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CA-
No. 81-640

Supreme Court

LAWYERS PROF. RESP. BOARD

Per Curiam
Took no part,
Coyne, J.

In the Matter of the Petition
for Disciplinary Action Against
William D. O'Hara, Jr., a
Minnesota Lawyer.

Endorsed
Filed March 11, 1983
Wayne Tschimperle, Clerk
Minnesota Supreme Court

S Y L L A B U S

Although multiple violations of the Code of Professional Responsibility and a continuing failure to cooperate with the disciplinary process provide sufficient grounds for immediate disbarment in this case, the extreme penalty of disbarment is not imposed here so that respondent may have an opportunity to rehabilitate himself within prescribed time limits and petition for reinstatement upon meeting prescribed conditions.

Respondent is hereby indefinitely suspended from the practice of law.

O P I N I O N

PER CURIAM.

The disciplinary proceedings against William D. O'Hara, Jr., reached this court through a recommendation for disbarment by a court-appointed referee. O'Hara ordered a transcript, thereby challenging the referee's findings. We affirm the referee's findings and conclusions, but in lieu of outright disbarment, order an indefinite suspension.

On April 20, 1979, charges of unprofessional conduct against O'Hara were presented to a panel of the Lawyers Professional Responsibility Board. The panel stayed further proceedings for 2 years on the condition that O'Hara comply with terms imposed by a stipulation between O'Hara and the Director of the Lawyers Professional Responsibility Board executed on June 29, 1979. The stipulation imposed six conditions. O'Hara was required to:

- 1) abide by the Code of Professional Responsibility;
- 2) issue no checks that are returned unpaid by his bank because of insufficient funds;
- 3) comply with all CLE requirements and, when in doubt about Minnesota law, educate himself concerning the law and, if appropriate, associate a lawyer competent to handle the matter;
- 4) maintain total abstinence from alcohol and other mood-altering chemicals;
- 5) be placed under the supervision of Edward C. Vavreck, a Minnesota attorney, and furnish to him requested reports; and
- 6) attend Alcoholics Anonymous meetings weekly and supply verification as requested.

On May 1, 1981, additional charges of unprofessional conduct and non-compliance with the 1979 stipulation were presented to a panel of the Lawyers Professional Responsibility Board. The board filed a petition for disciplinary

action on June 26, 1981, based on the four original complaints and five additional complaints. This court appointed the Honorable Nicholas S. Chanak as referee in the proceedings and a hearing was held before him on November 2 and 3, 1981. O'Hara failed to appear at this hearing. Judge Chanak ordered O'Hara to submit to physical and psychological examinations to determine his status regarding alcoholism.

A supplementary petition for disciplinary action was filed on March 16, 1982. This petition incorporated all prior complaints, added nine additional charges to bring the total number of complaints to 18, and recommended immediate suspension. O'Hara failed to appear at the April 15, 1982, hearing on the petition for immediate suspension.

On May 4, 1982, this court ordered the immediate suspension of O'Hara, pending final disposition of the proceedings. The order provided for reconsideration upon a showing by O'Hara that he:

1. submitted to the examinations ordered by the referee, Judge Chanak, and that he attended all scheduled hearings;
2. is participating faithfully in an alcohol treatment program;
3. has abstained from consumption of alcohol; and
4. has abided by the Code of Professional Responsibility.

Further hearings were held before Judge Chanak on April 28, 1982. On May 13, 1982, Judge Chanak's Findings of Fact, Conclusions of Law and Recommendation for Disbarment was filed. O'Hara ordered a transcript of the proceedings before the referee pursuant to Rule 14(d), Rules on Lawyers Professional Responsibility, thereby challenging the findings and conclusions. O'Hara, however, failed to pay for the transcript and no transcript has been provided.

We believe that the best way to summarize the various complaints is to set out in full the referee's findings, conclusions, and recommendation, herewith attached and made a part of this opinion as an appendix.

While we concur in the referee's findings and conclusions, we depart from his recommendation of outright disbarment. It is obvious upon close study of the record that O'Hara's troubles all stem from chronic alcoholism. He is not an evil nor a dishonest man. If his alcoholism can be arrested, we are convinced he can be restored as a contributing and worthy member of the Minnesota bar. While he continues to drink, however, he is not fit to practice law and the public must be protected.

Accordingly, O'Hara is indefinitely suspended from the practice of law. He may petition for reinstatement only upon the following conditions being met:

1. That he submit to the physical and psychological examinations requested by the referee;

2. That he undertake long-term treatment and rehabilitation for alcoholism;
3. That he make restitution to all clients for any losses they may have sustained due to O'Hara's neglect;
4. That he make available to the Director of the Lawyers Professional Responsibility Board all records requested by the director pertaining to the complaints filed against him, including all records of court appearances which have bearing on the complaint of his inability to appear on behalf of clients;
5. That he abide by all of the terms of the June 29, 1979, stipulation made with the board;
6. No petition for reinstatement, however, shall be made before O'Hara can show total abstinence from the use of alcohol for at least 1 year following treatment; and
7. Since it is clear to this court that there are grounds for immediate disbarment of O'Hara and that the extreme penalty of disbarment is not imposed only because we feel that he should be given an opportunity to rehabilitate himself, such an effort to rehabilitate himself should not be without time limitations. If no petition for reinstatement be made by O'Hara before January 1, 1985, the director

may petition this court to make the indefinite suspension permanent in the form of permanent disbarment.

COYNE, J. took no part in the consideration or decision of this case.