

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 1405 Disciplinary Docket No. 3
Petitioner	:	
	:	No. 35 DB 2008
v.	:	
	:	Attorney Registration No. 36542
THOMAS RUSSELL QUINN,	:	
Respondent	:	(Philadelphia)

ORDER

PER CURIAM:

AND NOW, this 16th day of October, 2008, upon consideration of the Recommendation of the Three-Member Panel of the Disciplinary Board dated July 2, 2008, the Joint Petition in Support of Discipline on Consent is hereby granted pursuant to Rule 215(g), Pa.R.D.E., and it is

ORDERED that Thomas Russell Quinn is suspended on consent from the Bar of this Commonwealth for a period of six months, that the suspension be stayed in its entirety, and that he be placed on probation for a period of twelve months, subject to the following conditions:

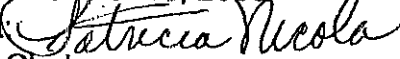
1. Respondent shall continue to undergo outpatient counseling as prescribed by his treating psychiatrist;
2. Respondent shall abstain from using any mind-altering chemical, except as prescribed by his treating psychiatrist or by a physician;
3. Respondent shall file with the Secretary of the Board quarterly reports prepared by Respondent's treating psychiatrist and each quarterly report shall provide an

update on Respondent's treatment and prognosis and report on any change in Respondent's diagnosis, treatment and/or prognosis; and

4. Within thirty days of the date of this Order, Respondent shall provide documented proof to the Secretary of the Board that he has refunded to Mr. Leroy Coley the sum of \$2,800.00.

A True Copy Patricia Nicola

As of: October 16, 2008

Attest: 
Chief Clerk

Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

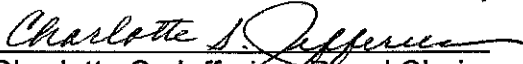
OFFICE OF DISCIPLINARY COUNSEL : No. 35 DB 2008
Petitioner :
v. : Attorney Registration No. 36542
THOMAS RUSSELL QUINN :
Respondent : (Philadelphia)

RECOMMENDATION OF THREE-MEMBER PANEL
OF THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

The Three-Member Panel of the Disciplinary Board of the Supreme Court of Pennsylvania, consisting of Board Members Charlotte S. Jefferies, Gary G. Gentile and Sal Cognetti, Jr., has reviewed the Joint Petition in Support of Discipline on Consent filed in the above-captioned matter on June 9, 2008.

The Panel approves the Petition consenting to a Six Month Suspension to be stayed in its entirety and Twelve Months Probation subject to the conditions set forth in the Joint Petition and recommends to the Supreme Court of Pennsylvania that the attached Joint Petition be Granted.

The Panel further recommends that any necessary expenses incurred in the investigation and prosecution of this matter shall be paid by the respondent-attorney as a condition to the grant of the Petition.


Charlotte S. Jefferies, Panel Chair
The Disciplinary Board of the
Supreme Court of Pennsylvania

Date: July 2, 2008

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :
Petitioner :
:
: No. 35 DB 2008
v. :
: Atty. Reg. No. 36542
THOMAS RUSSELL QUINN, :
Respondent : (Philadelphia)

JOINT PETITION IN SUPPORT OF DISCIPLINE
ON CONSENT UNDER Pa.R.D.E. 215(d)

Petitioner, Office of Disciplinary Counsel ("ODC"), by Paul J. Killion, Chief Disciplinary Counsel, and Richard Hernandez, Disciplinary Counsel, and by Respondent, Thomas Russell Quinn, file this Joint Petition in Support of Discipline on Consent Under Pennsylvania Rule of Disciplinary Enforcement (Pa.R.D.E.) 215(d), and respectfully represent that:

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 of Disciplinary Enforcement.

FILED

JUN 09 2008

Office of the Secretary
The Disciplinary Board of the
Supreme Court of Pennsylvania

2. Respondent, Thomas Russell Quinn, was born on December 29, 1955, and was admitted to practice law in the Commonwealth on October 20, 1982.

3. Respondent's attorney registration address is Two Penn Center, Suite 1516, Philadelphia, PA 19102.

4. Pursuant to Pa.R.D.E. 201(a)(1), Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

5. Petitioner filed a Petition for Discipline against Respondent with the Secretary of the Disciplinary Board on February 29, 2008. Respondent was served with that Petition on March 3, 2008.

