

BEFORE THE BOARD OF PROFESSIONAL CONDUCT
OF
THE SUPREME COURT OF OHIO

FILED

APR 13 2015

BOARD OF PROFESSIONAL CONDUCT

In re:

Complaint against

Kevin Purcell, Esq.
Attorney Registration No. (0028375)
A663368
Lorain Correctional Institution
2075 South Avon-Belden Road
Grafton, OH 44044

No. 15 - 020

COMPLAINT AND CERTIFICATE

(Rule V of the Supreme Court Rules for
the Government of the Bar of Ohio.)

Respondent,

RECEIVED

MAR 20 2015

Disciplinary Counsel
250 Civic Center Drive, Suite 325
Columbus, Ohio 43215-7411

Relator.

BOARD OF PROFESSIONAL CONDUCT

Now comes the relator, Disciplinary Counsel, and alleges that respondent, Kevin Purcell, an attorney at law duly admitted to the practice of law in the state of Ohio, is guilty of the following misconduct:

1. Respondent was admitted to the practice of law in the state of Ohio on November 6, 1981.
2. As an attorney, respondent is subject to the Code of Professional Responsibility, the Ohio Rules of Professional Conduct, and the Rules for the Government of the Bar of Ohio.
3. In or about 1995, respondent was appointed to be the guardian of John A. Kane, a disabled Army veteran.
4. Respondent served as Kane's guardian until Kane's death on March 15, 2012.

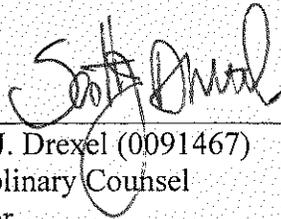
5. During the time that he served as Kane's guardian, respondent misappropriated approximately \$262,000 from Kane's estate.
6. On December 12, 2012, respondent was appointed to be the administrator of Kane's estate.
7. On January 28, 2013, respondent filed a Final Guardian's Account with the Cuyahoga County Probate Court. This account falsely indicated that respondent had transferred \$262,920.24 to himself as the "Administrator of the Estate of John A. Kane;" however, this transfer did not occur because respondent had previously misappropriated Kane's funds.
8. In June 2013, respondent sent Valerie J. Dechant, Kane's sister and the sole beneficiary of Kane's estate, a \$120,000 wire transfer leaving \$142,920.24 unaccounted for.
9. In or about July 2013, DeChant become suspicious of respondent after discovering that Kane's funeral bill had never been paid.
10. On or about July 26, 2013, DeChant and her friend, Betty Kunes, met with respondent regarding her concerns with the Kane Estate.
11. During this meeting, respondent admitted that he had misappropriated funds from Kane's guardianship for his own personal use.
12. On October 28, 2013, DeChant filed a complaint against respondent alleging that he had concealed, embezzled, or unlawfully conveyed guardianship funds. This complaint was filed with the Cuyahoga County Probate Court. *The Adversarial Case of Valerie J. DeChant*, Cuyahoga County Probate Court Case No. 2013 ADV 193454.

13. During the course of the probate litigation, DeChant and respondent agreed that respondent owed the Kane Guardianship (and thereby, the Kane Estate) the sum of \$145,000.
14. On January 9, 2014, Probate Judge Laura J. Gallagher found respondent guilty of concealing assets in the amount of \$145,000. The court further found that Western Surety, the bonding company, had agreed to pay DeChant \$145,000 and that Western Surety was entitled to a judgment in the amount of \$145,000 against respondent. Finally, the court issued a 10% statutory penalty against respondent in the amount of \$14,500 to be paid directly to Kane's estate. To date, respondent has not paid this amount.
15. On September 12, 2014, respondent was arraigned on two counts of aggravated theft and one count of tampering with records. *State of Ohio v. Kevin Purcell*, Cuyahoga County Court of Common Pleas Case No. CR-14-588753-A.
16. On December 8, 2014, respondent pleaded guilty to one count of aggravated theft in exchange for the other two counts against him being nolleed or dismissed. A condition of this plea agreement was that respondent permanently resign his license to practice law.
17. On January 6, 2015, respondent was sentenced to 16 months in prison and ordered to pay restitution in the amount of \$14,500 to Kane's estate.
18. Respondent's conduct as outlined above violates the Ohio Code of Professional Responsibility and the Ohio Rules of Professional Conduct, specifically: DR 1-102(A)(3) (prohibiting a lawyer from engaging in conduct involving moral turpitude); DR-102(A)(4) (prohibiting a lawyer from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation); Prof. Cond. R. 8.4(b) (prohibiting a lawyer from engaging in conduct that adversely reflects on the lawyer's honesty or trustworthiness); and Prof.

Cond. R. 8.4(c) (prohibiting a lawyer from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation).

CONCLUSION

Wherefore, pursuant to Gov. Bar R. V and the Rules of Professional Conduct, relator alleges that respondent is chargeable with misconduct and requests that respondent be disciplined pursuant to Rule V of the Rules of the Government of the Bar of Ohio.



Scott J. Drexel (0091467)
Disciplinary Counsel
Relator

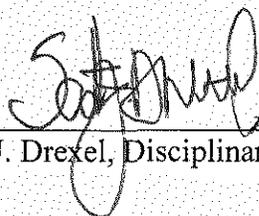


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CERTIFICATE

The undersigned, Scott J. Drexel, Disciplinary Counsel, of the Office of Disciplinary Counsel of the Supreme Court of Ohio hereby certifies that Karen H. Osmond is duly authorized to represent relator in the premises and has accepted the responsibility of prosecuting the complaint to its conclusion. After investigation, relator believes reasonable cause exists to warrant a hearing on such complaint.

Dated: March 20, 2015



Scott J. Drexel, Disciplinary Counsel

Gov. Bar R. V, § 4(I) Requirements for Filing a Complaint.

(1) Definition. "Complaint" means a formal written allegation of misconduct or mental illness of a person designated as the respondent.

* * *

(7) Complaint Filed by Certified Grievance Committee. Six copies of all complaints shall be filed with the Director of the Board. Complaints filed by a Certified Grievance Committee shall be filed in the name of the committee as relator. The complaint shall not be accepted for filing unless signed by one or more attorneys admitted to the practice of law in Ohio, who shall be counsel for the relator. The complaint shall be accompanied by a written certification, signed by the president, secretary, or chair of the Certified Grievance Committee, that the counsel are authorized to represent the relator in the action and have accepted the responsibility of prosecuting the complaint to conclusion. The certification shall constitute the authorization of the counsel to represent the relator in the action as fully and completely as if designated and appointed by order of the Supreme Court with all the privileges and immunities of an officer of the Supreme Court. The complaint also may be signed by the grievant.

(8) Complaint Filed by Disciplinary Counsel. Six copies of all complaints shall be filed with the Director of the Board. Complaints filed by the Disciplinary Counsel shall be filed in the name of the Disciplinary Counsel as relator.

(9) Service. Upon the filing of a complaint with the Director of the Board, the relator shall forward a copy of the complaint to the Disciplinary Counsel, the Certified Grievance Committee of the Ohio State Bar Association, the local bar association, and any Certified Grievance Committee serving the county or counties in which the respondent resides and maintains an office and for the county from which the complaint arose.