

Supreme Court Cases by Subject

Misrepresentations and False Accusations

Office of Disciplinary Counsel v. Anonymous Attorney A, 714 A.2d 402 (Pa. 1988) –

Court addressed the element of scienter necessary to establish a *prima facie* violation of RPC 8.4(c) where the allegation of professional misconduct is misrepresentation. A *prima facie* violation is shown where misrepresentation was knowingly made or made with reckless ignorance of truth or falsity thereof.

Office of Disciplinary Counsel v. Price, 732 A.2d 599 (Pa. 1999) – Filing of false accusations against two district justices and district attorney; Respondent's allegations were either knowingly false or made without an objective reasonable belief that they were true; suspension for five years.

Office of Disciplinary Counsel v. Surrick, 749 A.2d 441 (Pa. 2000) – Respondent violated RPC 8.4(c) by acting with reckless disregard for the truth when he leveled accusations of case fixing against certain jurists in a pleading filed in the Superior Court of Pennsylvania; suspension for five years.

Braun as Mitigating Factor

Office of Disciplinary Counsel v. Braun, 553 A.2d 894 (Pa. 1989) – Psychiatric disorder is appropriate consideration as a mitigating factor in disciplinary proceeding.

Office of Disciplinary Counsel v. Christie, 639 A.2d 782 (Pa. 1994) – Conviction of sexual offenses involving minors; caused by psychiatric disorder; five year suspension.

Office of Disciplinary Counsel v. Monsour, 701 A.2d 556 (Pa. 1997) – Misappropriation of client funds; alcohol abuse not established by clear and convincing evidence; disbarment.

Criminal Convictions

Office of Disciplinary Counsel v. Cappuccio, 48 A.3d 1231 (Pa. 2012) – Conviction of endangering the welfare of children, criminal use of a communication facility, corruption of minors, furnishing liquor or malt beverages to minors; Respondent was Chief Deputy District Attorney of Bucks County; “the fact that a lawyer holds a public office, or serves in a public capacity is a factor that properly may be viewed as aggravating the misconduct in an attorney disciplinary matter.”; disbarment.

Office of Disciplinary Counsel v. Casety, 512 A.2d 607 (Pa. 1986) – Conviction for voluntary manslaughter; disbarment.

Office of Disciplinary Counsel v. Costigan, 584 A.2d 296 (Pa. 1990) – Convictions for theft by deception, theft by failure to make required disposition of funds received, criminal conspiracy, aiding in consummation of crime; disbarment.

Office of Disciplinary Counsel v. Chung, 695 A.2d 405 (Pa. 1997) – Conviction for making false statements to federally insured financial institution; suspension for five years.

Office of Disciplinary Counsel v. Eilberg, 441 A.2d 1193 (Pa. 1982) – Conviction for unlawful receipt of compensation for representation of client by Congressman's law firm before federal agency; suspension for five years.

In the Matter of Julius C. Melograne, 888 A.2d 753 (Pa. 2005) – Conviction for conspiracy to commit mail fraud and conspiracy to violate civil rights; Respondent was a district justice and was removed from office by Court of Judicial Discipline; Supreme Court has sole authority to disbar an attorney and did so.

Office of Disciplinary Counsel v. Preate, 731 A.2d 129 (Pa. 1999) – Conviction of one count of mail fraud; suspension for five years. Respondent was a public figure; dissenting opinion of Justice Nigro would disbar Respondent.

Office of Disciplinary Counsel v. Raiford, 687 A.2d 1118 (Pa. 1997) – Conviction for obstructing administration of law or other governmental function, unsworn falsification to authorities, tampering with public records or information; disbarment.

Matter of Renfroe, 695 A.2d 401 (Pa. 1997) – Federal conviction of bribery of witness requires disbarment.

Office of Disciplinary Counsel v. Simon, 507 A.2d 1215 (Pa. 1986) – Conviction of federal drug charges; unlawfully, willfully and knowingly conspiring to import, distribute and possess with intent to distribute, and unlawfully, knowingly and intentionally possessing with intent to distribute cocaine; disbarment.

Office of Disciplinary Counsel v. Stern, 526 A.2d 1180 (Pa. 1987) – Respondent was a principal government witness in prosecution of union official; Respondent counseled his client in conduct known to be illegal or fraudulent, by facilitating the illegal payment to the union official; disbarment.

