

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL : No. 2197 Disciplinary Docket No. 3
:
Petitioner : No. 130 DB 2015
:
v. : Attorney Registration No. 84312
:
GUY N. AMATANGELO, : (Allegheny County)
:
Respondent :

ORDER

PER CURIAM

AND NOW, this 21st day of February, 2017 upon consideration of the Report and Recommendations of the Disciplinary Board, Guy N. Amatangelo is suspended from the Bar of this Commonwealth for a period of three years, retroactive to August 17, 2015, and he shall comply with all the provisions of Pa.R.D.E. 217. Respondent shall pay costs to the Disciplinary Board pursuant to Pa.R.D.E. 208(g).

A True Copy Patricia Nicola
As Of 2/21/2017

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL	:	No. 130 DB 2015
Petitioner	:	
	:	
v.	:	Attorney Registration No. 84312
	:	
GUY N. AMATANGELO	:	
Respondent	:	(Allegheny County)

REPORT AND RECOMMENDATIONS OF
THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

TO THE HONORABLE CHIEF JUSTICE AND JUSTICES
OF THE SUPREME COURT OF PENNSYLVANIA:

Pursuant to Rule 208(d)(2)(iii) of the Pennsylvania Rules of Disciplinary Enforcement, the Disciplinary Board of the Supreme Court of Pennsylvania ("Board") herewith submits its findings and recommendations to your Honorable Court with respect to the above-captioned Petition for Discipline.

I. HISTORY OF PROCEEDINGS

By Order of August 17, 2015, the Supreme Court of Pennsylvania placed Respondent, Guy N. Amatangelo, on temporary suspension from the practice of law, pursuant to Pennsylvania Rule of Disciplinary Enforcement ("Pa.R.D.E.") 214(d)(2), as a result of his criminal conviction. Office of Disciplinary Counsel filed a Petition for Discipline on December 10, 2015. Respondent did not file an Answer to Petition for Discipline.

A prehearing conference was held on March 11, 2016. A disciplinary hearing was held on May 16, 2016, before a District IV Hearing Committee comprised of Chair Susan Shin Connelly, Esquire, and Members Lisa A. Zemba, Esquire and Matthew T. Mangino, Esquire. Respondent appeared *pro se*.

Following the submission of a brief by Petitioner, the Hearing Committee filed a Report on August 29, 2016, concluding that Respondent violated the Pennsylvania Rules of Disciplinary Enforcement and recommending that he be suspended for a period of three years, retroactive to the effective date of the temporary suspension.

The parties did not file exceptions to the Hearing Committee's recommendation.

The Disciplinary Board adjudicated this matter at the meeting on October 13, 2016.

II. FINDINGS OF FACT

The Board makes the following findings:

1. Petitioner, Office of Disciplinary Counsel, whose principal office is located at Pennsylvania Judicial Center, Suite 2700, 601 Commonwealth Avenue, P.O. Box 62485, Harrisburg, Pennsylvania 17106-2485, is invested, pursuant to Pa.R.D.E. 207, with the power and the duty to investigate all matters involving alleged misconduct of an attorney admitted to practice law in the Commonwealth of Pennsylvania and to prosecute all disciplinary proceedings brought in accordance with the various provisions of the aforesaid Rules.

2. Respondent is Guy N. Amatangelo. He was born in 1972 and was admitted to practice law in the Commonwealth of Pennsylvania in 1999. His attorney registration mailing address is 2529 Shenandoah Drive, Pittsburgh, PA 15241. Respondent is subject to the jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

3. Respondent has no record of professional discipline in Pennsylvania.

4. On April 24, 2015, in the criminal matter of *United States of America v. Guy Amatangelo*, filed in the United States District Court for the Western District of Pennsylvania at case number 14-CR-00010, Respondent entered a plea of guilty to the charge of Conspiracy to Distribute and Possess with Intent to Distribute Crack Cocaine in violation of 21 U.S.C. §846. Petitioner's Exhibits ("PE") 1, 2, 3.

5. On September 9, 2015, Respondent was sentenced by United States District Court Judge David Cercone to a term of three years of probation and home detention for twelve months with electronic monitoring as determined by the United States Probation Office. PE 4.

6. On April 24, 2015, in the matter of *United States of America v. Guy Amatangelo*, filed in the United States District Court for the Western District of Pennsylvania at case number 15-CR-00071, Respondent entered an arraignment plea of guilty to the offense of Possession of a Firearm by an Unlawful User of a Controlled Substance in violation of 18 U.S.C. §922(g)(3). PE 5.

