

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : Nos. 1509 and 1528 Disciplinary Docket
Petitioner : No. 3
v. : Nos. 103 and 145 DB 2009 & 62 DB 2010
JOHN PAUL YUKEVICH, JR., : Attorney Registration No. 38005
Respondent : (Allegheny County)

ORDER

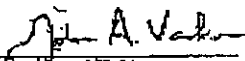
PER CURIAM:

AND NOW, this 2nd day of November, 2011, upon consideration of the Report and Recommendations of the Disciplinary Board dated May 31, 2011, it is hereby

ORDERED that John Paul Yukevich, Jr., is suspended from the Bar of this Commonwealth for a period of one year and one day 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 John A. Vaskov, Esquire
As Of 11/2/2011

Attest: 
Deputy Prothonotary
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL	:	Nos. 1509 & 1528 Disciplinary
Petitioner	:	Docket No. 3
	:	
v.	:	Nos. 103 & 145 DB 2009 &
	:	62 DB 2010
	:	
JOHN PAUL YUKEVICH, JR.	:	Attorney Registration No. 38005
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 September 10, 2009, the Supreme Court referred the conviction of John Paul Yukevich, Jr., for driving under the influence of alcohol to the Disciplinary Board pursuant to Rule 214(f)(1), Pa.R.D.E. By Order of November 5, 2009, the Supreme Court referred a second conviction of Mr. Yukevich for driving under the influence of alcohol to the Disciplinary Board pursuant to Rule 214(g), Pa.R.D.E., and consolidated the matter with the previous referral.

On December 8, 2009, Office of Disciplinary Counsel filed a Petition for Discipline at 103 & 145 DB 2009 against Respondent arising out of the criminal convictions referred by the Court. Respondent did not file an Answer to Petition.

On April 30, 2010, Office of Disciplinary Counsel filed a second Petition for Discipline against Respondent charging him with violations of the Rules of Professional Conduct and Rules of Disciplinary Enforcement arising out of allegations that he engaged in the unauthorized practice of law. Respondent did not file an Answer to Petition.

By Board Order dated July 13, 2010, the Petitions at 103 & 145 DB 2009 and 62 DB 2010 were consolidated for hearing.

A disciplinary hearing was held on September 20, 2010 before a District IV Hearing Committee comprised of Chair Philip B. Hart, Jr., Esquire, and Members Carl A. Parise, Esquire, and Edwin L. Edwards, Jr., Esquire. Petitioner submitted exhibits into evidence and called no witnesses. Respondent appeared pro se and testified on his own behalf.

The Hearing Committee filed a Report on February 1, 2011, concluding that Respondent violated the Rules as charged in the Petitions for Discipline, and recommending that he be suspended for a period of six months.

Petitioner filed a Brief on Exceptions on February 24, 2011, contending that Respondent should be suspended for a period of not less than one year and one day.

This matter was adjudicated by the Disciplinary Board at the meeting on April 13, 2011.

II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner, whose principal office is located at Pennsylvania Judicial Center, Suite 2700, 601 Commonwealth Avenue, Harrisburg PA 17106-2485, is invested, pursuant to Rule 207 of the Pennsylvania Rules of Disciplinary Enforcement, 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 John Paul Yukevich, Jr. He was born in 1954 and was admitted to practice law in the Commonwealth in 1983. His attorney registration address is 912 5th Avenue, Pittsburgh PA 15219-4702. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

3. Respondent has no history of discipline in Pennsylvania.

4. A Petition for Discipline at Nos. 103 & 145 DB 2009 was filed against Respondent on December 8, 2009 containing two matters. He did not file an Answer.

5. On February 18, 2009, a Criminal Information was filed in the Court of Common Pleas of Allegheny County against Respondent charging him with one count each of Driving Under the Influence of Alcohol or Controlled Substance in violation of 75 Pa.C.S. Section 3802(d)(1) and Section 3803(b)(4); Driving Under the Influence of Alcohol or Controlled Substance in violation of 75 Pa.C.S. Section 3802(a)(1) and Section 3804(b); Driving Under the Influence of Alcohol or Controlled Substance in violation of 75 Pa.C.S. Section 3802(a)(1); and the summary traffic offense of Stop Signs and Yield Signs in violation of 75 Pa.C.S. Section 3323.

