

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 1377 Disciplinary Docket No. 3
Petitioner :
v. : No. 14 DB 2006
: Attorney Registration No. 54959
STEVEN LAWRENCE SIGAL, :
Respondent : (Philadelphia)

ORDER

PER CURIAM

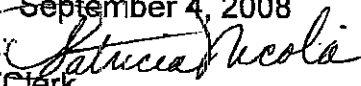
AND NOW, this 4th day of September, 2008, upon consideration of the Report and Recommendations of the Disciplinary Board dated April 11, 2008, the Petition for Review and Objections and Exceptions and response thereto, it is hereby

ORDERED that Steven Lawrence Sigal is suspended from the Bar of this Commonwealth for a period of three years and he shall comply with all the provisions of Rule 217, Pa.R.D.E.

It is further ORDERED that respondent shall pay costs to the Disciplinary Board pursuant to Rule 208(g), Pa.R.D.E.

A True Copy Patricia Nicola

As of: September 4, 2008

Attest: 
Chief Clerk

Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL	:	No. 14 DB 2006
Petitioner	:	
	:	
v.	:	Attorney Registration No. 54959
	:	
STEVEN LAWRENCE SIGAL	:	
Respondent	:	(Philadelphia)

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

On January 9, 2007, Office of Disciplinary Counsel filed a Petition for Discipline against Steven Lawrence Sigal, Respondent. The Petition charged Respondent with violations of Rules of Professional Conduct 3.3(a)(1), 8.4(c), and 8.4(d) arising out of allegations that Respondent made false statements to a judge. Respondent did not file an Answer to Petition for Discipline.

A disciplinary hearing was held on July 11, 2007, before a District I Hearing Committee comprised of Chair Stephen A. Feldman, Esquire, and Members Scott H. Mustin, Esquire, and Richard P. Haaz, Esquire. Respondent was represented by Samuel C. Stretton, Esquire.

Following the submission of briefs by the parties, the Hearing Committee filed a Report on November 14, 2007, finding that Respondent engaged in professional misconduct and recommending that he be suspended for a period of three years.

Respondent filed a Brief on Exceptions on November 21, 2007 and requested oral argument before the Disciplinary Board.

Petitioner filed a Brief Opposing Exceptions on December 10, 2007.

Oral argument was held on January 9, 2008 before a three - member panel of the Board consisting of Board Members Laurence H. Brown, Carl D. Buchholz, III, and Stewart L. Cohen.

This matter was adjudicated by the Disciplinary Board at the meeting on January 30, 2008.

II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner, whose principal office is situated at Suite 1400, 200 North Third Street, Harrisburg, Pennsylvania, is invested, pursuant to Pa.R.D.E. 207, with the power and duty to investigate all matters involving alleged misconduct of any attorney admitted to practice law in the Commonwealth of Pennsylvania and to prosecute all disciplinary proceedings brought in accordance with the various provisions of said Rules.

2. Respondent is Steven Lawrence Sigal. He was born in 1958 and was admitted to practice law in the Commonwealth in 1989. He maintains an office for the practice of law at 1515 Market Street, Suite 1915, Philadelphia PA 19102. He is subject to the jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

3. Respondent has a prior history of discipline. He received a Private Reprimand in 2004 for failing to appear for a scheduled hearing and being held in contempt of court. He received an Informal Admonition in 1998 for misconduct that involved being held in contempt of court for failing to appear for a scheduled hearing and lying to a tribunal.

4. Respondent has been a sole practitioner since 1992 and concentrates in criminal defense matters in state and federal courts.

5. Luis Pratts retained Respondent to represent him on criminal charges filed in the United States District Court in the Eastern District of Pennsylvania.

6. Between September 20, 2004 and October 27, 2004, Mr. Pratts was incarcerated at the Federal Detention Center, 70 Arch Street, Philadelphia.

7. Between September 20, 2004 and October 27, 2004, Respondent did not visit Mr. Pratts in prison.

8. On October 27, 2004, Respondent appeared before the Honorable Michael M. Baylson on behalf of his client, during which time:

a. Judge Baylson asked Respondent how many times he had visited Mr. Pratts in prison since September 20, 2004;

b. Respondent replied to Judge Baylson that he had visited Mr. Pratts "one time"; and

c. Respondent explained to Judge Baylson that he went to Federal Court to visit Mr. Pratts.

9. Respondent's statement to Judge Baylson that he visited Mr. Pratts one time between September 20 and October 27, 2004 was false and Respondent knew it to be false when he made it.