7. On September 9, 2015, Judge Cercone accepted Respondent's plea of guilty on the weapons charge and immediately sentenced Respondent to a period of probation for three years to run concurrent with the term of probation imposed

on Respondent at 14-CR-00010. Respondent was directed to comply with the same terms and conditions of probation as imposed by the court in the matter at 14-CR-00010. PE 6.

8. Respondent failed to report his convictions within twenty days to Office of Disciplinary Counsel.

9. Respondent credibly testified at the disciplinary hearing.

10. Prior to his convictions, Respondent worked as an Assistant Allegheny County Public Defender and then maintained a private practice where he concentrated in criminal defense. N.T. 16.

11. Respondent purchased the crack cocaine from a former client who was the subject of a federal investigation, and used the drugs for personal use. Respondent represented this individual on one occasion some years previous to the purchase of the drugs. At no time did Respondent exchange drugs for legal representation. N.T. 20-23.

12. The illegal firearm that Respondent was carrying at the time of his arrest was a family heirloom given to him by a deceased relative. It was forfeited to the government under the terms of his sentencing. N.T. 23.

13. Respondent has been drug tested on a regular basis by the probation office and has not failed a test. Respondent remains on probation until September 2018. N.T. 24.

14. Respondent used crack cocaine for approximately two and one-half months and used regular cocaine for approximately two months prior to the crack cocaine. N.T. 26.

15. Respondent was evaluated at Gateway South, which recommended no further treatment for Respondent. N.T. 27.

16. At the time of the disciplinary hearing, Respondent was not using controlled substances and was not involved in any type of treatment program for drugs and/or alcohol. N.T. 18.

17. Respondent is employed at Mariani and Richards, a Pittsburgh-based masonry restoration and waterproofing firm founded by his grandparents. Respondent runs the day-to-day operations of the company. N.T. 15-16.

18. Respondent accepted responsibility for his actions and expressed genuine remorse. N.T. 13-14.

19. Respondent fully cooperated with Petitioner, including consenting to be placed on temporary suspension. N.T. 14.

20. Respondent introduced character letters in support of his good reputation in the community. Respondent's Exhibit A.

III. CONCLUSIONS OF LAW

By his conduct as set forth above, Respondent violated the following Pennsylvania Rules of Disciplinary Enforcement:

1. Pa.R.D.E. 203(b)(1) – Respondent's convictions are grounds for the imposition of discipline.

2. Pa.R.D.E. 214(a) – Failure to report criminal convictions within twenty days to Office of Disciplinary Counsel.

IV. DISCUSSION

Respondent's criminal convictions of conspiracy to distribute and possess with intent to distribute crack cocaine and possession of a firearm by an unlawful user of a controlled substance is conclusive evidence of his professional misconduct. **Office of Disciplinary Counsel v. Harold E. Casety, Jr.**, 512 A.2d 607, 609 (Pa. 1986). Respondent failed to file an answer to the averments in the Petition for Discipline alleging his misconduct; therefore, those factual averments are deemed admitted. Pa.R.D.E. 203(b)(3). The sole remaining issue is the determination of the degree of discipline to be imposed. Pa.R.D.E. 214(f)(1).

The Board's recommended discipline must reflect facts and circumstances unique to this case, including circumstances that are aggravating or mitigating. **Office of Disciplinary Counsel v. Joshua Eilberg**, 441 A.2d 1193, 1195 (Pa. 1982). The final discipline imposed is determined on a case-by-case basis on the totality of the facts presented. Nevertheless, despite the fact-intensive nature of the analysis, consistency is required so that similar misconduct "is not punished in radically different ways." **Office of Disciplinary Counsel v. Robert S. Lucarini**, 472 A.2d 186, 190 (Pa. 1983).

The Hearing Committee recommended suspension for a period of three years, retroactive to September 16, 2015, the effective date of Respondent's temporary suspension. The parties did not take exception to this recommendation.

For the reasons that follow, we recommend that Respondent be suspended for a period of three years, retroactive to the date of the Respondent's temporary suspension from the practice of law.

The evidence of record indicates that Respondent was convicted of criminal offenses involving his use and possession of crack cocaine and possession of an illegal firearm. The weapon that Respondent was carrying at the time of his arrest was a family heirloom and was forfeited to the government. The crack cocaine was purchased by Respondent from a former client who was the subject of an ongoing federal investigation. The former client was an individual whom Respondent had represented on one occasion several years prior to the criminal activity. Respondent did not exchange legal representation for drugs and used the drugs for personal use. Respondent estimated his use of crack cocaine and regular cocaine lasted for approximately four and one-half months in total. Although he was evaluated at Gateway South, it was recommended that no further treatment was necessary. Respondent has not used illegal substances since his conviction and has passed all drug tests performed by the probation office.

