

ORIGINAL

**BEFORE THE BOARD OF PROFESSIONAL CONDUCT
OF THE SUPREME COURT OF OHIO**

In re: :
Complaint Against :
 :
 :
JOSEPH DUES REED, ESQ. (0025938) :
 :
RESPONDENT :
 :
 :
COLUMBUS BAR ASSOCIATION :
 :
RELATOR :

NO. 2014-050

15-0587

**RESPONDENT'S OBJECTIONS TO FINDINGS OF FACT,
CONCLUSIONS OF LAW AND RECOMMENDATION OF
THE BOARD OF PROFESSIONAL CONDUCT OF THE
SUPREME COURT OF OHIO**

Now comes the Respondent and hereby objects to the following Findings of Fact and Recommendation of the Board:

OBJECTION 1: Respondent objects to the finding of the Board that the Respondent acted with dishonest or selfish motives and did not cooperate in the disciplinary process as aggravating factors.

The evidence and the record demonstrate that Respondent did not act with dishonest or selfish motives. All the evidence demonstrated that Respondent's transgressions occurred at a time when he was undergoing serious, physical ailments including a seizure in February, 2012 and the loss of use of a hip which necessitated a total hip replacement of Respondent's left hip in August, 2012.

Respondent was, and is, a sole practitioner who was solely responsible for all work in his office. During the time period in which the disciplinary issues arose, Respondent was struggling

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to serve his clients to the best of his ability. Despite serving dozens of clients during this time period, Mrs. Gravely, Mr. Wentz and Mr. Pierce fell through the cracks. There was no indication that the neglect was intentional. It is only reasonable that intent would be necessary to find dishonest or selfish motives.

Additionally, even Relator agreed that Respondent had cooperated with the process. Respondent timely responded to Relator's written discovery demands as well as attended a deposition with Relator. The only thing Relator and Respondent disagreed upon was the appropriate sanction for these violations. This is evidenced by the fact that the hearing took less than two (2) hours. That is because Respondent entered into written stipulations on practically every aspect of the case.

Respondent cooperated fully with the investigation as well as the hearing process. Thus, there should be a finding of five (5) and not seven (7) aggravating factors.

OBJECTION 2: Respondent objects to the finding that there were no mitigating factors specifically, for the reasons stated above; Respondent was cooperative in the disciplinary process. Again, as stated above, the transgressions occurred during a period of severe health challenges that Respondent had encountered. Those health issues have been resolved and will not recur. Finally, Respondent was not motivated by dishonest or selfish motives. Respondent's transgressions were the result of neglect and not done intentionally.

Therefore, there should be three (3) mitigating factors taken into consideration.

OBJECTION 3: Respondent objects to the finding in paragraph 60 of the Finding of Fact, that he has a history of failing to provide clients with competent representation and fulfilling the necessary obligations inherent in the attorney-client relationship.

Respondent began practice in May, 1983, thirty two (32) years ago. He was sanctioned in 2000 for a problem involving one (1) client complaint. That was resolved, by agreement, with Relator and the Board panel without a hearing. One prior problem in the hundreds of clients Respondent has represented in State and Federal courts is not a "history". Additionally, the acts in this case were nothing like what occurred in 1997 which led to the 2000 disciplinary action.

The hearing panel cites their contemplation of the duties of Respondent, violations incurred and the sanctions imposed in similar cases. *Stark City Bar Assn. v Buttocavoli, 96 Ohio St. 3d424, 2002-Ohio-4743*. However, they ignore the requirement that because each disciplinary case is unique, they are not limited to the factors specified in B.C.G.D. Proc.Req.10(B) but are to take into account all relevant factors in determining what sanctions to impose. *Akron Bar Assoc. v DeLosch 2015-Ohio-484 (2/19/15)*.

The hearing panel ignores the thirty two (32) years of service to clients. At the hearing, even Relator's advocate volunteered that Respondent enjoyed a reputation as a hard working, competent lawyer in the legal community.

The panel also chose to ignore the health challenges that contributed to the neglect that took place in this case. The sanction recommended by the panel is too severe and inappropriate. A better sanction would be to have Respondent, under supervision, perform an unspecified number of pro bono representations. Even if done to the exclusion of being able to earn income, it would be better to utilize Respondent's skills and abilities rather than deny the community of their availability.

Respondent has built his practice by word of mouth. It has been based upon clients referring other clients and Respondent has never advertised, solicited or even put an ad in the Yellow Pages. A large number of consumers would be very disappointed if Respondent were not available to represent them.

Therefore, the proposed sanction is inappropriate and Respondent's suspension should be entirely stayed.

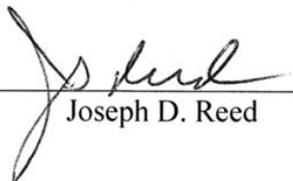
Respectfully Submitted,



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CERTIFICATE OF SERVICE

A true copy of the Objections was served upon the office of Relator by hand this 8th day of May, 2015.



Joseph D. Reed