

1 Office of Disciplinary Counsel v. Taylor.

2 [Cite as *Disciplinary Counsel v. Taylor* (1997), \_\_\_\_\_ Ohio St.3d \_\_\_\_\_.]

3 *Attorneys at law -- Misconduct -- One-year suspension --*  
4 *Perpetrating a fraud on a municipal court during*  
5 *representation of a client.*

6 (No. 96-2479 -- Submitted January 22, 1997 -- Decided April 30,  
7 1997.)

8 ON CERTIFIED REPORT by the Board of Commissioners on Grievances  
9 and Discipline of the Supreme Court, No. 94-79.

10 On December 5, 1994, relator, Office of Disciplinary Counsel, filed a  
11 complaint charging respondent, Charles Edison Taylor of Westerville, Ohio,  
12 Attorney Registration No. 0029131, in two counts with violations of several  
13 Disciplinary Rules. A panel of the Board of Commissioners on Grievances  
14 and Discipline of the Supreme Court (“board”) heard the matter and found  
15 the following with respect to Count One of the complaint.

16 In 1992, respondent represented Robert O’Ryan, who had been  
17 arrested on February 3, 1992 on several traffic charges, including operating  
18 a motor vehicle while intoxicated (“OMVI”). The OMVI case was docketed  
19 as “*State of Ohio v. Robert O’Ryan*,” case No. 105149, and assigned to

1 Judge Martin in the Franklin County Municipal Court. Respondent entered  
2 a plea of not guilty for Robert O’Ryan and demanded a jury trial giving  
3 Richmond, Virginia, as Robert O’Ryan’s home address.

4 At the time of his OMVI arrest, Robert O’Ryan possessed a Virginia  
5 driver’s license indicating that he was Thomas O’Ryan, which was the name  
6 of his brother who lived in Columbus, Ohio, at a location where Robert  
7 O’Ryan occasionally resided. Because he produced a license in a name  
8 other than his own, the police, on February 11, 1992, charged Robert  
9 O’Ryan with providing false information. The case was designated “*State*  
10 *of Ohio v. Robert O’Ryan,*” case No. 003761, and assigned to Judge Ferrell  
11 in the Franklin County Municipal Court. On September 8, 1992, respondent  
12 filed a plea of not guilty and a jury demand in this case, and this plea and  
13 demand were signed by Robert O’Ryan as defendant with a Columbus, Ohio  
14 address.

15 During March and April 1992, Mary O’Ryan, sister of Robert and  
16 Thomas, told respondent that there was a Thomas O’Ryan and that Robert  
17 O’Ryan was using his identity.

1           On May 8, 1992, Robert O’Ryan was arrested on prohibited backing  
2 and hit-skip violations. These cases were designated “*State of Ohio v.*  
3 *Thomas O’Ryan,*” case Nos. 120701-1 and 120701-2, and assigned to Judge  
4 Romanoff in the Franklin County Municipal Court. Respondent filed a plea  
5 of not guilty and a jury demand. Robert O’Ryan signed the plea and jury  
6 demand as “Thomas O’Ryan” with a Columbus, Ohio address.

7           On August 22, 1992, Robert O’Ryan was arrested again on an OMVI  
8 charge. The case was docketed as “*State of Ohio v. Thomas O’Ryan,*” case  
9 No. 138364, and assigned to Judge Hayes in the Franklin County Municipal  
10 Court. On September 8, 1992, respondent filed in that case a plea of not  
11 guilty and a jury demand. Respondent wrote the caption on that plea and  
12 demand as “*State of Ohio v. Robert,*” and the document was signed by  
13 Robert O’Ryan, with a Columbus, Ohio address.

14           The panel noted the following rebuttal by respondent with respect to  
15 Count One. Respondent claimed that at the arraignment before Judge Hayes  
16 in case No. 138364 on September 8, 1992, he informed the judge that the  
17 proper first name of the defendant was Robert, not Thomas. Respondent  
18 claimed that at a pretrial on the false information case before Judge Ferrell,

1 he informed the court that that there were four cases that had to be  
2 consolidated because the same person was involved. Respondent asserted  
3 that although he believed that he could win the hit-skip case before Judge  
4 Romanoff on the merits, after the case was continued at least two times, he  
5 entered a guilty plea in the name of “Thomas O’Ryan” to improper  
6 “backing,” and the court imposed a fine. Respondent claims that he told  
7 Judge Romanoff about the name discrepancy; however, the transcript  
8 indicates only that the court said, “Mr. Taylor is here on Mr. Thomas  
9 O’Ryan \* \* \*. Mr. O’Ryan will be pleading guilty to prohibited backing or  
10 starting without safety; is that correct?” and respondent replied, “That’s  
11 correct.”

12 The panel further found that respondent filed a motion to consolidate  
13 all of the three remaining cases which were pending before Judges Martin,  
14 Ferrell and Hayes. The motion was granted on October 30, 1992, and all  
15 cases were transferred to Judge Martin. Judge Martin then set a trial date  
16 for November 27, 1992. On that date, Robert O’Ryan was to appear before  
17 Judge Hayes, who had been assigned to hear these cases; however, Robert  
18 O’Ryan failed to appear.

1           With respect to Count One, the panel concluded that respondent had  
2 violated DR 1-102(A)(3) (engaging in conduct involving dishonesty, fraud,  
3 deceit, or misrepresentation), 1-102(A)(5) (engaging in conduct prejudicial  
4 to the administration of justice), 7-102(A)(1) (taking other action on behalf  
5 of his client when he knows or when it is obvious that such action would  
6 serve merely to harass or maliciously injure another), and 7-102(B)(1) (A  
7 lawyer who receives information clearly establishing that his client has, in  
8 the course of representation, perpetrated a fraud upon a person or tribunal  
9 shall promptly call upon his client to rectify the same, and if his client  
10 refuses or is unable to do so, he shall reveal the fraud to the affected person  
11 or tribunal.).

12           With respect to Count Two, the panel found that that on October 11,  
13 1994, respondent pled guilty and was convicted in federal court of failing to  
14 file a tax return, a misdemeanor, was required to pay a special assessment of  
15 \$50, and was fined \$5,000. As to Count Two, the panel concluded, with  
16 one member dissenting, that respondent's failure to file a federal tax return  
17 violated DR 1-102(A)(6) (engaging in conduct that adversely reflects upon  
18 an attorney's fitness to practice law).

1           The panel recommended that respondent be suspended from the  
2 practice of law for one year with six months of the suspension stayed.

3           The board adopted the findings of the panel, but dismissed Count  
4 Two. Based on the fraud perpetrated on the municipal court by  
5 respondent's course of conduct detailed in the findings in Count One, the  
6 board recommended that respondent be suspended from the practice of law  
7 for one year.

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9           *Geoffrey Stern*, Disciplinary Counsel, and *Lori J. Brown*, Assistant  
10 Disciplinary Counsel, for relator.

11           *James M. McCord*, for respondent.

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13           *Per Curiam*. On review of the record, we adopt the findings,  
14 conclusions, and recommendation of the board. Respondent is hereby  
15 suspended from the practice of law for one year. Cost are taxed to  
16 respondent.

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*Judgment accordingly.*

- 1 MOYER, C.J., DOUGLAS, RESNICK, F.E. SWEENEY, PFEIFER and COOK,
- 2 JJ., concur.
- 3 LUNDBERG STRATTON, J., not participating.