

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 1857 Disciplinary Docket No. 3
Petitioner :
v. : Nos. 170 DB 2011 and 101 and 103 DB
: 2012
: :
DAVID ARTHUR MORGAN, JR., : Attorney Registration No. 64333
Respondent :
: (Tioga County)

ORDER

PER CURIAM:

AND NOW, this 24th day of April, 2013, upon consideration of the Recommendation of the Three-Member Panel of the Disciplinary Board dated February 13, 2013, 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 David Arthur Morgan, Jr., is suspended on consent from the Bar of this Commonwealth for a period of five years and he shall comply with all the provisions of Rule 217, Pa.R.D.E.

A True Copy Patricia Nicola
As Of 4/24/2013

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

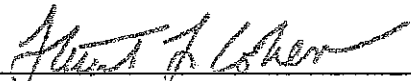
OFFICE OF DISCIPLINARY COUNSEL : No. 1857 Disciplinary Docket No. 3
Petitioner :
v. : Nos. 170 DB 2011, 101 & 103 DB 2012
: Attorney Registration No. 64333
DAVID ARTHUR MORGAN, JR. :
Respondent : (Tioga County)

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 Stewart L. Cohen, Gerald Lawrence and Douglas W. Leonard, has reviewed the Joint Petition in Support of Discipline on Consent filed in the above-captioned matter on January 25, 2013.

The Panel approves the Joint Petition consenting to a five year suspension and recommends to the Supreme Court of Pennsylvania that the attached 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.



Stewart L. Cohen, Panel Chair
The Disciplinary Board of the
Supreme Court of Pennsylvania

Date: February 13, 2013

**BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA**

| | | |
|---------------------------------|---|------------------------------|
| OFFICE OF DISCIPLINARY COUNSEL, | : | No. 1857 Disciplinary Docket |
| Petitioner | : | No. 3 – Supreme Court |
| | : | |
| | : | No. 170 DB 2011 |
| v. | : | No. 101 DB 2012 |
| | : | No. 103 DB 2012 |
| DAVID ARTHUR MORGAN, JR. | : | |
| Respondent | : | Attorney Reg. No. 64333 |
| | : | |
| | : | (Tioga County) |

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

Petitioner, the Office of Disciplinary Counsel (hereinafter, “ODC”) by Paul J. Killion, Chief Disciplinary Counsel and Bruce H. Bikin, Disciplinary Counsel, and Respondent, David Arthur Morgan, Jr., (hereinafter, “Respondent”), respectfully petition the Disciplinary Board in support of discipline on consent, pursuant to Pennsylvania Rule of Disciplinary Enforcement (“Pa.R.D.E.”) 215(d), and in support thereof state:

1. ODC, whose principal office is situated at the Pennsylvania Judicial Center, Suite 2700, 601 Commonwealth Avenue, P.O. Box 62485, Harrisburg, Pennsylvania 17106, is invested, pursuant to Pa.R.D.E. 207, with the power and 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 Enforcement Rules.

FILED

JAN 25 2013

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

2. Respondent, David Arthur Morgan, Jr., was born on February 13, 1951, and was admitted to practice law in the Commonwealth of Pennsylvania on May 15, 1992.

3. Respondent's address of record is 885 Catlin Hollow Road, Wellsboro, PA. 16901.

4. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

5. By Order dated September 16, 2012, the Supreme Court of Pennsylvania granted ODC's Petition for Emergency Temporary Suspension and Related Relief Pursuant to Pa.R.D.E. 208(f)(1) ("Petition for Emergency Temporary Suspension"), which Petitioner did not oppose. As more fully set forth *infra*, the Petition for Emergency Temporary Suspension related that ODC had received twenty-three complaints from clients or former clients of the Respondent alleging neglect of client matters, failure to return unearned fees, and lack of communication from in or about 2010 to the date of the Petition.

**SPECIFIC FACTUAL ADMISSIONS, RULES OF DISCIPLINARY
ENFORCEMENT AND RULES OF PROFESSIONAL CONDUCT VIOLATED**

Pending Petitions for Discipline

6. There are presently pending against Respondent two Petitions for Discipline, docketed at 103 DB 2012 and 170 DB 2011, which have been consolidated for Hearing.

