

1 Office of Disciplinary Counsel v. Brown.

2 [Cite as *Disciplinary Counsel v. Brown* (1996), \_\_\_\_Ohio St. 3d \_\_\_\_.]

3 *Attorneys at law -- Misconduct -- Indefinite suspension -- Engaging*  
4 *in illegal conduct involving moral turpitude -- Engaging in*  
5 *conduct adversely reflecting on fitness to practice law --*  
6 *Conviction of driving under the influence of alcohol -- Testing*  
7 *positive for cocaine.*

8 (No. 96-1431 -- Submitted September 10, 1996 -- Decided November  
9 13, 1996.)

10 On Certified Report by the Board of Commissioners on Grievances  
11 and Discipline of the Supreme Court, No. 95-56.

12 On June 5, 1995, the Office of Disciplinary Counsel of the Supreme  
13 Court of Ohio (“relator”) filed a complaint charging Sherburne C. Brown of  
14 St. Clair Shores, Michigan, Attorney Registration No. 0061338  
15 (“respondent”), with violating DR 1-102(A)(3) (engaging in illegal conduct  
16 involving moral turpitude) and 1-102(A)(6) (engaging in conduct that  
17 adversely reflects on his fitness to practice law).

18 Respondent filed an answer, and in March 1996, relator and  
19 respondent signed an agreed stipulation of facts. Based on the complaint,

1 answer and stipulation, respondent having waived his right to a hearing, a  
2 panel of the Board of Commissioners on Grievances and Discipline of the  
3 Supreme Court (“board”), found that respondent, who was admitted to the  
4 practice of law in Ohio on May 17, 1993, had been convicted in Grosse  
5 Pointe Woods, Michigan in 1985, and in Cleveland, Ohio, in 1991, of  
6 operating a motor vehicle under the influence of alcohol. As a result of the  
7 first conviction respondent was placed on two years’ probation; as a result  
8 of the second, his driving rights were suspended for ninety days and he was  
9 ordered to serve one year of probation.

10 A year after being admitted to practice in Ohio, in May 1994,  
11 respondent was convicted in Oakland County, Michigan, of the felony of  
12 driving under the influence of alcohol. Respondent was fined \$500, ordered  
13 to undergo rehabilitative treatment and sentenced to one year in jail, subject  
14 to work release, followed by three years of probation. In February 1995, the  
15 trial court canceled respondent’s work release privileges because he had  
16 tested positive for cocaine. In March 1995, the trial court denied  
17 respondent’s motion for reinstatement of his work release program,  
18 although the motion was supported by a pharmacologist’s affidavit that

1 respondent had not used cocaine during the seven-month period before the  
2 date on which he was tested. On June 22, 1995 this court indefinitely  
3 suspended respondent from the practice of law on an interim basis. *In re*  
4 *Brown* (1995), 72 Ohio St.3d 1545, 650 N.E.2d 904. Respondent admitted  
5 to the disciplinary violations as charged, and apparently has had some  
6 success at rehabilitation.

7 The panel recommended that respondent be suspended from the  
8 practice of law for a period of two years, with the suspension stayed so long  
9 as respondent complied with certain specified probation and monitoring  
10 conditions.

11 The board adopted the panel's findings of fact and conclusions of  
12 law. Based on respondent's felony conviction and the need that he  
13 affirmatively demonstrate his fitness to practice in the future, the board  
14 recommended that respondent be indefinitely suspended from the practice of  
15 law.

16 *Geoffrey Stern*, Disciplinary Counsel, and *Stacy M. Solochek*,  
17 Assistant Disciplinary Counsel, for relator.

18 *Sherburne C. Brown, pro se.*