Office of Disciplinary Counsel v. Tumini, 453 A.2d 310 (Pa. 1982) – Respondent involved in money laundering, delivery of cash payment known to constitute a bribe of a public official, false swearing before grand jury, failure to cooperate with criminal investigation and failure to recant false testimony until faced with indictment for perjury; disbarment.

Office of Disciplinary Counsel v. Troback, 383 A.2d 952 (Pa. 1978) – Conviction for interstate transportation of stolen securities warrants disbarment.

Office of Disciplinary Counsel v. Valentino, 730 A.2d 479 (Pa. 1999) – Conviction for mail fraud; suborned perjury before grand jury; mitigating factors warranted suspension for five years.

Office of Disciplinary Counsel v. Zdrok, 645 A.2d 830 (Pa. 1994) – Conviction of loitering and prowling at nighttime; crime occurred prior to Respondent's admission to bar, but conviction occurred post admission; therefore discipline appropriate; suspension of six months.

Dishonest Behavior

Office of Disciplinary Counsel v. Czmus, 889 A.2d 1197 (Pa. 2005) – Respondent provided false information on his bar application in order to conceal other misconduct; disbarment.

Office of Disciplinary Counsel v. DiAngelus, 907 A.2d 452 (Pa. 2006) - Attorney misrepresented existence of a plea agreement to an assistant district attorney; suspension for five years.

Office of Disciplinary Counsel v. Duffield, 644 A.2d 1186 (Pa. 1994) – Respondent did not inform his client of a court order denying the client's appeal; made misrepresentations to ODC that he informed his client of the denial of the appeal within time to file a petition for allowance of appeal, was dishonest to ODC during its investigation; substantial disciplinary record warrants disbarment. Dishonesty on part of attorney establishes unfitness to practice law.

Office of Disciplinary Counsel v. Grigsby, 425 A.2d 730 (Pa. 1981) – Filing a sworn pleading known to be false warrants disbarment; dishonesty on the part of an attorney establishes his unfitness to continue practicing law. "Truth is the cornerstone of the judicial system; a license to practice law requires allegiance and fidelity to truth." Disbarment is appropriate in cases of recidivist misconduct.

Office of Disciplinary Counsel v. Holston, 619 A.2d 1054 (Pa. 1993) – Knowingly forging court order and certificate, lying to judicial authority upon being questioned as to origins of document, and neglect of a legal matter; disbarment.

Commingling and Conversion of Entrusted Funds

Office of Disciplinary Counsel v. Kanuck, 535 A.2d 69 (Pa. 1987) – Commingling of clients' funds and borrowing those funds, later making restitution, warrants a five year suspension.

Office of Disciplinary Counsel v. Knepp, 441 A.2d 1197 (Pa. 1982) – Four year pattern of misconduct including converting clients' money, charging excessive legal fees, failing to maintain prior records of client funds, neglecting client matters warrants disbarment.

Office of Disciplinary Counsel v. Kissel, 442 A.2d 217 (Pa. 1982) – Forging client's name on settlement check and converting proceeds to personal use, utilizing intimidating collection methods to collect money allegedly owed from client, and taking steps to implement plan to drive client's tenants from property; disbarment.

Office of Disciplinary Counsel v. Lewis, 426 A.2d 1138 (Pa. 1981) – Commingling and converting client funds, misrepresentations, neglecting to properly represent client ; disbarment.

Office of Disciplinary Counsel v. Lucarini, 472 A.2d 186 (Pa. 1983) – Commingling and conversion of client funds warrants disbarment; no *per se* discipline in Pennsylvania; each case decided on totality of facts.

Office of Disciplinary Counsel v. Leopold, 366 A.2d 227 (Pa. 1976) – Misappropriation of client funds warrants disbarment;

Office of Disciplinary Counsel v. Passyn, 644 A.2d 699 (Pa. 1994) – Mismanaging money of client subsequently adjudged incompetent, mismanaging real estate investment of client, lying to clients and trial court, failing to maintain records and failing to return client property upon request; disbarment.

Reinstatement

Office of Disciplinary Counsel v. Keller, 506 A.2d 872 (Pa. 1986) – Where reinstatement is sought by a disbarred attorney, the threshold question is whether the magnitude of the breach of the trust would permit the resumption of practice without a detrimental effect on the integrity and standing of the bar or the administration of justice nor be subversive of the public interest. Respondent was disbarred for forgery, conversion and commingling of entrusted funds and misrepresentation.