6. Respondent did not file an Answer to the Petition for Discipline with the Secretary of the Disciplinary Board.

**SPECIFIC FACTUAL ADMISSIONS AND
RULES OF PROFESSIONAL CONDUCT VIOLATED**

7. Respondent hereby stipulates that the following factual allegations drawn from the Petition for Discipline are true and correct and that he violated the charged Rules of Professional Conduct as set forth herein.

CHARGE

8. On February 7, 2006, Mr. Leroy Coley commenced a civil action in the United States District Court for the

District of Delaware by filing a Petition for Writ of Habeas Corpus ("the Petition"), said case captioned **Leroy Coley v. Attorney General of the State of Delaware and Warden John Nash**, Civil Docket No. 1:06-cv-00085.

9. By Order dated February 6, 2007, the Honorable Joseph J. Farnan, Jr., directed Mr. Coley to inform the court, in writing and by no later than February 28, 2007, of the following:

- a. if Mr. Coley had exhausted state remedies for Claim Four in the Petition;
- b. assuming Mr. Coley had exhausted his state remedies, he was directed to attach Delaware state court judgments; and
- c. if Mr. Coley did not present a claim of ineffective assistance of counsel to the Delaware courts, Mr. Coley was to explain his reason for failing to do so and the prejudice he has suffered from that failure.

10. After Mr. Coley received the February 6, 2007 Order, he and his family decided to retain Respondent for the purpose of preparing a response to said Order.

11. Respondent's fee for representing Mr. Coley was \$5,000.

12. Mr. Coley's family paid Respondent \$2,800 towards his quoted fee of \$5,000.

13. Respondent advised Mr. Coley's family that at a later date Respondent would make arrangements to have the balance of his fee satisfied.

14. By letter dated February 27, 2007, sent by Respondent to Judge Farnan, Respondent, *inter alia*:

- a. advised Judge Farnan that he had corresponded with Mr. Coley and had contact with Mr. Coley's family regarding representing Mr. Coley in connection with preparing a response to the "February 7" [sic], 2007 Order;
- b. indicated that he expected to represent Mr. Coley; and
- c. stated that he was not admitted to practice law in the State of Delaware and requested an extension of two weeks "to make the appropriate arrangements to seek admission pro hac vice, if necessary."

15. By Order dated March 27, 2007, Judge Farnan, *inter alia*:

- a. indicated that Respondent had filed an informal motion for extension of time to

file an application for admission *pro hac vice* so that Respondent could represent Mr. Coley;

b. granted Respondent until April 6, 2007 to enter his appearance on behalf of Mr. Coley; and

c. stated that regardless of whether Respondent applied for and obtained admission *pro hac vice* and subsequently represented Mr. Coley, the response to the February 6, 2007 Order was due by April 9, 2007.

16. Respondent received this Order.

17. Respondent failed to take any action to apply for and obtain admission *pro hac vice* to the Bar of the United States District Court for the District of Delaware, as required by D.Del. LR 83.5(c) and (d).

18. Respondent failed to take any action on Mr. Coley's behalf in connection with preparing and filing a response to the February 6, 2007 Order.

19. By letter dated June 19, 2007, sent to Respondent by regular mail, Mr. Coley, *inter alia*:

a. inquired if Respondent had responded to the February 6, 2007 Order;

- b. requested a copy of Respondent's response to the February 6, 2007 Order, if any;
- c. expressed his desire to know those issues Respondent was planning to raise on Mr. Coley's behalf; and
- d. asked Respondent to promptly respond to his letter.

20. Respondent received this letter.

21. Respondent failed to respond to this letter.

22. By letter dated June 29, 2007, sent to Respondent by regular mail, Mr. Coley, *inter alia*:

- a. stated that he and his family had not heard from Respondent since February 2007;
- b. requested that Respondent update Mr. Coley on his civil case from time to time;
- c. informed Respondent that he wanted to know the issues Respondent had raised in any pleading Respondent had filed with the court on Mr. Coley's behalf; and
- d. noted that he had previously sent Respondent a letter that went unanswered.