10. By letter dated December 10, 2004, from Judge Baylson to Respondent, Judge Baylson:

a. enclosed a copy of the October 27, 2004 transcript of the hearing;

b. enclosed a copy of a letter from Edward Motley, Warden of the Federal Detention Center, indicating that they had no record of Respondent having visited Mr. Pratts in September and October 2004; and

c. advised Respondent that Respondent could respond to Judge Baylson's letter within two weeks.

11. By letter dated December 15, 2004, from Respondent to Judge Baylson, Respondent:

a. claimed that he had visited Mr. Pratts at the Detention Center at least three times;

b. explained that during one visit to Mr. Pratts he had also visited another client, Julio Figueroa; and

c. stated that he "will stand by the assertions" that he made in court under oath and as an officer of the Court.

12. Respondent's statement in the December 15, 2004 letter to Judge Baylson, that Respondent's October 27, 2004 courtroom testimony was accurate, was a false statement.

13. Respondent presented expert testimony from Dr. Ira N. Herman, a licensed psychiatrist.

14. Dr. Herman first met with Respondent in June of 2003, when Respondent sought assistance for severe marital problems and cocaine addiction. The possibility that Respondent suffered from bipolar disorder was also discussed at that time but not formally pursued because Respondent would not accept that he had such a disorder.

15. Between June 2003 and January 2004 Dr. Herman saw Respondent eight times.

16. Respondent initially refused medication, but later agreed to try different medications. He was non-compliant with the medicine, taking it inconsistently and eventually stopping on his own.

17. Therapy sessions were inconsistent due to upheaval in Respondent's marriage and his intermittent cocaine use.

18. After January 2004 Respondent stopped meeting with Dr. Herman and did not renew therapeutic contact with Dr. Herman until March of 2007.

19. In December 2006 Respondent voluntarily admitted himself to Friends Hospital in Philadelphia for a period of five days because he was again using cocaine and believed his life was out of control.

20. During his hospitalization Respondent fully admitted the extent of his bipolar disorder and began taking Lithium with good compliance and response.

21. Since March 2007 Respondent has treated with Dr. Herman on a weekly or bi-weekly basis. Respondent has been abstinent from cocaine use since his hospitalization in December 2006.

22. Dr. Herman diagnosed Respondent with bipolar disorder and addiction to cocaine and opined that these disorders substantially caused his professional misconduct.

23. The onset of Respondent's bipolar disorder occurred when Respondent was in his late adolescence to early 20's.

24. Respondent started using cocaine at approximately age 18. He used cocaine intermittently, having months of sobriety and then relapsing. This pattern continued for many years.

25. Dr. Herman notes a dramatic difference in Mr. Sigal in 2007 compared to the period of time when Respondent was not fully committed to treatment and sobriety. Dr. Herman observes that Respondent's demeanor is now calmer and he is not as anxious as he used to be.

26. Respondent has a history of lying to Dr. Herman about his cocaine abuse.

27. Dr. Herman testified that in the past, Respondent has exhibited various behaviors typical of bipolar and cocaine dependent individuals, including lying and denying problems.

28. In May 2007 Respondent went through a period of approximately two weeks during which he did not appear at his law office or in court, failed to answer telephone calls from his counsel, and failed to appear at Dr. Herman's deposition.

29. Respondent was depressed due to his marital problems and explained that he "shut down." Respondent had his secretary continue his cases as he had no major trials at that time.

30. Respondent has learned from this experience and now knows to call Dr. Herman or a friend to discuss matters when he is depressed.

31. Dr. Herman opined that Respondent's prognosis is good if he continues to take medication, continues therapy and avoids a recurrence of cocaine use.

32. Respondent intends to continue regular therapy with Dr. Herman.

33. Respondent attends Alcoholics Anonymous four or five days a week. He communicates with his sponsor on a frequent basis.

34. Andrew G. Gay, Sr., testified on behalf of Respondent. Mr. Gay has practiced law in Pennsylvania for more than 40 years. He had a close friendship with Respondent's father, who was a well known criminal defense attorney in the Philadelphia area. He has known Respondent well for the past 15 years, and also knew him as a child due to his friendship with Respondent's father.

35. Mr. Gay described Respondent as a person who had a temper and engaged in erratic conduct. He began to witness changes in Respondent in January of 2007. Respondent was not acting in the frantic manner Mr. Gay had observed before.

