

The Supreme Court of Ohio

BOARD OF COMMISSIONERS ON GRIEVANCES AND DISCIPLINE

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OPINION 90-6

Issued April 20, 1990

Withdrawn by Adv. Op. 2021-1

[CPR Opinion-provides advice under the Ohio Code of Professional Responsibility which is superseded by the Ohio Rules of Professional Conduct, eff. 2/1/2007.]

[Not current-subsequent rule amendments, Gov. Bar R. V. (G)(1), eff. Sep. 1, 1999.]

SYLLABUS: A lawyer, suspended from the practice of law, may work in a law office under the supervision of a practicing lawyer.

OPINION: We have before us your request for an opinion on whether you may work as a paralegal in a law office in Ohio, while under suspension in the state where you are licensed to practice law. You want to work in a law office under the supervision of a lawyer licensed to practice in Ohio.

In 1979, The American Bar Association issued an opinion indicating the question of whether a law firm could employ a suspended lawyer depends on the legal definition of the practice of law in that state. ABA Committee on Ethics and Professional Responsibility, Informal Op. 1434 (1979). The ABA Committee quoted a previous ABA opinion advising:

[a]n attorney should not employ a disbarred lawyer, even to do only office work and seeing no clients, because of the practical difficulty of confining his activities to an area which does not include practice of law, and because such employment would show disrespect to the courts.

We do not agree. A suspended lawyer has no lesser right to work as a paralegal than a non-lawyer, and no greater right to practice law than a non-lawyer. Wolfram, Modern Legal Ethics 848 (West, 1986).

The practice of law relates to the rendition of legal services for others that calls for the professional judgment of a lawyer. Code of Professional Responsibility, EC 3-5. The professional judgment of a lawyer is considered to be his or her educated ability to relate the general body and philosophy of law to a specific legal problem of a client. Id.

Black's law dictionary defines the practice of law as

not limited to appearing in court, or advising and assisting in the conduct of litigation, but embraces the preparation of pleadings, and other papers incident to actions and special proceedings, conveyancing, the preparation of legal instruments of all kinds, and the giving of all legal advice to clients. Black's Law Dictionary 1055 (5th ed. 1979).

A suspended lawyer may work in a law office as long as he or she does not practice law and is closely supervised by a licensed lawyer. The supervising lawyer is responsible for the actions of the suspended lawyer and can be disciplined for assisting in the unauthorized practice of law under DR 3-101.

Several states have dealt with this issue. The Michigan State Bar held that it is not per se improper to hire a disbarred lawyer provided he or she is placed in some strictly nonprofessional capacity. Michigan State Bar Op. 211 (1972). Florida and Arizona limit suspended or disbarred lawyers to activities such as legal research and similar responsibilities permitted by non-lawyer employees. Arizona State Bar Op. 87-27 (1987), Florida State Bar Op. 62-26 (1986).

For purposes of employment as a paralegal within this state, we find no distinction between a suspended Ohio lawyer and a lawyer suspended by another state. Both are prohibited from holding themselves out as licensed to practice in Ohio or from actually practicing law. A lawyer, under suspension in another state, must comport with that state's restrictions on a suspended lawyer's activities. This opinion is not meant to override rules or regulations of the suspending state.

A suspended lawyer must comply with his or her Order of Suspension including the specific requirements and limitations set forth in such an order. This advisory opinion is not meant to replace or modify such an Order of Suspension which dictates the suspended lawyer's activities.

In conclusion, it is our opinion and you are so advised that a suspended or disbarred attorney is not prohibited from working as a non-lawyer paralegal or similar position in a law office. It is the responsibility of the law office to exercise close

supervisory control over all non-lawyer employees to prevent any unauthorized practice of law. The suspended lawyer acting as a paralegal must comply with any rules or regulations governing paralegals in Ohio and perform only those duties permissible for a paralegal. However, a suspended lawyer's permitted activities are restricted by the specific language of the Supreme Court's Order of Suspension.

This is an informal, non-binding advisory opinion based upon the facts presented and limited to questions arising under the Code of Professional Responsibility.