23. Respondent received this letter.

24. Respondent failed to respond to this letter.

25. By letter dated September 1, 2007, sent to Respondent by regular mail, Mr. Coley, *inter alia*:

- a. advised Respondent that he had sent a letter to the Office of Professional Responsibility, a copy of which he enclosed, regarding Respondent's conduct in handling Mr. Coley's civil case;
- b. stated that according to "court records," Respondent had not filed any pleading on Mr. Coley's behalf; and
- c. requested that Respondent contact his family at Respondent's earliest convenience.

26. Respondent received this letter.

27. By letter dated September 21, 2007, addressed to Mr. Coley, Respondent, *inter alia*:

- a. acknowledged receipt of Mr. Coley's September 1, 2007 letter, with attachments;
- b. advised Mr. Coley that Respondent did not have "easy access to his file" that day and intended to submit a response on Mr. Coley's behalf by Monday, September 24, 2007, unless Respondent was engaged in a scheduled jury trial in an unrelated matter; and

c. informed Mr. Coley that if he filed a disciplinary complaint, Respondent would be unable to assist Mr. Coley in his legal matter.

28. From time to time, members of Mr. Coley's family would call Respondent's office telephone number to ascertain the status of Mr. Coley's civil case and leave messages requesting that Respondent return their telephone calls.

a. Respondent failed to return their telephone calls.

29. By Memorandum Opinion and Order dated September 17, 2007, Judge Farnan dismissed the Petition.

30. Respondent failed to refund the advance payment of his fee that went unearned upon termination of the representation by virtue of Respondent's inaction in Mr. Coley's civil case and the entry of the Memorandum Opinion and Order.

31. By his conduct as alleged in Paragraphs 8 through 30 above, Respondent violated the following Rules of Professional Conduct:

a. RPC 1.3, which states that a lawyer shall act with reasonable diligence and promptness in representing a client;

- b. RPC 1.4(a)(3), which states that a lawyer shall keep the client reasonably informed about the status of the matter;
- c. RPC 1.4(a)(4), which states that a lawyer shall promptly comply with reasonable requests for information; and
- d. RPC 1.16(d), which states that upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law.

SPECIFIC JOINT RECOMMENDATION FOR DISCIPLINE

32. Petitioner and Respondent jointly recommend that the appropriate discipline for Respondent's admitted misconduct is a six-month suspension, to be stayed in its entirety, to be followed by twelve months of probation,

with conditions. The conditions are designed to make Mr. Coley financially whole and to ensure that Respondent continues to receive treatment for his depression.

33. Respondent hereby consents to that discipline being imposed upon him by the Supreme Court of Pennsylvania. Attached to this Petition is Respondent's executed Affidavit required by Rule 215(d), Pa.R.D.E., stating that he consents to the recommended discipline, including the mandatory acknowledgements contained in Rule 215(d)(1) through (4), Pa.R.D.E.

34. In support of Petitioner and Respondent's joint recommendation, it is respectfully submitted that there are several mitigating circumstances:

- a. Respondent has admitted engaging in misconduct and violating the charged Rules of Professional Conduct;
- b. Respondent has cooperated with Petitioner, as is evidenced by Respondent's admissions herein and his consent to receiving a six-month suspension, to be stayed in its entirety, to be followed by twelve months of probation, with conditions;
- c. Respondent is remorseful for his misconduct and understands he should be disciplined, as

is evidenced by his consent to receiving a six-month suspension, to be stayed in its entirety, to be followed by twelve months of probation, with conditions; and

- d. During the time period of Respondent's misconduct, Respondent's father was terminally ill with cancer; Respondent's father passed away in January 2008. Respondent characterized himself during this time frame as "depressed and distracted." Respondent has provided Petitioner with a letter prepared by Respondent's psychiatrist, attesting to Respondent's ongoing treatment for depression.

35. Respondent has the following record of discipline, which is an aggravating factor in determining the discipline to impose:

- a. On September 10, 2002, Respondent received an informal admonition for violating Rules of Professional Conduct 1.3, 1.4(a), 1.4(b), and 1.16(a)(2). In that matter, Respondent had failed to file a Memorandum of Law in support of a client's Petition for Writ of Habeas Corpus, to respond to the inquiries

made by the client and his mother, to inform the client that Respondent was suffering from a debilitating condition, and to withdraw from the representation when he was suffering from a debilitating condition that impaired his ability to represent the client.