Philadelphia New, Inc. v Disciplinary Board of the Supreme Court, 363 A.2d 779 (Pa. 1976) – A reinstatement proceeding is a searching inquiry into a lawyer's present professional and moral fitness to resume the practice of law. The object of concern is not solely the transgressions which gave rise to the lawyer's suspension or disbarment, but rather the nature and extent of the rehabilitative efforts made since the time the sanctions were imposed, and the degree of success achieved in the rehabilitative process.

In re Costigan, 664 A.2d 518 (Pa. 1995) – Attorney was disbarred for his criminal conviction concerning his mishandling of an estate. This misconduct was not so extreme as to prevent reinstatement; however, he failed to establish that he understood the nature of his wrongdoing and that he was not predisposed to commit future ethical infractions. Reinstatement was denied.

In re Greenberg, 749 A.2d 434 (Pa. 2000) – Attorney was disbarred after he acted with his partner to misappropriate over \$2 million from his corporation and repeatedly lied under oath in bankruptcy court. This misconduct was not so egregious as to prevent reinstatement. However, the attorney was not reinstated as his eight years of disbarment were not enough to dissipate the underlying wrongdoing.

In re Perrone, 777 A.2d 413 (Pa. 2001) – Attorney was disbarred after he was convicted of theft by deception and tampering with public records. The misconduct was not so egregious as to prevent reinstatement. However, given the severity of the misconduct, allowing the attorney to be reinstated after less than eight years of disbarment would only reinforce the public's perception that lawyers are greedy and deceitful, thus his petition was denied. This attorney was reinstated four years later.

In re Verlin, 731 A.2d 600 (Pa. 1999) – Attorney was disbarred for assisting a personal injury client in impersonating a dead man at a deposition. This misconduct was not so egregious as to preclude reinstatement. Attorney showed rehabilitation and met his burden of proof under Pa.R.D.E 218(c)(3) He introduced impressive and persuasive character testimony and was remorseful. His eight years of disbarment was found to be sufficient to dissipate the detrimental impact of his misconduct on the integrity and standing of the bar, the administration of justice, and the public interest.

Miscellaneous Misconduct

Office of Disciplinary Counsel v. Davis, 614 A.2d 1116 (Pa. 1992) - Attorney ran a high-volume divorce practice, neglected and mismanaged cases; history of discipline; Court found attorney knowingly and intentionally accepted a volume of cases far beyond his capacity to deal with and made a deliberate decision to practice in this fashion; disbarment.

Office of Disciplinary Counsel v. Geisler, 614 A.2d 1134 (Pa. 1992) - Young, inexperienced attorney had a high-volume, low-cost divorce and bankruptcy practice; neglected to file papers and failed to return telephone calls; suspension of six months.

Office of Disciplinary Counsel v. Jepsen, 787 A.2d 420 (Pa. 2002) – Court had authority to disbar a district justice for misconduct in the practice of law, though the Court of Judicial Discipline was also authorized to discipline judicial officers.

Office of Disciplinary Counsel v. Jackson, 637 A.2d 615 (Pa. 1994) – A suspended attorney who assisted a workmen’s compensation claimant in the commission of perjury and who ignored the suspension order by practicing law and attending a hearing for a pro se claimant was disbarred.

Office of Disciplinary Counsel v. Kiesewetter, Jr. 889 A.2d 47 (Pa. 2005) Attorney disbarred from the practice of law as a result of a 1994 federal civil jury verdict entered against him for fraud. Doctrine of collateral estoppel was properly applied by the Disciplinary Board.

Office of Disciplinary Counsel v. Marcone, 855 A.2d 654 (Pa. 2004) - The Court considered issue of whether an attorney who has been suspended from the practice of law by the Supreme Court of Pennsylvania may nevertheless maintain a law office in Pennsylvania for purposes of practicing before the U.S. District Court . The Court concluded that by maintaining a law office, from which the attorney held himself out to the public and advised clients as to their legal rights, he engaged in the practice of law and was in violation of the Court’s suspension order prohibiting him from engaging in the practice of law.

Office of Disciplinary Counsel v. Wittmaack, 522 A.2d 522 (Pa. 1987) – Disbarment warranted where attorney failed to disclose the full extent of his involvement with a construction company to clients whom he represented in a matter of securing construction mortgage. The attorney further forged a document purporting to be signed by his clients in which the clients were said to acknowledge the dual representation of the purchaser and the contractor. The attorney represented both buyers and sellers of real estate, but until the closing was nearly completed, failed to inform the buyers that he represented the sellers.