No. 103 DB 2012

7. The Petition for Discipline at 103 DB 2012 involves two separate client matters, the "Nickerson/Harmon Matter," and the "Pickett Matter." In the Nickerson/Harmon Matter, Respondent was consulted by Roy A. Nickerson of Coudersport, Pennsylvania, concerning possible representation of him and his stepson, Ronald Thomas Harmon III, in related criminal matters pending in Potter County. As a result of an incident that occurred on January 9, 2011,

Nickerson was charged with disorderly conduct and Harmon, a minor, was charged with aggravated assault. Respondent's initial oral agreement was that Respondent would represent both parties for \$1,500.00. Mr. Nickerson paid Respondent the \$1,500.00 in cash. Subsequently, Respondent had Mr. Nickerson sign a fee agreement dated April 20, 2011 in which Respondent charged him an additional \$2,500.00, of which Mr. Nickerson paid \$1,500.00. Ronald Thomas Harmon, III, never signed a fee agreement with Respondent, nor was there a fee agreement signed by a responsible adult concerning Mr. Harmon.

8. Respondent negotiated a guilty plea for Mr. Nickerson. Respondent represented to Mr. Nickerson that if he pled guilty, the charges against Mr. Harmon would be dropped. Mr. Nickerson pled guilty to the charges. However, the charges against Mr. Harmon were never dropped. Further, Respondent failed to appear at any of the subsequent hearings scheduled for the trial of the charges against Mr. Harmon. As a result, the Potter County Public Defender's Office was required to represent Mr. Harmon in his criminal matter.

9. Mr. Nickerson requested that Respondent return some of the money paid to him in fees for representing Mr. Nickerson and Mr. Harmon, as well as return the papers and file that Respondent possessed relating to the representation of Mr. Harmon. Respondent refused to refund any of the monies due Mr. Nickerson for his failure to represent Mr. Harmon. Further, Respondent did not provide Mr. Nickerson with the papers or the file materials concerning Mr. Harmon's case.

10. In the Pickett Matter, on September 15, 2009, Suzanne Pickett ("Ms. Pickett") consulted Respondent concerning a personal bankruptcy she wished to file. On that date, she paid Respondent \$150.00 as part of the fee for his services. Between December, 2009 and July, 2010, she paid Respondent the balance of her \$1,000.00 fee and \$299 in court costs. Respondent

did not keep her court cost payments in an IOLTA account, separate from his own monies. Respondent did not file her bankruptcy petition at that time.

11. From July, 2010, through December, 2010, Ms. Pickett called repeatedly to inquire about the status of her matter. Respondent never spoke to her. One of Respondent's staff told her that she had to pay an additional \$49.00 for a credit check. Ms. Pickett went to Respondent's office and paid him an additional \$49.00 for a credit report. Respondent did not keep her apprised of the status of her matter. Respondent failed to file the bankruptcy petition at that time.

12. On January 30, 2012, Ms. Pickett received notice of the marshal's attempt to make service on her. Respondent's telephones had been disconnected and she could not reach him by telephone. Respondent still had not filed her bankruptcy petition as of that date.

13. On January 31, 2012, Ms. Pickett engaged another attorney to handle her bankruptcy. By letter dated March 1, 2012, Ms. Pickett terminated Respondent as her counsel and requested a refund of \$1,250.00 of the \$1,300.00 she had paid to him. To date, Respondent has not responded to her request for a refund.

No. 170 DB 2011

14. The Petition for Discipline pending at 170 DB 2011 concerns Respondent's failure to comply with the Conditions attached to a Private Reprimand. The Private Reprimand was imposed based on complaints from four of Respondent's clients, Joanna M. Pechulis, John C. Taylor, Jr., Stanley E. Reinert, and John J. White, which were consolidated for consideration before the Disciplinary Board.

