

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 1642 Disciplinary Docket No. 3
Petitioner :
 : No. 156 DB 2010
v. :
 : Attorney Registration No. 16179
RANDALL J. SOMMOVILLA, :
Respondent : (Philadelphia)

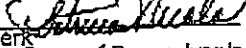
ORDER

PER CURIAM:

AND NOW, this 22nd day of November, 2011, upon consideration of the Recommendation of the Three-Member Panel of the Disciplinary Board dated August 5, 2011, 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 Randall J. Sommovilla is suspended on consent from the Bar of this Commonwealth for a period of two years retroactive to January 31, 2011, and he shall comply with all the provisions of Rule 217, Pa.R.D.E.

A True Copy Patricia Nicola
As Of 11/22/2011

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA


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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 Mark S. Baer, Stephan K. Todd, and R. Burke McLemore, Jr., has reviewed the Joint Petition in Support of Discipline on Consent filed in the above-captioned matter on June 17, 2011.

The Panel approves the Joint Petition consenting to a two year suspension retroactive to January 31, 2011 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.


Mark S. Baer, Panel Chair
The Disciplinary Board of the
Supreme Court of Pennsylvania

Date: August 5, 2011

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 1642 DD No. 3
Petitioner :
:
: No. 156 DB 2010
v. :
: Atty. Reg. No. 16179
RANDALL J. SOMMOVILLA, :
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 Harriet R. Brumberg, Disciplinary Counsel, and by Respondent, Randall J. Sommovilla, and Respondent's counsel, Samuel C. Stretton, Esquire, 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:

I. BACKGROUND

1. Petitioner, whose principal office is located at Pennsylvania Judicial Center, Suite 2700, 601 Commonwealth Avenue, P.O. Box 62485, Harrisburg, Pennsylvania 17106-2485, 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

FILED

JUN 17 2011

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

disciplinary proceedings brought in accordance with the various provisions of said Rules of Disciplinary Enforcement.

2. Respondent, Randall J. Sommovilla, was born on October 4, 1947, and was admitted to practice law in this Commonwealth on October 14, 1972.

3. Respondent is currently incarcerated at the State Correctional Institution Laurel Highlands, 5760 Glades Pike, P.O. Box 631, Somerset, PA 15501.

4. By Order dated January 31, 2011, the Supreme Court placed Respondent on temporary suspension pursuant to Rule 214(d)(2), Pa.R.D.E.

5. Pursuant to Pa.R.D.E. 201(a)(3), Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

II. FACTUAL ADMISSIONS AND VIOLATIONS OF DISCIPLINARY RULES

6. Respondent specifically admits to the truth of the factual allegations and conclusions of law contained in paragraphs 1 through 22.

7. At approximately 8:15 p.m. on Friday, July 10, 2009, Respondent went to George W. Hill Correctional Facility. Upon Respondent's arrival at the Visitor's Entrance, Respondent informed Sgt. Brown that he wanted to

see his client, Amber Knox. Sgt. Brown then performed an ion scan on Respondent and obtained two positive readings. As Sgt. Brown began her third ion scan on Respondent, she found a bag on the floor near Respondent's feet. Inside the bag, Sgt. Brown found numerous small blue packages containing a white powder and three small blue round pills. A field test revealed that the small blue packages contained heroin; and a later test of the pills revealed that they were alprazolam (Xanax), a Schedule IV controlled substance.

8. As a result of having found illegal drugs on Respondent, correctional officers searched Respondent's vehicle, which was parked in the prison parking lot. The search uncovered three glass pipes commonly used for smoking crack cocaine, two clear plastic bags containing cocaine, and three small blue packages containing heroin.

9. Members of the Delaware County Police Department arrived, escorted Respondent to the Visitors Room, informed Respondent that he was under arrest, and advised Respondent of his constitutional rights. Respondent agreed to speak to the police and admitted that he had been introduced to crack cocaine and marijuana by some women he had met. Respondent claimed that one of these women, Amber Knox, had called him from the George W. Hill Correctional Facility

and informed Respondent that she was sick and needed some drugs. Another woman, Brittany, requested that Respondent take some drugs to Ms. Knox.

