

**[J-119-2005]**  
**IN THE SUPREME COURT OF PENNSYLVANIA**

**CAPPY, C.J., CASTILLE, NIGRO, NEWMAN, SAYLOR, EAKIN, BAER, JJ.**

IN THE MATTER OF	: No. 959 Disciplinary Docket No. 2
	:
WILLIAM JAMES PERRONE	: Disciplinary Board No. 74 DB 1993
	:
	: Attorney Registration No. 19412
	: (Chester County)
	:
	: ARGUED: OCTOBER 19, 2005

**CONCURRING OPINION**

**MR. JUSTICE BAER**

**DECIDED: JUNE 20, 2006**

I agree with, and join, the Majority's decision reinstating petitioner, James Perrone, to the practice of law. I write separately on two points. First, to note my view that the interpretation of the language of Pa.R.D.E. 217(j)(4)(ii) as advocated by the Office of Disciplinary Counsel (ODC), which construes such the language as restricting formerly admitted attorneys from performing law-related services at a physical location other than an office staffed by a full-time supervising attorney, is reasonable. Second, I write to distance myself from the final sentence of footnote 8 of the Majority's opinion stating that because Perrone is an independent contractor, he would not be subject to the second sentence of Rule 217 (j)(1).

Pa.R.D.E. 217(j)(4)(ii) provides as follows:

(4) Without limiting the other restrictions in this subsection (j), a formerly admitted attorney is specifically prohibited from engaging in any of the following activities:

(ii) performing any law-related services from an office that is not staffed, on a full time basis, by a supervising attorney;

As noted by the Majority, ODC argues that this provision requires a formerly admitted attorney to be physically present in the office of a supervising attorney and that such physical presence is necessary to ensure that the disbarred attorney is not representing himself as a lawyer, is not having physical contact with clients, and is not rendering legal advice. The Majority rejects such an interpretation as too restrictive and concludes that the language of the Rule was not intended to limit formerly admitted attorneys regarding the physical location of where their work must be performed. The Court notes, “we agree with Perrone that ODC's interpretation of subsection (j)(4)(ii) is too restrictive and not in accordance with the mandate of the rule. The rule was intended to ensure accountability, not observation of each step of the process by which a disbarred or suspended attorney performs legal research and/or drafts memoranda.” Maj. Slip Op. at 9. While such an interpretation of the rule is reasonable, I am not so sure it is better than the view articulated by ODC. Certainly, there is some legitimacy to ODC's view that direct physical oversight of a formerly admitted attorney's work is preferable to the remote supervision of such work by a full-time attorney in a staffed office. Indeed, if the majority's interpretation of the applicable clause is correct, it would make no sense to require the supervising attorney to work full-time in a staffed office. Accordingly, I believe it would be best to refer the matter to the Disciplinary Board for further consideration of the rule and to make a determination whether direct or remote supervision of formerly admitted attorneys is preferable.

While I believe ODC's interpretation is reasonable and possibly the better way of reading the rule, I do not fault Perrone, in any case, for not abiding it in this regard as, in my view, the rule is ambiguous as to its meaning and Perrone was in good faith in his position

that he did not intend to violate the rule by working from his home office. Thus, as noted, I join the Majority's conclusion that Perrone should be reinstated to the practice of law.

My final point focuses on the last sentence appearing in footnote 8 of the Majority opinion. Specifically, in discussing whether Perrone is subject to Rule 217(j) because, as he claims, he is an independent contractor, the Majority, in footnote 8, notes that "assuming, as we have, that Perrone is an independent contractor, he would not be subject to the second sentence of subsection (j)(1), although he is clearly subject to the first." Maj. Slip Op. at 8 n.8. Because the fine point of whether Perrone is subject to this specific clause of subsection (j)(1) is not before us, I would not definitively speak to its applicability.