15. By Order dated November 15, 2011, the Disciplinary Board determined that Respondent violated: RPC 1.1, 1.3, 1.4(a)(3) and (4), 1.5(b) and 1.16(d) in the Pechulis

complaint; RPC 1.16(d) in the Taylor complaint; RPC 1.1, 1.3 and 1.8(a)(2) and (3) in the Reinert complaint; and RPC 1.5(b), 1.15(b), 1.15(e) and 1.16(d) in the White complaint. The Board imposed a Private Reprimand with Conditions. The Conditions attached to the Private Reprimand required Respondent to submit proof to the Secretary of the Board and Disciplinary Counsel within 30 days of November 15, 2011, that he had returned unearned fees of \$4,300.00 to Joanna Pechulis, \$450.00 to John J. White and \$800.00 to John C. Taylor.

16. By letter dated November 15, 2011, Elaine M. Bixler, Secretary of the Disciplinary Board, advised Respondent of the Board's determination, and further advised Respondent that he had the option of attending the Private Reprimand or notifying the Office of the Secretary in writing within 20 days that he would not appear for the Private Reprimand and that he wanted his case to be referred for the institution of formal proceedings. Respondent did not request the institution of formal proceedings.

17. As directed by the Board, Respondent appeared for his Private Reprimand on December 20, 2011, but had not complied with the Conditions attached to the Private Reprimand.

18. On December 20, 2011, Respondent executed an agreement to make restitution to the Pennsylvania Lawyers Fund for Client Security for the claims it had paid to Joanna Pechulis in the amount of \$4,300.00, and to John C. Taylor, Jr., in the amount of \$500.00. Further, Respondent agreed to return the unearned fee in the amount of \$450.00 directly to John J. White.

19. By letter dated December 21, 2011, Board Secretary Bixler advised Respondent that if he did not comply with the Conditions by February 21, 2012, further action would be taken. To date, Respondent has not paid any of the monies due the Pennsylvania Lawyers Fund for Client Security and has not paid any money to John J. White.

Matters Contained In The
Petition For Emergency Temporary Suspension

20. Seven (7) pending Complaints were identified with specificity in the Petition for Emergency Temporary Suspension:

(a) in matters C3-12-85 and C3-12-96, the Complainants allege that Respondent accepted fee payments in bankruptcy matters. He then failed to file the bankruptcy petitions in either matter. He has not returned the unearned fees nor does he respond to the complainants' telephone calls seeking information or refunds on their matters;

(b) in matter C3-12-409, the allegations are that Respondent accepted fee payments of \$2,000.00 in a bankruptcy matter in 2009. He then failed to file the bankruptcy petition in the matter. He has not returned the unearned fees nor does he respond to the complainants' telephone calls seeking information or refunds on their matter;

(c) in matter C3-12-312, the Complainants allege that Respondent accepted fee payments in a bankruptcy matter. He then failed to file the bankruptcy petition. He has not returned the unearned fees nor does he respond to the complainants' telephone calls seeking information or refunds;

(d) in matter C3-12-446, the Complainants allege that Respondent accepted fee payments in a bankruptcy matter over three (3) years ago. He has failed to file the bankruptcy petition in the matter. He has not returned the unearned fees nor does he respond to the complainants' telephone calls seeking information or refunds on their matter;

(e) in matter C3-12-456, the Complainants allege that Respondent accepted \$2,050.00 in fee payments and costs in a bankruptcy matter in 2010, but failed to file the bankruptcy petition in the matter until October, 2011. Due to Respondent's failure to promptly

file the bankruptcy petition, a judgment was taken against the clients, and a creditor executed upon the clients' bank account. Respondent then failed to appear at the Plan Confirmation hearing. As a result, the Trustee filed a Motion to Dismiss and Respondent failed to respond. Complainants had to engage another attorney to complete their bankruptcy. Respondent has not returned the unearned fees nor does he respond to the complainants' telephone calls seeking information or refunds on their matter;

(f) in matter C3-12-489, the Complainants allege that in 2011, Respondent accepted payments of \$2,000.00 in fees and \$250.00 in costs for representation in a bankruptcy. In 2012, Respondent has not responded to their telephone calls and his office appears to be closed. Complainants' bankruptcy has not been completed; and

(g) in June 2012, the Honorable Robert E. Dalton, Jr., President Judge of the Court of Common Pleas of Tioga County, filed a Complaint with ODC in which he stated that Respondent (a) failed to appear in his courtroom on behalf of a criminal client, and (b) failed to appear in a custody matter. When Respondent appeared at a Rule to Show Cause for his failure to appear in the custody matter, in lieu of holding Respondent in contempt, the Court accepted Respondent's promise to refund all monies paid by the client. However, Respondent has failed to repay the monies to the client. Respondent is also the defendant in five (5) civil cases pending in Tioga County related to unpaid debts.