Following his criminal convictions, Respondent cooperated with Petitioner by agreeing to be temporarily suspended. He has not engaged in the practice of law during his temporary suspension and has obtained employment with his family's masonry restoration and waterproofing firm.

Respondent expressed genuine remorse for his criminal misconduct and acknowledged his wrongdoing. He submitted character letters in support of his good reputation in the community.

The record establishes that Respondent's actions constitute serious misconduct. While there is no *per se* discipline in Pennsylvania, prior similar cases are

instructive and are suggestive of a lengthy sanction when, as here, an attorney is convicted of drug offenses. *Lucarini*, at 189-91.

The respondent-attorney in *Office of Disciplinary Counsel v. Gregory V. Smith*, 14 Pa. D. & C. 4th 74 (1991), was suspended for three years, retroactive to his temporary suspension after he was convicted of possessing cocaine and selling cocaine to a client on two occasions. Mr. Smith sought treatment and fully admitted his misconduct.

A suspension for three years, retroactive to the date of the temporary suspension, was imposed by the Supreme Court in *Office of Disciplinary Counsel v. Henry Barr*, 24 Pa. D. & C. 4th 169 (1994). Mr. Barr was convicted in federal court for possession and use of cocaine and, like the instant Respondent, never sold those drugs. Mr. Barr was a prosecuting attorney at the time of his conviction, which is an aggravating circumstance.

In *Office of Disciplinary Counsel v. L. Edward Glass*, No. 5 DB 1995 (D. Bd. Rpt. 4/1/1997) (S. Ct. Order 5/21/1997), the respondent-attorney was convicted of possession with intent to distribute and distribution of cocaine. Mr. Glass established *Braun* mitigation after demonstrating that he suffered from a substance addiction and was actively involved in rehabilitation. The Board recommended to the Court that Mr. Glass be suspended for two and one-half years, retroactive to the date of his temporary suspension, and the Court adopted this recommendation.

A two year period of suspension, retroactive to the date of the temporary suspension, was imposed on a respondent-attorney who was convicted of possession of heroin, a second or subsequent offense. *Office of Disciplinary Counsel v. Ashly*

Mae Wisher a.k.a Ashly Mae Guernaccini, No. 118 DB 2005 (D. Bd. Rpt. 6/14/2006) (S. Ct. Order 9/28/2006). Ms. Wisher demonstrated that she was rehabilitated from her drug addiction and was remorseful for her actions.

More recently, a respondent-attorney was suspended for three years retroactive to the date of his temporary suspension following his conviction for attempting to smuggle marijuana into the Allegheny County Jail for the benefit of an inmate, who also was the attorney's drug dealer. **Office of Disciplinary Counsel v. William Floyd Conway**, No. 149 DB 2009 (D. Bd. Rpt. 4/15/2011) (S. Ct. Order 10/3/2011). The respondent-attorney engaged in the criminal conduct because he needed money to support his cocaine habit. Mr. Conway, like the instant Respondent, offered no **Braun** mitigation, was remorseful for his actions, cooperated with Office of Disciplinary Counsel, and had no disciplinary history.

Viewing Respondent's misconduct on the spectrum of sanctions meted out in cited cases, we conclude that the appropriate discipline is a suspension for three years, retroactive to the date of the temporary suspension on August 17, 2015. This recommendation accounts for the serious nature of Respondent's misconduct and the fact that he is on probation until September 2018, balanced with his cooperation, remorse, recognition of wrongdoing, and lack of prior discipline.

The primary purpose of the disciplinary system in Pennsylvania is to protect the public from unfit attorneys and to preserve public confidence in the legal system. **Office of Disciplinary Counsel v. John J. Keller**, 506 A.2d 872, 875 (Pa. 1986). A suspension of three years is warranted to comply with the decisional law and to call appropriate attention to Respondent's criminal conduct.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania recommends that the Respondent, Guy N. Amatangelo, be Suspended from the practice of law for a period of three years, retroactive to August 17, 2015.

It is further recommended that the expenses incurred in the investigation and prosecution of this matter are to be paid by the Respondent.

Respectfully submitted,

THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

By: 
P. Brennan Hart, Board Member

Date: 12/19/16

Board Members Leonard and Goodrich did not participate.