6. On January 29, 2009, Respondent, represented by counsel, entered a plea of guilty to the first degree misdemeanor offense of Driving Under the Influence of Alcohol or Controlled Substance in violation of 75 Pa.C.S. Section 3802(d)(1) and Section 3803(b)(4).

7. On March 20, 2009, after his guilty plea was accepted by the Court, Respondent was sentenced to 180 days intermediate punishment on electronic monitoring, followed by five months' probation.

8. All other counts and any other summary charges were dismissed by the Court's March 20, 2009 Sentencing Order.

9. Respondent's conviction constitutes an independent basis for discipline pursuant to Rule 203(b)(1), Pa.R.D.E.

10. Respondent failed to notify the Office of the Secretary of the Board of his conviction as required by Rule 214(a), Pa.R.D.E.

11. On June 2, 2008, a Criminal Information was filed in the Court of Common Pleas of Beaver County against Respondent charging him with one count of Driving Under the Influence of Alcohol or Controlled Substance in violation of 75 Pa.C.S. Section 3802(d)(3), and the summary traffic offenses of Drive Over a Divider and Reckless Driving.

12. By Order of the Beaver County Court of Common Pleas entered August 1, 2008, Respondent was accepted into an Accelerated Rehabilitative Disposition program as a result of his prosecution.

13. As part of the ARD sentencing order, Respondent was to abide by certain terms and conditions while on probation, including, but not limited to: compliance with all rules and regulations of the Beaver County Adult Probation Department; undergo

any evaluation, counseling or treatment as directed by the Adult Probation Department; payment of all costs associated with the prosecution; undergo court reporting network evaluation tests and attend treatment and/or counseling required by the Beaver County Adult Probation Department; and have his driver's license suspended for 60 days.

14. On January 22, 2009, as a result of information provided to the Beaver County District Attorney's Office by Respondent's probation officer, the District Attorney filed a Petition for Hearing on Violation of ARD, representing that Respondent had violated the terms of his ARD probation by:

- (a) failing to report as instructed;
- (b) receiving new criminal charges;
- (c) failing to report new charges to probation officer;
- (d) using drugs while on supervision;
- (e) failing to re-enroll and complete DUI school;
- (f) failing to complete recommended drug and alcohol treatment;
- and
- (g) failing to pay court monies owed in full.

15. On February 24, 2009, Respondent stipulated to a violation of the ARD Order. The Court revoked Respondent's ARD and directed that the case be re-listed for a pretrial conference on April 8, 2009.

16. On June 24, 2009, Respondent entered a plea of guilty to Driving Under the Influence of Alcohol or Controlled Substance in violation of 75 Pa.C.S. Section 3802(d)(3).

17. On July 22, 2009, Respondent was sentenced to imprisonment in the Beaver County Jail for not less than 72 hours or more than six months.

18. The sentencing order directed that Respondent's Beaver County sentence was to run consecutive to the sentence imposed by the Allegheny County Court of Common Pleas.

19. The crime of which Respondent was convicted in Beaver County is not a "serious crime" as defined by Rule 214(i), and Respondent was not required to, nor did he, notify the Office of Secretary of the Board.

20. A second Petition for Discipline at No. 62 DB 2010 was filed against Respondent on April 30, 2010. He did not file an Answer.

21. Respondent did not obtain the required 12 Continuing Legal Education credits prior to his reporting period ending on April 30, 2008.

22. Although Respondent did not obtain the credits by April 30, 2008, he still had approximately seven months to complete his overdue CLE requirements, pay any late fees and charges imposed by the CLE Board, and avoid having his name submitted to the Supreme Court for failure to comply with CLE requirements.

23. Respondent obtained no CLE credit hours, and his name was submitted by the Secretary of the Board to the Supreme Court for failure to meet the required CLE obligation.

24. By Order of the Supreme Court of Pennsylvania dated November 12, 2008, Respondent was transferred to inactive status pursuant to Rule 111(b), Pa.R.C.L.E., effective 30 days after the date of the Order.

25. The Order also directed Respondent to comply with Rule 217, Pa.R.D.E.

26. By letter to Respondent from Elaine Bixler, Secretary of the Board, dated November 12, 2008, Respondent was notified of his transfer to inactive status and provided with copies of documentation to assist him in complying with the Rules.

27. Ms. Bixler's certified mailing was addressed to Respondent at his attorney registration address and was received on November 17, 2008, as evidenced by the signature on the return receipt card.