21. Sixteen (16) other complaints of a similar nature were identified in the Petition for Emergency Temporary Suspension, but not detailed therein. They include allegations of the acceptance of fees, no legal work performed on the clients' matters, and a consistent failure of Respondent to reply to inquiries by the clients as to the status of their matters or to return unearned fees. These sixteen complaints are listed as Board Files No. C3-11-452; C3-12-96; C3-

12-85; C3-12-312; C3-12-409; C3-12-446 C3-12-454; C3-12-456; C3-12-489 C3-12-522; C3-12-539; and, C3-12-568.¹

**Additional Pending Complaints Received Subsequent To The
Petition For Emergency Temporary Suspension**

22. Following the filing of the Petition for Emergency Temporary Suspension, ODC received seventeen complaints alleging misconduct similar to the matters contained in that Petition. The complaining past and present clients of Respondent stated that he had accepted fees (particularly in bankruptcies), failed to complete, or frequently even begin, legal work on the clients' matters, and consistently failed to reply to inquiries by the clients about the status of their matters and requests for the return of unearned fees. These seventeen complaints are listed as Board Files No. C3-12-575; C3-12-592; C3-12-602; C3-12-615; C3-12-625; C3-12-689; C3-12-875; C3-12-878; C3-12-880; C3-12-886; C3-12-887; C3-12-944; C3-12-952; C3-12-958; C3-12-971; C3-12-972; and, C3-12-1075.

DISCIPLINARY RULE VIOLATIONS

23. By his conduct as alleged in Paragraphs 7 through 13 above, Respondent violated the following Pennsylvania Rules of Professional Conduct:

- (a) RPC 1.1 which states that a lawyer shall provide competent representation to a client;
- (b) RPC 1.3 which states that a lawyer shall act with reasonable diligence and promptness when representing a client;
- (c) RPC 1.5(a) which prohibits a lawyer from entering into an agreement for, or charging, a clearly excessive fee;

¹ President Judge Dalton's complaint (C3-12-568) listed five (5) separate matters in his complaint, which were counted separately for the total of sixteen, but not listed separately as individual Board Files.

- (d) RPC 1.15(i) which requires a lawyer to deposit costs and expenses that have been paid in advance into a Trust Account; and
- (e) RPC 1.16(d) which requires a lawyer to take steps to the extent reasonably practicable to protect a client's interests when terminating a representation.

24. By his conduct as alleged in Paragraphs 14 through 19 above, Respondent violated the following Rule of Professional Conduct and Pennsylvania Rule of Disciplinary Enforcement:

- (a) RPC 8.4(d) which provides that it is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice; and
- (b) Pa.R.D.E. 203 (b) (3) which provides that willful violation of the Enforcement Rules shall be grounds for discipline *via* Pa.R.D.E. 204(b), which provides that a failure to comply with conditions attached to a private reprimand shall be grounds for reconsideration of the matter and prosecution of formal charges against the respondent.

25. In addition to the above violations, Respondent admits that prior to the imposition of the Emergency Temporary Suspension, he had abandoned his practice, neglected numerous client matters, failed to return unearned fees, and failed to communicate with clients, as alleged in the pending disciplinary Complaints as set forth in Paragraphs 20 through 22.

SPECIFIC JOINT RECOMMENDATION FOR DISCIPLINE

26. Petitioner and Respondent jointly recommend that the appropriate discipline for Respondent's admitted misconduct is a Suspension for a period of five (5) years. 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 Pa.R.D.E. 215(d), stating that he consents to the recommended discipline and including the mandatory acknowledgments contained in Pa.R.D.E. 215(d) (1) through (4).

