension addresses Respondent's conduct and protects the public.**

In support of its recommendation, the panel cited *Disciplinary Counsel v. Frost*, 122 Ohio St.3d 219, 2009-Ohio-2870, wherein the respondent, who committed acts of dishonesty, engaged in a pattern of misconduct, committed multiple offenses, and failed to acknowledge the wrongfulness of her conduct, received an indefinite suspension. The panel also cited *Columbus Bar Association v. Squeo*, 133 Ohio St.3d 536, 2012-Ohio-5004, wherein the Board's recommendation of an indefinite suspension was upheld despite a finding that seven of the nine aggravating factors set forth in BCGD Proc.Reg. 10(B)(1) were present: (1) a prior disciplinary record; (2) a selfish or dishonest motive; (3) a pattern of misconduct; (4) multiple offenses; (5) failure to cooperate in the disciplinary process; (6) vulnerability of and resulting harm to victims of the misconduct; and, (7) failure to make restitution. Even though nearly all of the aggravating factors considered were present, and even though the Board in that case found no mitigating factors, the offending attorney was not permanently disbarred.

In this case, the Board sua sponte modified the panel's recommended sanction to a permanent disbarment, claiming that this harshest of all sanctions was "necessary to ensure the protection of the public." When imposing sanctions for attorney misconduct, this court considers all relevant factors, including the ethical duties that the lawyer violated and the sanctions imposed in similar cases. *Stark Cty. Bar Ass'n v. Buttacavoli*, 96 Ohio St.3d 424, 2002-Ohio-4743, ¶ 16.

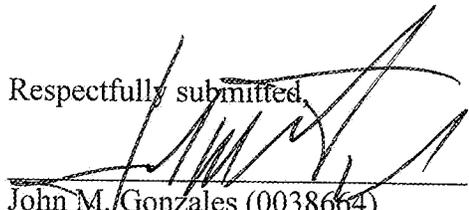
Taking into account all of this case's relevant circumstances, permanent disbarment is too harsh of a sanction. Mr. Cicero has been a successful attorney practicing in the highly stressful

and challenging area of felony criminal representation. His prior disciplinary matters have not involved stealing from or lying to clients, neglecting a legal matter, substance abuse or any other matter directly impacting client relationships. To the contrary, many witnesses testified that Mr. Cicero has been a zealous and effective advocate for his clients. An indefinite suspension from the practice of law will sufficiently punish Mr. Cicero, as he will not be able to petition for reinstatement until at least two years from the date of the Court's order.

CONCLUSION

The Board recommended a sanction of permanent disbarment. This is necessarily the most severe sanction to which an attorney may be subject. It should be imposed only in the most egregious cases and, even in those situations, it should not be handed down lightly. Mr. Cicero urges this Court to reject the Board's recommendation of permanent disbarment and instead to adopt the decision of the panel—an indefinite suspension with the opportunity to petition for reinstatement in two years.

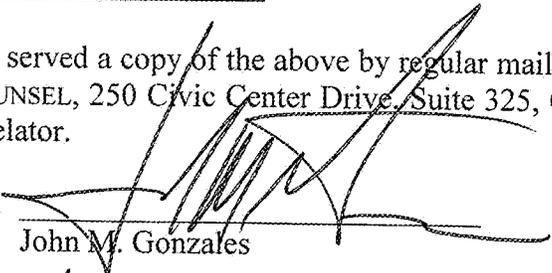
Respectfully submitted,



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*Counsel of record for Respondent*

CERTIFICATE OF SERVICE

I certify that on February 4, 2014, I served a copy of the above by regular mail on Joseph M. Caligiuri, OFFICE OF DISCIPLINARY COUNSEL, 250 Civic Center Drive, Suite 325, Columbus, Ohio 43215-7411, Counsel of record for Relator.



John M. Gonzales