28. After the Supreme Court's November 12, 2008 Order, Respondent took no CLE classes between the entry of the Order and the effective date of December 12, 2008. Respondent was transferred to inactive status and became a formerly admitted attorney in the Commonwealth.

29. As a formerly admitted attorney, Respondent was prohibited from engaging in the practice of law in Pennsylvania.

30. As a formerly admitted attorney, Respondent was obligated to notify his clients of his inability to represent them and the necessity for them to seek legal advice elsewhere.

31. Thomas and Kimberly Clarke had been Respondent's clients since June of 2007, and he did not inform them of his transfer to inactive status.

32. On January 26, 2009, Respondent initiated a civil action on behalf of Thomas and Kimberly Clarke by filing a praecipe for writ of summons in the Court of Common Pleas of Lawrence County against defendants Chris Vasilakis, New Castle Orthopedic Associates, and Jameson Memorial Hospital.

33. The praecipe listed Respondent as the attorney of record for the plaintiffs and bore as his address 1040 5th Avenue, Pittsburgh PA 15219.

34. The Lawrence County Prothonotary also listed Respondent as counsel of record for the Clarkes.

35. By letter to defendant, New Castle Orthopedic Associates, dated February 17, 2009, on his letterhead bearing the title John P. Yukevich, Jr., Attorney at Law, Respondent requested that New Castle Orthopedic Associates forward to him a copy of the records bearing on their care and treatment of Thomas Clarke for the years 2006 and 2007.

36. Respondent's letter to New Castle Orthopedic falsely held himself out as an attorney licensed to practice law in Pennsylvania.

37. Among the enclosures in Ms. Bixler's November 12, 2008 letter to Respondent was Form DB 25(i), Statement of Compliance, which was to be completed, signed and returned to the Office of the Secretary within 10 days after the effective date of his transfer to inactive status.

38. Respondent's Statement of Compliance was due no later than December 23, 2008.

39. Respondent's signed Statement of Compliance was dated March 27, 2009 and received on March 30, 2009.

40. On his Statement of Compliance Form, Respondent falsely certified under the penalties of 18 Pa.C.S.A. Section 4904 that he had complied with the applicable provisions of both the Pennsylvania Rules of Disciplinary Enforcement and Disciplinary Board Rules which Ms. Bixler provided to him as enclosures in her November 23, 2008 letter.

41. Respondent was reinstated to active status on March 30, 2009.

42. Respondent testified at the disciplinary hearing on September 20, 2010.

43. Respondent identified a problem with drugs, specifically cocaine.

44. Respondent completed an inpatient treatment program at Greenbrier, followed by outpatient treatment, but offered no documentation to the Committee of this treatment.

45. Respondent continues to consume alcohol on an occasional basis and is not currently in any treatment program.

46. At the time of the disciplinary hearing on September 20, 2010, Respondent was the subject of an outstanding bench warrant from the Court of Common Pleas of Beaver County regarding a missed probation violation hearing.

47. Respondent has not paid all of the fines and costs imposed by the Courts of Common Pleas of Allegheny County and Beaver County.

48. Respondent cooperated with the Office of Disciplinary Counsel throughout the disciplinary process.

49. Respondent acknowledged his misconduct and expressed sincere remorse for his actions.

50. Respondent executed a Stipulation regarding file reference #C4-09-524 by which he agreed that the averments contained in Petitioner's DB-7 Request for Respondent's Position were in fact true and correct and that he could not defend against them and that he violated the alleged Rules of Professional Conduct and Enforcement Rules.

51. The file reference involves a case in which Respondent accepted a retainer to perform work on behalf of a client and he did not complete the work.

Respondent stopped communicating with his client, did not tell him that he had been transferred to inactive status and when requested to do so, failed to return any portion of the unearned fee or costs.

III. CONCLUSIONS OF LAW

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

1. Respondent's conviction in the Court of Common Pleas of Allegheny County is a "serious crime" as defined by Rule 214(i), Pa.R.D.E.
2. Respondent's conviction in the Court of Common Pleas of Beaver County is not a "serious" crime as defined by Rule 214(i), Pa.R.D.E.
3. Respondent's convictions in both the Court of Common Pleas of Allegheny County and Beaver County form an independent basis for the imposition of discipline pursuant to Pa.R.D.E. 203(b)(1).
4. Respondent's failure to notify the Office of the Secretary of his conviction of a "serious" crime in Allegheny County is a basis for the imposition of discipline under Rule 203(b)(3), Pa.R.D.E.
5. RPC 5.5(a) - A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.
6. RPC 8.4(c) - It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.
7. RPC 8.4(d) - It is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.