27. In support of Petitioner and Respondent's joint recommendation, it is respectfully submitted that:

- (a) The aggravating circumstances are that two consolidated Petitions for Discipline are before the Board. The first addresses Respondent's extreme professional neglect and attendant violations with regard to two matters, and the second addresses Respondent's failure to comply with the Conditions set as part of his Private Reprimand imposed in a previous disciplinary matter. In addition, there are numerous additional complaints pending, alleging substantially similar misconduct involving neglect and refusal to return unearned fees. Respondent's license to practice law is currently suspended as a result of a Petition for Emergency Temporary Suspension filed by ODC based, in part, on the pendency of certain of the above disciplinary complaints. Additionally, ODC is informed by the Lawyers Fund for Client Security that there are currently pending thirteen claims for reimbursement of funds brought on account of Respondent. Respondent has prior discipline. In addition to the Private Reprimand with Conditions imposed on Respondent in December, 2011 and described *supra*, Respondent received an Informal Admonition in June 2004 for violations of RPC 1.3, RPC 1.5(b) and RPC 1.15(b). Respondent

additionally received an Informal Admonition in January 2011 for violations of RPC 1.3, RPC 1.4(a)(2), (3), (4), and RPC 1.5(b).

- (b) The mitigating circumstances are as follows:
- (i) Respondent has admitted engaging in misconduct and violating the charged Rules of Professional Conduct and Rule of Disciplinary Enforcement;
 - (ii) Respondent is remorseful for and embarrassed by his misconduct and understands he should be disciplined, as is evidenced by his consent to receiving a five-year suspension; and
 - (iii) Respondent has obtained the attached report of Helene S. Hughes, LCSW, MS, BCD, a licensed clinical social worker (Ms. Hughes' curriculum vitae is attached hereto as Exhibit A; Ms. Hughes' report is attached hereto as Exhibit B), who states that Respondent suffers from a bipolar disorder, coupled with extreme abuse of alcohol, which caused marked impairment in his occupational functioning and that said conditions are the cause of the misconduct described herein. Ms. Hughes also states that in her opinion, Respondent is highly motivated to overcome his current circumstances and is compliant with treatment currently prescribed for him.

Disciplinary matters involving neglect, with facts far less egregious than those found in Respondent's case, have resulted in disbarment. For example, in Office of Disciplinary Counsel v. Robert S. Fischer, 52 DB 2005 (Pa. 2006), respondent Fischer mishandled twelve client

matters over the course of four years. Respondent neglected his clients, failed to communicate, engaged in deceptive behavior, and failed to withdraw from the representation when he purportedly became ill. Fischer was disbarred. *Accord* Office of Disciplinary Counsel v. Kenneth J Roe, 64 DB 1998 (Pa. 2003) (Respondent abandoned his practice without refunding unearned fees, withdrawing his appearance or finding substitute counsel. He was disbarred); In re Anonymous, 23 Pa. D. C. 4th 168 (1994) (lawyer was disbarred after he walked away from his practice); In re Anonymous 34 Pa. D. & C. 4th 32 (1994) (attorney was convicted of bad check charges, then disappeared leaving behind clients who had paid for her representation. The Supreme Court disbarred her).

Further, Respondent's failure to comply with the Conditions of his Private Reprimand also supports substantial discipline, in and of itself. In Office of Disciplinary Counsel v. Michael Paul Gordon, 213 DB 2009 (Pa. 2011), respondent Gordon failed to appear for a Private Reprimand and failed to comply with the Conditions, which included the return of unearned fees to clients. Respondent Gordon was suspended for a year and a day. *Accord* Office of Disciplinary Counsel v. Michael Paul Gordon, 213 DB 2009 (Pa. 2011) (respondent failed to appear for a Private Reprimand and failed to comply with the conditions, which included the return of unearned fees to clients. Respondent Gordon was suspended for a year and a day); Office of Disciplinary Counsel v. Daniel H. Glammer, 94 DB 2005 (Pa. 2007) (respondent failed to fulfill the conditions imposed as part of his probation and, upon the granting of ODC's Petition to Revoke Probation, was placed on suspension for one year).

Despite the severity of the misconduct, Respondent has presented Braun mitigation, as set forth in an expert report, sufficient to mitigate Respondent's misconduct and to support a reduction of the discipline to be imposed from disbarment to a five (5) year suspension.

