

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 1530 Disciplinary Docket No. 3
Petitioner :
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 :
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 v. : No. 112 DB 2009
 :
 :
 DANIEL L. McCAUGHAN, : Attorney Registration No. 80582
Respondent : (Chester County)

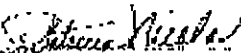
ORDER

PER CURIAM:

AND NOW, this 6th day of April, 2011, there having been filed with this Court by Daniel L. McCaughan his verified Statement of Resignation dated January 19, 2011, stating that he desires to resign from the Bar of the Commonwealth of Pennsylvania in accordance with the provisions of Rule 215, Pa.R.D.E., it is

ORDERED that the resignation of Daniel L. McCaughan is accepted; he is disbarred on consent from the Bar of the Commonwealth of Pennsylvania retroactive to September 22, 2009; and he shall comply with the provisions of Rule 217, Pa.R.D.E. Respondent shall pay costs, if any, to the Disciplinary Board pursuant to Rule 208(g), Pa.R.D.E.

A True Copy Patricia Nicola
As Of 4/6/2011

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

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

OFFICE OF DISCIPLINARY COUNSEL	:	No. ¹⁵³⁰ 1514 Disciplinary Docket No. 3
Petitioner	:	
	:	No. 112 DB 2009
v.	:	
	:	Attorney Registration No. 80582
DANIEL L. McCAUGHAN	:	
Respondent	:	(Chester County)

RESIGNATION BY RESPONDENT

Pursuant to Rule 215
of the Pennsylvania Rules of Disciplinary Enforcement

BEFORE THE DISCIPLINARY BOARD OF
THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 1514 Disciplinary Docket
Petitioner : No. 3 - Supreme Court
: :
: No. 112 DB 2009
: :
v. : (Court of Common Pleas of
: Chester County, Criminal Case
: No.CP-15-CR-0004007-2006)
: :
: Atty. Registration No. 80582
DANIEL L. McCAUGHAN, :
Respondent : (Chester County)

RESIGNATION
UNDER Rule 215, Pa.R.D.E.

Daniel L. McCaughan, hereby tenders his unconditional resignation from the practice of law in the Commonwealth of Pennsylvania in conformity with Rule 215, Pa.R.D.E. and further states as follows:

1. He is a formerly admitted attorney, having been admitted to the bar of the Commonwealth of Pennsylvania on or about December 2, 1997. His attorney registration number is 80582. On or about February 19, 2009, he was placed on voluntary inactive status. On or about September 22, 2009, he was placed on temporary suspension.

2. He desires to submit his resignation as a member of said bar.

3. His resignation is freely and voluntarily rendered; he is not being subjected to coercion or duress and he is fully aware of the implications of submitting this resignation.

4. He is aware that there are presently pending disciplinary proceedings instituted against him pursuant to Rule 214, Pa.R.D.E. relating to his felony criminal convictions in the Court of Common Pleas of Chester County of Dealing in Proceeds of Unlawful Activities, in violation of Title 18 Pa.C.S.A. § 5111 (a) (2); Theft by Unlawful Taking, in violation of Title 18 Pa.C.S.A. § 3921; Theft by Deception, in violation of Title 18 Pa.C.S.A. § 3922; and Theft by Failure to Make Required Disposition of Funds Received, in violation of Title 18 Pa.C.S.A. § 3927.

5. He acknowledges that on June 4, 2009, he was sentenced by the Honorable Howard F. Riley, Jr. on the charge of Dealing in Proceeds of Unlawful Activities to a term of imprisonment of two to four years, a fine of \$100.00 and was ordered to pay restitution in the amount of \$10,000.00 to the Commonwealth of Pennsylvania. He was also sentenced on the charge of Theft by Deception to a three year term of probation, consecutive to parole, and a fine of \$100.00. His conviction of Theft by Unlawful Taking merged with his conviction for Theft by Deception. He received no further penalty for his conviction of Theft by Failure to Make Required Disposition of Funds Received.

6. He acknowledges that the material facts which form the basis for his criminal convictions are true. A true and correct copy of a portion of the Commonwealth's Sentencing Memorandum, which explains the facts presented at his jury trial, and constitutes the basis for his convictions, is attached hereto and marked Exhibit "A".

7. He acknowledges that the crimes for which he was convicted are punishable by imprisonment for one year or upward and thus are "serious crimes" as defined by Rule 214(i), Pa.R.D.E.

8. He acknowledges that each conviction constitutes a *per se* ground for discipline under Rule 203(b)(1), Pa.R.D.E.

9. He acknowledges that under Rule 214(f)(1), Pa.R.D.E., he would be entitled to the institution of a formal proceeding before a hearing committee in which the sole issue to be determined would be the extent of discipline to be imposed.