8. Pa.R.D.E. 203(b)(3) - Willful violation of any other provision of the Enforcement Rules shall be grounds for discipline.

9. Pa.R.D.E. 203(b)(4) – Failure by a respondent-attorney without good cause to comply with any order under the Enforcement Rules of the Supreme Court, the Board, a hearing committee or special master shall be grounds for discipline.

10. Pa.R.D.E. 217(a) – A formerly admitted attorney shall promptly notify, or cause to be notified, by registered or certified mail, return receipt requested, all clients being represented in pending matters, other than litigation or administrative proceedings, of the disbarment, suspension, administrative suspension or transfer to inactive status and the consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the disbarment, suspension, administrative suspension or transfer to inactive status and shall advise said clients to seek legal advice elsewhere.

11. Pa.R.D.E. 217(d) – Orders imposing suspension, disbarment, administrative suspension or transfer to inactive status shall be effective 30 days after entry. The formerly admitted attorney, after entry of the disbarment, suspension, administrative suspension or transfer to inactive status order, shall not accept any new retainer or engage as attorney for another in any new case or legal matter of any nature. However, during the period from the entry date of the order and its effective date the formerly admitted attorney may wind up and complete, on behalf of any client, all matters which were pending on the entry date.

12. Pa.R.D.E. 217(e) – Within ten days after the effective date of the disbarment, suspension, administrative suspension or transfer to inactive status order, the formerly admitted attorney shall file with the Board a verified statement showing: (1) that the provisions of the order and these rules have been fully complied with; and (2) all other

state, federal and administrative jurisdictions to which such person is admitted to practice. Such statement shall also set forth the residence or other address of the formerly admitted attorney where communications to such person may thereafter be directed.

13. Pa.R.D.E. 217(j)(1) – A formerly admitted attorney may not engage in any form of law-related activities in this Commonwealth except in accordance with the following requirements: (1) all law-related activities of the formerly admitted attorney shall be conducted under the supervision of a member in good standing of the Bar of this Commonwealth who shall be responsible for ensuring that the formerly admitted attorney complies with the requirements of this subdivision (j). If the formerly admitted attorney is engaged by a law firm or other organization providing legal services, whether by employment or other relationship, an attorney of the firm or organization shall be designated by the firm or organization as the supervising attorney for purposes of this subdivision.

14. Pa.R.D.E. 217(j)(4)(iv) – A formerly admitted attorney may not engage in any form of law-related activities in this Commonwealth except in accordance with the following requirements: (1) without limiting the other restrictions in this subdivision (2), a formerly admitted attorney is specifically prohibited from engaging in any of the following activities: (3) representing himself or herself as lawyer or person of similar status.

IV. DISCUSSION

This matter is before the Board for consideration of the Petitions for Discipline filed against Respondent charging him with professional misconduct arising out of criminal convictions for driving under the influence of alcohol or controlled substance, and the unauthorized practice of law while on inactive status. Respondent failed to file Answers to

the Petitions and by operation of Rule 208(b)(3), Pa.R.D.E., the factual allegations are deemed admitted.

At the disciplinary hearing, Petitioner's exhibits were admitted without objection by Respondent. The certified copies of the court records from Respondent's convictions in Allegheny County and Beaver County constitute conclusive evidence of his commission of the crimes charged. Respondent offered no witnesses other than himself and presented no exhibits to the Committee. He confirmed that he could not challenge any of the allegations against him. The record demonstrates that Petitioner met its burden of proving by a preponderance of the evidence that was clear and satisfactory, that Respondent violated the Rules of Professional Conduct and Rules of Disciplinary Enforcement. Office of Disciplinary Counsel v. Grigsby, 425 A.2d 730 (Pa. 1981).

Respondent was convicted in the Court of Common Pleas of Beaver County of driving under the influence of alcohol or controlled substance and was accepted into the ARD Program in that county. Following his acceptance into ARD, he was convicted of driving under the influence of alcohol or controlled substance, a first degree misdemeanor, in Allegheny County, which resulted in the ARD being revoked in Beaver County and Respondent entering a plea of guilty to the original charge, which was an ungraded misdemeanor with a maximum penalty of six months incarceration.