36. Gerard McNulty testified on behalf of Respondent. His family owns a shoe store in Philadelphia where he works. Mr. McNulty has known Respondent for eight years.

37. Mr. McNulty is a recovering drug addict and alcoholic and was able to assist Respondent with his cocaine addiction by acting as his AA sponsor.

38. Mr. McNulty and Respondent communicate every day.

39. Mr. McNulty was aware of Respondent's depressive period in May 2007 but did not witness Respondent using cocaine during that time frame.

40. Respondent's disciplinary hearing on the instant charges took place on July 11, 2007.

41. At the conclusion of the disciplinary hearing on July 11, 2007, Respondent left the hearing room and while still in the Offices of Disciplinary Counsel and the area adjacent to the elevators outside the office Respondent made audible comments concerning Disciplinary Counsel Harriet Brumberg, such as "if you hear bones breaking, it's going to be Harriet's" (N.T. 236)

42. Respondent, in the earshot of ODC employees, called Disciplinary Counsel "the most obnoxious fucking person I know." (N.T. 237) and accused Disciplinary Counsel of being a "fucking slime ball" who had a personal vendetta against him. (N.T. 236)

43. Following Respondent's outburst, the Hearing Committee reconvened the disciplinary hearing in the presence of Disciplinary Counsel and Respondent's attorney, Samuel C. Stretton, Esquire. Respondent was not present when the hearing was

reconvened. At the resumption of the disciplinary hearing the receptionist at the Office of Disciplinary Counsel, Tina Patitucci, testified to the substance of Respondent's remarks.

44. Subsequent to the hearing, Respondent submitted an undated letter to Ms. Brumberg apologizing for his remarks, which he labeled "stupid." (R-5)

III. CONCLUSIONS OF LAW

Respondent violated the following Rules of Professional Conduct:

1. RPC 3.3(a)(1) (effective until 1/1/05) A lawyer shall not knowingly make a false statement of material fact or law to a tribunal.

2. RPC 8.4(c) - It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

3. RPC 8.4(d) - It is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.

Respondent suffers from bipolar disorder and cocaine addiction which substantially contributed to his misconduct. Respondent is entitled to mitigation. Office of Disciplinary Counsel v. Braun, 553 A.2d 894 (Pa. 1989).

IV. DISCUSSION

The nature of the matter before the Disciplinary Board is the appropriate measure of discipline for Respondent's admitted violations of the Rules of Professional Conduct for making false statements to a judge. When questioned as to how many times Respondent had visited his client in federal prison, Respondent answered falsely. Respondent insisted his answer was correct in the face of evidence that demonstrated he

had not visited his client during the time frame in question. In order to determine the appropriate discipline, the Board must consider any aggravating or mitigating factors that weigh in favor of or against Respondent.

At the disciplinary hearing Respondent presented evidence that he suffers from bipolar disorder and cocaine addiction, which disorders substantially caused his misconduct. Dr. Ira Herman testified in his capacity as Respondent's treating therapist and as an expert witness. He began treating Respondent in 2003 for cocaine addiction and marital problems. Respondent's compliance with his treatment schedule was erratic and Respondent eventually discontinued treatment. After his hospitalization in December 2006 at Friends Hospital, Respondent finally accepted the diagnosis of bipolar disorder. He renewed his treatment with Dr. Herman in March 2007. Although Respondent suffered a setback in May 2007 for a period of a couple of weeks when he did not visit his office or make any court appearances, did not see Dr. Herman and did not talk to his counsel in the instant matter, he has resolved to use a different approach to his problems by talking to Dr. Herman or to his sponsor, Gerard McNulty. Respondent did not use cocaine during this time frame and has been abstinent since December 2006.

Dr. Herman described Respondent's misconduct as typical of bipolar and cocaine dependent persons. It was not unusual for Respondent to lie and deny problems while in the throes of these disorders, including his propensity to lie about his cocaine use to Dr. Herman during the initial stages of his treatment in 2003 and 2004. Despite Respondent's past actions, Dr. Herman opined that Respondent's prognosis for the future is good as long as he is compliant with his medication and continues in therapy at least weekly. Dr. Herman witnessed a dramatic difference in Respondent between 2003, when

he first came for treatment, and 2007, when Respondent was taking lithium and was abstinent from cocaine.

In further support of his mitigating evidence, Respondent called Andrew Gay, Esquire, a colleague at the criminal bar. Mr. Gay has had the opportunity to observe Respondent's conduct over the years and believed that Respondent acted erratically in the past. Mr. Gay has witnessed an improvement since January 2007. Respondent called Gerard McNulty, his AA sponsor. Mr. McNulty believes Respondent has made progress and is committed to sobriety.