10. He acknowledges that by submitting the within resignation he is knowingly, voluntarily and intelligently waiving the right to have a disciplinary hearing pursuant to Rule 214(f)(1), Pa.R.D.E.

11. He submits the within resignation because he knows that he could not successfully defend himself against the charges of professional misconduct that are being brought in connection with his conviction.

12. He is fully aware that the within resignation statement is irrevocable and that he can only apply for reinstatement to the

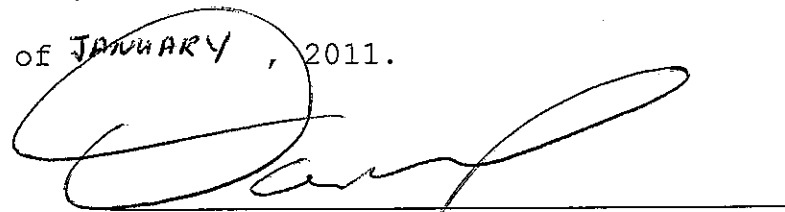
practice of law pursuant to the provisions of Rule 218, Pa.R.D.E.

13. He acknowledges that he is fully aware of his right to consult and employ counsel to represent him in the instant proceeding. He has not retained, consulted with and acted upon the advice of counsel in connection with his decision to execute the within resignation.

14. He requests that the effective date of his disbarment on consent be September 22, 2009, the date he was placed on temporary suspension. He has been informed that the Office of Disciplinary Counsel does not object to Respondent's request. He understands that the Supreme Court has the discretion to grant or deny his request regarding retroactivity.

It is understood that the statements made herein are subject to the penalties of 18 Pa.C.S.A. §4904 (relating to unsworn falsification to authorities).

Signed this 19th day of JANUARY, 2011.



DANIEL L. McCAUGHAN
Respondent
Attorney Registration No. 80582

WITNESS: Daniel G. Rubin

COMMONWEALTH OF PENNSYLVANIA : IN THE COURT OF COMMON PLEAS
vs : CHESTER COUNTY, PENNSYLVANIA
DANIEL MCCAUGHAN : CRIMINAL ACTION
No. 4007-06

COMMONWEALTH'S SENTENCING MEMORANDUM

Following a jury trial on February 11, 2009, the defendant was found guilty of the following crimes:

1. Count One charging 18 Pa.C.S. § 3921, Theft By Unlawful Taking (F-3);
2. Count Two charging 18 Pa.C.S. § 3922, Theft By Deception (F-3); and
3. Count Three charging 18 Pa.C.S. § 5111 (a) (2), Dealing In Proceeds Of Unlawful Activities (F-1).

MERGER:

The Commonwealth submits that Counts One and Two merge for the purposes of sentencing and we suggest that the defendant be sentenced by this honorable Court only on Counts Two and Three.

FACTS:

At the jury trial, Pennsylvania State Trooper James Ciliberto testified that he took a report from Diane Stansberry on August 22, 2006 wherein she related that she was the mother of Christopher Stansberry who was arrested in the middle of June in 2004 by the Chester County Municipal Drug Task Force for drug trafficking. She reported that on June 18, 2004 she met with her son's attorney, the defendant Daniel McCaughan, at his office in West Chester where she gave the defendant approximately \$20,000.00 to safe keep because he told her that her house would be soon be searched by law enforcement authorities. When asked about whether the money was for legal fees, she said that she

EXHIBIT "A"

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asked the defendant about this and he said that Chris' legal fees were being paid for by, "Let's just say a friend." While she initially claimed that the money belonged to her, she corrected this and explained to the trooper that she realized that as her son was a drug dealer, the money had belonged to Chris, and she realized that the money was "drug money".

Mrs. Stansberry explained to the trooper that she first went to the defendant's office and presented him with \$10,000.00 in cash. The defendant told her that she needed to go back home because there should be more money than what she brought to the office. He also said that he would place all of the money into an escrow account until Chris got out of jail or otherwise needed the money. She then returned to her residence and retrieved another \$10,000.00 in cash, which she brought the defendant's office that same afternoon. It was during that second trip to the defendant's office that a subject named "Money" appeared. Diane described "Money" as being a male in his thirties, with dreadlocks, wearing shorts and work boots. When "Money" entered the defendant's office, the defendant told "Money" that he had a job for him to do. Mrs. Stansberry did not witness money exchange hands between the defendant and "Money" however she felt that it was possible that the defendant gave the \$20,000.00 to "Money." Mrs. Stansbury further explained that about this same time, the defendant placed two receipts in envelopes with handwriting on the front of the envelope, "Attorney-Client Privileged". He then told her to mail them to her house because if police were to find the envelopes, they could not open such mail. Trooper Ciliberto testified that he took custody of the envelopes with the receipts and the same were admitted into evidence at the trial.