- b. On March 7, 2005, Respondent received a private reprimand with an eighteen-month period of probation for violating Rules of Professional Conduct 1.4(a), 1.4(b), and 1.5(b). In that matter, Respondent failed to advise his client or the client's wife of the court's denial of a motion and to respond to the wife's correspondence inquiring about the status of her husband's case. Respondent also failed to provide to either the client or the client's wife a written fee agreement. Because Respondent admitted that depression and alcohol abuse were factors in his misconduct, Respondent was placed on probation for eighteen months, with conditions, to ensure that Respondent continued to undergo treatment and

counseling for his medical conditions. Respondent's probation was terminated without incident on August 24, 2006.

36. Attorneys with a record of discipline who have engaged in neglect of client matters have generally received discipline ranging from a private reprimand to suspension for one year and one day, depending upon the aggravating and mitigating factors. See *In re Anonymous No. 47 DB 91*, 18 Pa. D.&C.4th 418 (1993) (private reprimand); *In re Anonymous No. 43 DB 92*, 32 Pa. D.&C.4th 130 (1995) (private reprimand and a one-year term of probation with a practice monitor); *Office of Disciplinary Counsel v. Edward C. Meehan, Jr.*, No. 26 DB 2006 (Recommendation of the Three-Member Panel of the Disciplinary Board 6/27/06) (S.Ct. Order 9/18/06) (public censure); *Office of Disciplinary Counsel v. Neil Jokelson*, Nos. 58 and 102 DB 1998 (D.Bd. Rpt. 12/22/00) (S.Ct. Order 2/26/01) (public censure and three years of probation with a practice monitor); *Office of Disciplinary Counsel v. Michael S. Geisler*, 614 A.2d 1134 (Pa. 1992) (six-month suspension to be followed by a one-year term of probation with a practice monitor); and *Office of Disciplinary Counsel v. Michael G. Bowen*, Nos. 10 and 28 DB 2003, 73 Pa. D.&C.4th 335 (2004) (suspension for one year and one day).

37. The recommended discipline is supported by the cases of *Jokelson* and *Geisler*.

Respondent Jokelson received a public censure and three years of probation with a practice monitor for failing to act diligently and communicate with his clients in two matters; Respondent Jokelson had a history of prior discipline consisting of two informal admonitions and two private reprimands, but presented compelling character testimony and demonstrated significant changes in his office management.

Respondent Geisler was suspended for six months to be followed by a one-year term of probation with a practice monitor for 21 counts of lack of diligence and failure to communicate. Respondent Geisler's youth, inexperience, and lack of prior record were substantial mitigating factors that our Supreme Court weighed in deciding against the imposition of more substantial public discipline.

In the matter at bar, Respondent's misconduct is not sufficiently egregious, even when coupled with his record of discipline, to warrant Respondent's serving an actual term of suspension, as was imposed in *Geisler*. Unlike Respondent Geisler, who neglected multiple client matters, Respondent neglected one client matter. Because Respondent attributes his misconduct to the depressive episode

triggered by his father's terminal illness with cancer, a period of probation with conditions is appropriate. The recommended conditions will require Respondent to comply with his psychiatrist's recommended treatment program and will require Respondent to submit quarterly reports prepared by his psychiatrist to the Secretary of the Board so that the disciplinary system will be alerted to any substantial change in Respondent's mental health. Respondent acknowledges that he should be required to make Mr. Coley financially whole as an additional condition of his probation.