The Board concludes that based on the totality of the evidence that Respondent has proved that he suffers from mental disorders which substantially caused his misconduct. Office of Disciplinary Counsel v. Braun, 553 A.2d 894 (Pa. 1989) and is entitled to some mitigation. However, Respondent's commitment to recovery has just begun since it was not until May 2007 at the earliest that Respondent appears to have finally committed to the recovery plan prescribed by Dr. Herman.

Moreover, aggravating factors are abundant in this matter. Respondent has a history of discipline consisting of a Private Reprimand in 2004 and an Informal Admonition in 1998. Misconduct similar to the instant misconduct led to these incidents of private discipline. Respondent's petulant and childish behavior following the disciplinary hearing that took the form of insults addressed to disciplinary counsel is also seen by the Board as an indication that Respondent has a long way to go before his recovery can be viewed as proceeding smoothly.

Also seen as aggravating factors are Respondent's penchant for blaming his problems on others, his financial issues demonstrated by his failure to pay city, state and

federal taxes in a timely fashion, his attempt to pay his 2007 annual attorney registration with a check drawn on insufficient funds, and his general demeanor. The Hearing Committee found Respondent's testimony to be at best inconsistent.

Despite proof of a Braun connection, the disciplinary system must still impose discipline that protects the public and maintains the integrity of the legal system. An examination of prior cases of attorneys who made false statements to a tribunal reveals that discipline ranges from a one year and one day suspension to disbarment. False statements to a tribunal are considered to be a particularly egregious form of misconduct that goes to the heart of the legal profession. Office of Disciplinary Counsel v. Grigsby, 425 A.2d 730 (Pa. 1981).

The Supreme Court imposed an 18 month suspension on an attorney who testified falsely that he had filed an appeal on June 9, 2005, when in fact he had filed an appeal on June 10, 2005. Office of Disciplinary Counsel v. Cary Bartlow Hall, No 80 DB 2006, (Pa. Dec. 14, 2006). Mr. Hall offered mitigating evidence that he was newly admitted to the bar and had no record of discipline. In Office of Disciplinary Counsel v. Daniel L. Houlihan, Nos. 208 DB 2003 & 110 DB 2004 (Pa. March 28, 2006), Mr. Houlihan was suspended for four years for, among other misconduct, falsely stating to a court that he had effectuated personal service on a father whose parental rights were being terminated. Mr. Houlihan submitted a forged Acceptance of Service to the court and neglected client matters. Finally, the Court disbarred an attorney who made false statements to a tribunal in order to disguise his forgery of court documents. Office of Disciplinary Counsel v. Holston, 619 A.2d 1054 (Pa. 1993). Mr. Holston forged a divorce decree and certificate

verifying the accuracy of the decree. When the court questioned Mr. Holston about the documents, he lied.

Respondent lied to the court regarding his visits to his client. This is not as egregious as the lies told in Houlihan and Holston. Respondent offered mitigating evidence that he suffers from bipolar disorder and cocaine addiction which substantially caused his misconduct. Dr. Herman credibly explained that the acts of lying and denying are typical of persons suffering from these disorders. Respondent's acts of lying and denying carried over into his professional life with serious consequences.

The Hearing Committee recommended a three year period of suspension, as it was persuaded that the aggravating factors, including the incident after the disciplinary hearing, outweighed the mitigating factors. The Board appreciates the Committee's thoughtful analysis of the evidence and agrees that the aggravating factors outweigh the mitigation to which Respondent is entitled. We recommend that Respondent be suspended for two years based on our view that Respondent, who has just started on his road to recovery, should be allowed to continue his recovery, knowing that another Hearing Committee, this Board and ultimately the Supreme Court will be able to judge the extent and quality of that recovery if and when Respondent should petition for reinstatement. In addition, our review of all the cases in this area leads us to conclude a two year suspension is appropriate.

A two year suspension addresses the seriousness of Respondent's misconduct while requiring him to prove his fitness as a lawyer through the safety valve of a reinstatement procedure before practicing law in the future.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that the Respondent, Steven Lawrence Sigal, be suspended from the practice of law for a period of two years.

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: 

Laurence H. Brown, Board Member

Date: April 11, 2008

Board Members Gephart and O'Connor recused in this matter.

Board Member Jefferies did not participate in the adjudication.