Mrs. Stansberry told the trooper that she next saw the defendant at her son's preliminary hearing where the defendant told her he was advising her son to waive his hearing in exchange for a lower bail. She explained that her son waived his hearing but her son's bail was never lowered. She said that not long afterward, her son's case was transferred to federal court and her son was represented by a federal public defender. Her son then plead guilty and received a prison sentence.

Mrs. Stansberry told the trooper that in May of 2006, she asked the defendant for the return of the money that she had given to him. She said that the defendant then told her that he no longer had the money because he had given it to "Omar". The defendant explained to her that Omar was part of a drug cartel tied to the state of Texas and that the \$20,000.00 belonged to the cartel. Mrs. Stansberry related that the defendant added that he was on retainer for the cartel and that, "Well, I do what they tell me to do."

To corroborate the report from Mrs. Stansberry, Trooper Ciliberto testified that he intercepted and recorded a telephone conversation between Mrs. Stansberry and the defendant on August 23, 2006. The recording of this conversation was admitted into evidence at trial. A transcript was also produced to aid the jury. On the tape, the defendant could plainly be heard telling Mrs. Stansberry that he never put the money into escrow but instead gave the money to Omar. According to the testimony of Trooper Ciliberto, a veteran police officer with over twenty years of experience, Omar Vasquez is a local drug dealer. The trooper told the jury that from his personal experience, he knew that Vasquez had been represented in court by the defendant in the past on multiple occasions.

On the recording, the defendant can be heard explaining to Mrs. Stansberry his failure to return the money, for example:

DM: Because it was his money. It was Omar's money. It was Jiggy 's money. It was J.B.'s money. It was all them guys' money. That wasn't Chris's money. That was front drug money. (inaudible) it's Chris. Chris gave me a diagram... drew a diagram in prison, showing me... This is where this is. This is where that is. It's drug money, Diane. It's drug money. And those guys... I work for those guys. Just like Chris worked for them. I... and I never threatened Chris with them. I never did that. I got hired by them to go in and work with him. And he knew exactly who hired me and who I was working for and what the whole arrangement was.

DS: OK. Well let me ask you this... How did Omar even know that you have the \$20,000? I don't even know...

DM: Because he... he was behind everything. Omar... I gave Omar daily reports, because I work for him.

DS: OK. So he... he...

DM: Omar... Omar was involved every day. Two, three times a day... asking for updates, giving me instructions on what to go in and say to Chris. Every time I would go see Chris.

DS: So Omar... You listened to Omar, and you're supposed to be Chris's lawyer.

DM: I work for... I work for Omar, just like Chris works for Omar. And Chris knew that. Chris knew all of that up front.

(See, transcript at pages 5, 6)

Trooper Ciliberto also testified at trial that when he arrested the defendant, the defendant upon seeing the arrest warrant, stated that "Well, I'll pay the money back now that I have this".

The other testimony during the trial came from Mrs. Stanberry and her son, Christopher. Mrs. Stansberry testified consistently with that which she told to the trooper. Christopher Stansberry testified that he had met the defendant while in prison following his arrest after he told Omar Vasquez that he needed an attorney. Chris testified that the

defendant showed up at the prison shortly after his discussion with Omar and at no time did the defendant ever discuss a fee for the defendant's legal services. Chris said he took the defendant's advice and waived his preliminary hearing in order to get a lower bail, but his bail remained at \$250,000.00 cash and he was never released. He testified that shortly afterward he was indicted by federal authorities and the Chester County charges were dropped. He was transferred from Chester County Prison to a federal prison in New Jersey where he was appointed a federal public defender. He later plead guilty and received a lengthy prison sentence.

Christopher added that while in federal prison he spoke to the defendant over the telephone. The defendant explained to him that he gave the money to Omar Vasquez because, "I thought I was supposed to do that."

The defendant did not testify and offered only character witnesses.

CRIMINAL HISTORY:

A check of records indicates that the defendant does not have any prior criminal record.

SENTENCING GUIDELINES:

On Count Two, charging 18 Pa.C.S. § 3922, Theft By Deception (F-3), the Offense Gravity Score (OGS) under the Sentencing Guidelines is a 5, the mitigated range is RS, the standard range is 0 to 9 months, while the aggravated range is 9 to 12 months; and