Respondent has been diagnosed as bipolar and has an alcohol abuse problem which, according to a mental health professional, is the causative factor in the commission of the misconduct. Under these circumstances, Braun mitigation is appropriate. In Office of Disciplinary Counsel v. Ann Adele Ruben, 6 DB 2011 (Pa. 2011), respondent engaged in neglect and lack of communication in sixteen immigration matters. In twelve of the sixteen client matters, she made misrepresentations to her clients and others to conceal her neglect. Braun mitigation was found and a Joint Consent Petition was approved that suspended Respondent's license for a year and a day. *See* Office of Disciplinary Counsel v. Thomas William Smith, 21 DB 2000 (Pa. 2003) (respondent neglected eleven matters, engaged in misrepresentations, and had prior discipline; although both "serious and grave," the conduct was mitigated by medical evidence of Smith's alcoholism; Board recommended four years, Court imposed year and a day); *see also*, Office of Disciplinary Counsel v. Kenneth Gallen, 8 DB 2002 (Pa. 2004) (respondent had three DUI convictions, the most recent involving bodily injury to his children, and five additional arrests; expert evidence that he suffered from bipolar disorder and alcoholism; a year and a day suspension takes into account respondent's "mitigation for alcoholism and Bipolar disorder while justly responding to the harm [r]espondent's conduct caused").

Respondent's misconduct is substantial and, absent Braun mitigation, would support disbarment. However, it also apparent that Braun mitigation is present and that a suspension of five (5) years will serve the goal of the disciplinary system to protect the public.

WHEREFORE, Joint Petitioners respectfully request that:

a. Pursuant to 215 Pa.R.D.E., the three-member panel of the Disciplinary Board review and approve the above Joint Petition in Support of Discipline on Consent and file

its recommendation with the Supreme Court of Pennsylvania in which it is recommended that the Supreme Court of Pennsylvania enter an Order:

- (i) suspending Respondent from the practice of law for five (5) years;
- and
- (ii) directing Respondent to comply with all the provisions of Rule 217, Pa.R.D.E.

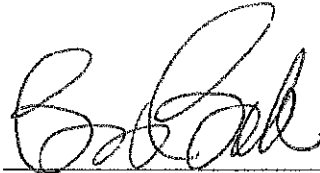
Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL

PAUL J. KILLION,
Chief Disciplinary Counsel
Attorney Registration No. 20955

Date: Jan 10, 2013

By:




BRUCE H. BIKIN,
Disciplinary Counsel
Attorney Registration No. 22126
Suite 170, 820 Adams Avenue
Trooper, PA 19403
(610) 650-8210

Date: 1/18/2013



DAVID ARTHUR MORGAN, JR.
Respondent

Date: 1/18/13



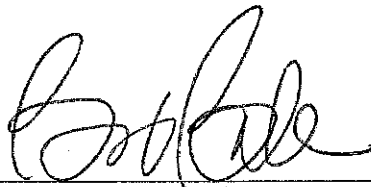
JOSEPH G. PRICE, ESQUIRE
Counsel for Respondent

VERIFICATION

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

Jan 10, 2013

Date



BRUCE H. BIKIN
Disciplinary Counsel

1/18/2013

Date



DAVID ARTHUR MORGAN, JR.
Respondent

1/18/13

Date



JOSEPH G. PRICE, ESQUIRE
Counsel for Respondent

Helene Smith Hughes
1141 Clay Avenue
Dunmore, PA 18510
(570) 341-0555

EDUCATION:

Marywood College, Scranton, Pennsylvania
(1996) M.S.W. Licensed Social Worker

University of Scranton, Scranton, Pennsylvania
(1989) Secondary Guidance Counseling

University of Scranton, Scranton, Pennsylvania
(1986- 1987) M. S. Human Resources Administration

University of Scranton, Scranton, Pennsylvania
(1976-1977) M.S. Rehabilitation Counseling

Wilkes University, Wilkes-Barre, Pennsylvania
(1971-1973) B.S. Psychology

Keystone Junior College, LaPlume Pennsylvania
(1969-1970)

St. Petersburg Junior College, St. Petersburg, Florida
(1968-1969)

CREDENTIALS:

Licensed Clinical Social Worker (L.C.S.W.)
Board Certified Diplomate (B.C.D.)
Licensed Professional Counselor
Nationally Certified Clinical Mental Health Counselor
Nationally Certified Counselor

INSTRUCTION:

University of Scranton - Counseling Theories (1995)
Speaker for various high schools and religious organizations.