While on probation in Beaver County, Respondent was charged with missing a probation violation hearing and became the subject of an outstanding bench warrant. According to Respondent, he was unaware of the bench warrant until shown the Court Order by Disciplinary Counsel at the hearing. Respondent failed to fulfill his obligation under the Rules of Disciplinary Enforcement to notify the Office of the Secretary of his

conviction in Allegheny County, which was punishable by imprisonment of one year or more.

Disciplinary sanctions for convictions arising from driving under the influence and related crimes have ranged from private discipline to lengthy suspensions. Attorneys convicted of multiple DUIs, and often with a history of DUI arrests and convictions, have generally been suspended for periods in excess of one year, particularly where the incident leading to the conviction involved an injury. Office of Disciplinary Counsel v. Kenneth Gallen, 68 Pa.D. & C. 4th 320 (2004) (one year and one day suspension for three DUI convictions).

Respondent is also charged with the unauthorized practice of law while on inactive status. He was transferred to inactive status on November 12, 2008 for failure to comply with Continuing Legal Education requirements. Respondent did not regain active status until March 30, 2009. During that time frame, Respondent initiated a civil action in the Court of Common Pleas of Lawrence County and addressed correspondence on his letterhead to a party defendant. The record establishes that Respondent held himself out as an attorney. Respondent complicated this matter by failing to file his Statement of Compliance form with the Office of the Secretary until more than three months after it was due. Therein, he verified that he complied with the Rules, when in fact he had engaged in the unauthorized practice of law.

An aggravating factor in this matter is Respondent's second instance of practicing law while on inactive status and failing to notify his client of that fact. Respondent executed a Stipulation regarding file reference #C4-09-524 by which he agreed that he accepted a retainer to perform work on behalf of a client, and he did not complete the work. Further, Respondent stopped communicating with his client, did not tell

him that he had been transferred to inactive status and when requested to do so, failed to return any portion of the unearned fee or costs.

Case law suggest that the Supreme Court does not tolerate lawyers, even those without a history of discipline, who take a lax approach to the administrative rules governing the practice of law.

In the recent matter of Office of Disciplinary Counsel v. Peter William DiGiovanni, No. 36 DB 2008, 1468 Disciplinary Docket No. 3 (Pa. May 28, 2009). Mr. DiGiovanni continued to practice law while on inactive status and falsely certified to the Office of Secretary that he complied with the provisions of the Supreme Court's Order transferring him to inactive status. The Court suspended Mr. DiGiovanni for one year and one day.

In the case of Office of Disciplinary Counsel v. Paul Charles Quinn, No. 39 DB 2006, 1274 Disciplinary Docket No. 3 (Pa. Oct. 19, 2007), the Supreme Court suspended Mr. Quinn for a period of three months as a result of his practice of law while on inactive status. Mr. Quinn engaged in one instance of unauthorized practice during a two year period on inactive status. He offered credible evidence of difficult personal circumstances and was candid about the fact that his priorities were focused on issues other than his CLE credits.

Respondent's testimony at the hearing was credible and evidenced his sincere remorse and regret for his misconduct. He has no record of prior discipline in his more than 25 years of practice and was clearly distressed in regard to his current situation before the Disciplinary Board. He fully cooperated with Petitioner and participated in the process. Respondent is experiencing some personal difficulties and is trying to resolve these issues. Respondent admitted to the Hearing Committee that he has continued to

consume alcohol on an occasional basis and referenced a past use of cocaine. Respondent has attended inpatient treatment in the past but is no longer active in any type of treatment program.

Respondent's two criminal convictions, one of which he failed to report to the Board, and his unauthorized practice of law while on inactive status are serious acts of misconduct and merit concern. Respondent's testimony highlights a need to regain control over his personal affairs before he can or should represent clients. He is not fit to practice law at this time, but the Board does recognize the importance of his sincere expressions of remorse because they demonstrate that Respondent could, in the future, once again contribute to the legal profession.

The Hearing Committee has recommended a suspension of six months, while Petitioner argues for a one year and one day suspension, which would require Respondent to petition for reinstatement and prove his fitness. The Board's analysis of the totality of the record persuades us that a one year and one day suspension is appropriate.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that the Respondent, John Paul Yukevich, Jr., be Suspended from the practice of law for a period of one year and one day.

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: 

R. Burke McLemore, Jr., Board Member

Date: May 31, 2011

Board Member Jefferies did not participate in the adjudication.