WHEREFORE, Petitioner and Respondent respectfully request that:

- a. Pursuant to Pa.R.D.E. 215(e) and 215(g), the three-member panel of the Disciplinary Board review and approve the Joint Petition in Support of Discipline on Consent and file its recommendation with the Supreme Court of Pennsylvania recommending that the Supreme Court enter an Order that Respondent receive a six-month suspension, to be stayed in its entirety, followed by probation for a period of twelve months, subject to the following conditions:

(a) Respondent shall continue to undergo outpatient counseling as prescribed by his treating psychiatrist;

(b) Respondent shall abstain from using any mind-altering chemical, except as prescribed by his treating psychiatrist or by a physician;

(c) Respondent shall file with the Secretary of the Board quarterly reports prepared by Respondent's treating psychiatrist; each quarterly report shall provide an update on Respondent's treatment and prognosis and report on any change in Respondent's diagnosis, treatment and/or prognosis; and

(d) Within thirty days of the Pennsylvania Supreme Court's Order approving the within Joint Petition in Support of Discipline on Consent, Respondent shall provide documented proof to the Secretary of the Board that he has refunded to Mr. Leroy Coley the sum of \$2,800.00.


b. Pursuant to Pa.R.D.E. 215(i), the three-member panel of the Disciplinary Board enter an order for Respondent to pay the necessary expenses incurred in the investigation and prosecution of this matter as a condition to the grant of the Petition, and that all expenses be paid by Respondent before the imposition of discipline under Pa.R.D.E. 215(g).

Respectfully and jointly submitted,

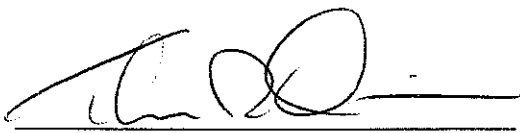
OFFICE OF DISCIPLINARY COUNSEL

PAUL J. KILLION
CHIEF DISCIPLINARY COUNSEL

June 6, 2008
Date

By 
Richard Hernandez
Disciplinary Counsel

6/6/08
Date

By 
Thomas Russell Quinn
Respondent

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :
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: No. 35 DB 2008
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: Atty. Reg. No. 36542
THOMAS RUSSELL QUINN, :
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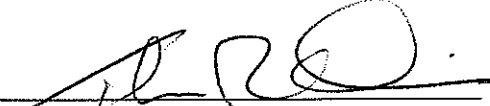
VERIFICATION

The statements contained in the foregoing Joint
Petition In Support Of Discipline On Consent Under
Pa.R.D.E. 215(d) are true and correct to the best of our
knowledge, information and belief and are made subject to
the penalties of 18 Pa.C.S. §4904, relating to unsworn
falsification to authorities.

June 6 2008
Date


Richard Hernandez
Disciplinary Counsel

6/6/08
Date


Thomas Russell Quinn
Respondent

BEFORE THE DISCIPLINARY BOARD OF THE
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AFFIDAVIT UNDER RULE 215(d), Pa.R.D.E.

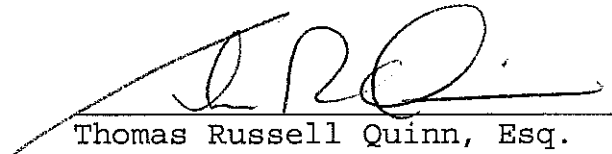
Respondent, Thomas Russell Quinn, hereby states that he consents to the imposition of a six-month suspension, to be stayed in its entirety, to be followed by twelve months of probation, with conditions, as jointly recommended by Petitioner, Office of Disciplinary Counsel, and Respondent in the Joint Petition In Support Of Discipline On Consent and further states that:

1. His consent is freely and voluntarily rendered; he is not being subjected to coercion or duress; he is fully aware of the implications of submitting the consent; and he has not consulted with counsel in connection with the decision to consent to discipline;

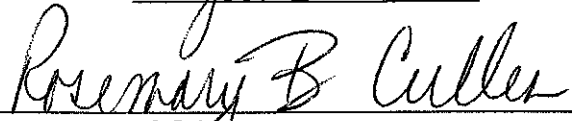
2. He is aware that there is presently pending a disciplinary proceeding at No. 35 DB 2008 involving allegations that he has been guilty of misconduct as set forth in the Joint Petition;

3. He acknowledges that the material facts set forth in the Joint Petition are true; and

4. He consents because he knows that if charges pending at No. 35 DB 2008 continued to be prosecuted, he could not successfully defend against them.


Thomas Russell Quinn, Esq.
Respondent

Sworn to and subscribed
before me this 6th
day of June, 2008.


Notary Public

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
ROSEMARY B. CULLEN, Notary Public
City of Philadelphia, Phila. County
My Commission Expires July 22, 2010