AFFILIATIONS:

NASW
American Counseling Association

EMPLOYMENT:

2/98 - Present

INDIVIDUAL PRIVATE PRACTICE

Work in conjunction with physicians performing individual, group and family therapy with children, adolescents and adults; assessing and evaluation of patients for diagnostic purposes and treatment. Specialty in adolescent issues including parent/child problems, drug and alcohol issues, eating disorders, depression, adjustment disorders and others. Utilize individual and family modalities.

11/88 - 2/98

DEVELOPMENT ASSOCIATES

Private Group Psychiatric Practice
Performing individual, group and family therapy with children, adolescents and adults; assessing and evaluation of patients for diagnostic purposes and treatment. Specialty in adolescent issues including parent/child problems, drug and alcohol issues, eating disorders, depression, adjustment disorders and others. Utilize individual and family modalities

8/89 - 2/98

FIRST HOSPITAL OF WYOMING VALLEY

Therapist, Adolescent Unit

Responsible for providing direct counseling services to adolescent psychiatric patients and their families in accordance with established hospital policies, under the direct supervision of the senior psychiatrist who heads the treatment team. Responsible for management of assigned caseload, working toward the treatment goal as specified by, and in conjunction with the treatment team. Other duties include clinical social service assessment on each patient, facilitator in daily group therapy, case management and discharge planning for individual patient assignment. Participation in department staff meetings, in service training and supervisory meetings. Also provided coverage for an adult population including individual and group therapy.

4-86 - 6/89

FRIENDSHIP HOUSE

Psychotherapist, Adolescent Unit

Perform intensive individual psychotherapy, provide supplemental group and family therapy and case management, this position also required on-call availability for crisis intervention in both the educational setting and the residential environment. Additional duties included initiation and supervision of interns from local colleges and universities; supervision of Mental Health Technicians; participation in interdisciplinary team, working closely with staff psychiatrist and psychologist in interpreting testing results in order to diagnose and initiate treatment as well as develop and review treatment plans. It also required an awareness of the availability of related community resources as valuable support services.

1979 - 1986

LACKAWANNA COUNTY CHILDREN AND YOUTH SERVICES

Crisis Intervention Caseworker

Performed individual and group therapy, construction and implementation of individualized service plans and placement reviews; various public appearances; psychological histories; being aware of and utilizing all community resources; persuading the community to allow intervention; independently managing caseload of approximately thirty five families; supervising student interns from colleges and universities.

1974-1979

LACKAWANNA COUNTY AREA AGENCY ON AGING

Caseworker

Performance of counseling and therapy as necessary; awareness of all community resources and procurement of same; coordinating and supervising the Lackawanna Homemaker Program (this included making home visits to those interested in receiving this service). Coordinating and supervising the Protective Services Program then being implemented in Lackawanna County.

HELENE S. HUGHES, LCSW, MS, BCD
Licensed Clinical Social Worker
Board Certified Diplomate in Clinical Social Work

Adult/Adolescent/Child
Treatment
Office Hours by Appointment

1141 Clay Avenue
Dunmore, PA 18510
(570)341-0555
Fax (570)346-5301

December 4, 2012

RE: David A. Morgan, Esq.
416 S. Turnpike Road
Dalton, PA 18414

DOB: 2/13/51

To Whom It May Concern:

I have met with and evaluated the above named patient on three occasions, 11/14/12, 11/19/12 and 11/28/12. I met with him approximately 50 minutes each session. I found Mr. Morgan to be motivated and very cooperative in all sessions. He appeared very sad and hopeless. He denied thoughts of self harm, because "he can't inflict anymore pain on people he loves." He openly admits to his difficulties in his legal practice and is able to admit and trace the progression of his major depression. It is, however, in my opinion that Mr. Morgan's depression is a Bipolar Disorder.

