

1 Office of Disciplinary Counsel v. Cicero.

2 [Cite as Disciplinary Counsel v. Cicero (1997), _____Ohio St.3d ____.]

3 *Attorneys at law -- Misconduct -- One-year suspension -- Engaging*
4 *in conduct prejudicial to the administration of justice -- Failing*
5 *to maintain a respectful attitude toward the courts.*

6 (No. 96-1432 -- Submitted January 7, 1997 -- Decided May 14,
7 1997.)

8 ON CERTIFIED REPORT by the Board of Commissioners on Grievances
9 and Discipline of the Supreme Court, No. 94-81.

10 On December 5, 1994, relator, Office of Disciplinary Counsel, filed a
11 complaint charging respondent, Christopher Thomas Cicero of Columbus,
12 Ohio, Attorney Registration No. 0039882, with violating several
13 Disciplinary Rules in two separate counts: one count relating to his
14 relationship in 1993 with a judge of the common pleas court and the second
15 count relating to his representation of a criminal defendant during 1991-
16 1992. After respondent filed an answer, the matter was heard by a panel of
17 the Board of Commissioners on Grievances and Discipline of the Supreme
18 Court (“board”) on September 11 and 12, 1995, and later at a reopened
19 hearing on February 8, 1996 at relator’s request.

1 The hearing evidence established that in October 1993, common pleas
2 judge Deborah O'Neill appointed respondent to represent a criminal
3 defendant in a case pending before her. Judge O'Neill's involvement in
4 that case ended when, at the suggestion of the prosecuting attorney and
5 respondent, the judge recused herself on December 17, 1993. Respondent
6 tried the case to its conclusion.

7 During the period that the case was pending before Judge O'Neill,
8 respondent led several members of the bar, including the opposing assistant
9 prosecuting attorney, to believe that respondent had an ongoing sexual
10 relationship with the judge. At one point, respondent indicated to the
11 prosecutor that the judge would probably deny a continuance because of her
12 desire to get the case resolved so that she could engage respondent in sex
13 over the Christmas holidays. This incident illustrates respondent's
14 impropriety in the manner that he represented his relationship with Judge
15 O'Neill before and after she recused herself from the case. The evidence
16 additionally suggests that respondent's client became aware of respondent's
17 boasting and informed other inmates that they should retain respondent.

1 Respondent acknowledges making exaggerated statements relating to
2 his level of intimacy with the judge during the time she presided over his
3 case. Respondent testified at the hearing that, although he had previously
4 developed romantic feelings toward the judge, a sexual relationship did not
5 develop until she had recused herself from the case.

6 At the February 8, 1996 reopened hearing, Norma Mitchell testified
7 that prior to January 1994, both respondent and the judge had confided in
8 her that they were involved in a sexual relationship. Mitchell's testimony
9 was introduced for the purpose of demonstrating that respondent had
10 violated DR 1-102(A)(4) by lying about the timing of his relationship with
11 the judge during investigations of the case, his deposition, and the
12 disciplinary hearings.

13 On count one, the panel concluded that respondent's actions violated
14 DR 1-102(A)(5)(engaging in conduct that is prejudicial to the
15 administration of justice) and Gov.Bar R. IV (2) (duty of a lawyer to
16 maintain a respectful attitude toward the courts). Finding that Disciplinary
17 Counsel failed to file an amended complaint regarding the alleged DR 1-
18 102(A)(4) violation, the panel did not issue a ruling on that issue. The panel

1 concluded that Disciplinary Counsel failed to carry its burden of providing
2 clear and convincing evidence of a violation of the remaining allegations
3 under count one and all of count two.

4 In light of its findings, the panel recommended that respondent be
5 suspended from the practice of law for one year with six months of the
6 suspension stayed. The board adopted the findings, conclusions, and
7 recommendation of the panel.

8 In response to an order to show cause issued by this court, relator
9 filed objections to the report and recommendations of the board, and
10 respondent filed an answering brief.

11

12 *Geoffrey Stern*, Disciplinary Counsel, *Alvin E. Mathews* and *Sally*
13 *Ann Steuk*, Assistant Disciplinary Counsel; and *Samuel B. Weiner*, for
14 relator.

15 *Andrew W. Cecil*, *Karl H. Schneider* and *Lewis W. Dye*, for
16 respondent.

17