Mr. Morgan exhibited an energetic state in 2008, opening five practices and advertising through various media outlets: billboards, radio advertisement, etc. He had offices spread over seven counties. With the help of hired office staff he attempted to keep up this pace until 2010. He began to have medical issues and began to utilize more and more alcohol to medicate his severe clinical depression. He admits to a loss of concentration and loss of functioning. His concentration declined and his ability to complete tasks or take care of clients needs became impossible. By 2011 Mr. Morgan was unable to sustain his practices as he was unable to pay rental agreements or maintain contracts and he became more hopeless, helpless, sad and in order to compensate, he used more alcohol to self medicate.

Mr. Morgan's mood disturbance has caused marked impairment in his occupational functioning. His symptoms went from a state of inflated self esteem and grandiosity which evolved in five practices to an inability to function with a loss of energy accompanied by feelings of worthlessness and hopelessness. He had diminished ability to think or concentrate. His symptoms caused significant distress and impairment in social and occupational functioning. His interest in doing things declined and sleep disturbance along with irritability and agitation worsened his ability to practice law.

Historically, Mr. Morgan had been treated for the same patterns of behavior and symptoms between 1986 and 1988, prior to law school. He was able to stop using alcohol and utilized treatment to become a better person. He is motivated for all treatment and

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Board Certified Diplomate in Clinical Social Work

Adult/Adolescent/Child
Treatment
Office Hours by Appointment

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Dunmore, PA 18510
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Fax (570) 346-5301

although he is currently worried about his future, he is willing to do "whatever it takes to get well." The medication Celexa has been prescribed and he is compliant with his prescription.

In conclusion, Mr. Morgan's psychiatric condition persisted during the intervening years while his misconduct took place. The psychiatric disability was a causative factor in his misconduct and was the reason he failed to meet the demands of his clients.

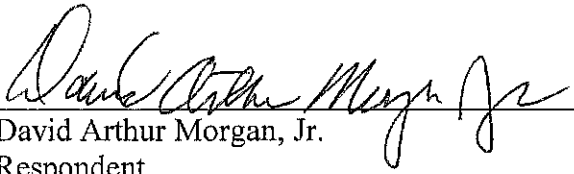
Please contact me if you have any further questions.

Sincerely,

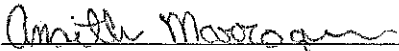

Helene Hughes, LCSW, BCD

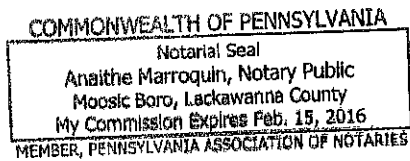
HH/mg

4. He consents because he knows that if the charges predicted upon the matter under investigation were filed, he could not successfully defend against them.


David Arthur Morgan, Jr.
Respondent

Sworn to and subscribed
Before me this 18th day
of January, 2013.


Notary Public



**BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA**

| | | |
|---------------------------------|---|------------------------------|
| OFFICE OF DISCIPLINARY COUNSEL, | : | No. 1857 Disciplinary Docket |
| Petitioner | : | No. 3 – Supreme Court |
| | : | |
| | : | No. 170 DB 2011 |
| v. | : | No. 101 DB 2012 |
| | : | No. 103 DB 2012 |
| DAVID ARTHUR MORGAN, JR. | : | |
| Respondent | : | Attorney Reg. No. 64333 |
| | : | |
| | : | (Tioga County) |

CERTIFICATE OF SERVICE

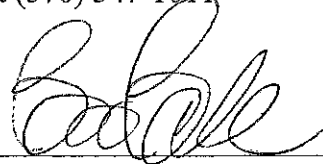
I hereby certify that I am this day serving the foregoing document upon all parties of record in this proceeding in accordance with the requirements of 204 Pa. Code §89.2e (relating to service upon counsel):

First Class Mail, as follows:

Joseph G. Price, Esquire
Dougherty, Leventhal & Price, L.L.P.
75 Glenmaura National Boulevard
Moosic, PA 18507

Counsel for Respondent (570) 347-1011

Dated: January 23, 2013



BRUCE H. BIKIN,
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(610) 650-8210