10. Respondent refused to admit that he dropped the bag of drugs that Sgt. Brown found near his feet. Respondent admitted, however, that prior to leaving his house, he saw the bundle of blue packages on his jacket. As related in the Affidavit of Probable Cause accompanying the criminal complaint, Respondent told the police, "My suspicion is that Brittany placed the drugs in [my] clothing and when I got out to the facility Amber would convince me to give her the drugs."

11. Respondent was charged with violating: 18 Pa.C.S.A. §5123(a), Controlled Substance Contraband to Confined Persons (F-2); 35 P.S. §780-113(a)(30), Possession With Intent to Deliver a Controlled Substance (2 counts)(F); Knowing or Intentional Possession of a Controlled Substance, 35 P.S. §780-113(a)(16) (2 counts)(F); and Possession of Drug Paraphernalia, 35 P.S. §780-113(a)(32) (2 counts)(F).

12. On June 10, 2010, Respondent pled guilty to one count of the offense of Possession with Intent to Deliver a Controlled Substance, 35 P.S. §780-113(a)(30).

Commonwealth v. Sommovilla, No. CP-23-CR-0007137-2009,
(Delaware County).

13. Mr. Sommovilla was convicted of an ungraded felony, which is punishable by imprisonment for no more than ten years, a fine not exceeding \$100,000, or both. This is a "serious crime" as defined by Rule 214(i), Pa.R.D.E.

14. On July 12, 2010, the Honorable Patricia H. Jenkins sentenced Mr. Sommovilla to 18 to 36 months of imprisonment and payment of court costs and fees of \$829.50. On August 23, 2010, Respondent surrendered to the Department of Corrections to begin serving his sentence.

15. By his conduct as set forth in paragraphs 6 to 14 above, Respondent violated the following Rules:

- a. RPC 8.4(b), which states that it is professional misconduct for a lawyer to commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;
- b. RPC 8.4(c), which states that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

- c. RPC 8.4(d), which states that it professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice; and
- d. Pa.R.D.E. 203(b)(1), which provides that conviction of a crime shall be grounds for discipline.

III. JOINT RECOMMENDATION FOR DISCIPLINE

16. Petitioner and Respondent jointly recommend that the appropriate discipline for Respondent's admitted misconduct is a two-year suspension. Respondent and ODC jointly recommend that the two-year suspension be made retroactive to January 31, 2011, the date of the Supreme Court's Order placing Respondent on temporary suspension.

17. Respondent hereby consents to the recommended discipline being imposed 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 the mandatory acknowledgements contained in Pa.R.D.E. 215(d)(1) through (4).

18. Petitioner and Respondent respectfully submit that there are the following aggravating circumstances:

- a. Respondent knowingly made misrepresentations to prison officials that he was Ms. Knox's attorney in order to gain entry to the prison and access to Ms. Knox;
- b. Respondent knowingly attempted to smuggle contraband into a prison;
- c. Respondent failed to initially acknowledge and accept responsibility for the bag filled with drugs found at his feet; and
- d. Respondent's arrest and criminal conviction received negative newspaper coverage.

19. Petitioner and Respondent respectfully submit that there are the following mitigating factors:

- a. Respondent has established that there is a causal connection between his drug addiction and his misconduct to satisfy the requirements of **Office of Disciplinary Counsel v. Braun**, 520 Pa. 157, 553 A.2d 894 (1989);
- b. Respondent has no record of discipline;
- c. Respondent expressed sincere remorse for his misconduct; and

d. Respondent cooperated with disciplinary authorities, including agreeing to a Temporary Suspension and the Discipline on Consent.

20. Attorneys who do not engage in drug dealing for personal financial gain, but act at the behest of a third party to deliver drugs, may receive public discipline ranging from a Public Censure to a three-year suspension. The totality of the circumstances surrounding the crime, including the amount of drugs in an attorney's possession, number of drug deliveries, and length of prison sentence, tends to influence the determination of the quantum of discipline imposed.

The respondent-attorney in *Office of Disciplinary Counsel v. Logue*, No. 52 DB 1997, D.Bd. Rpt. 6/24/98 (S.Ct. Order 8/17/98), was asked by a friend to sell cocaine to another friend, who unbeknownst to the respondent-attorney, was a police detective. On three occasions, Logue sold cocaine to the detective; the total amount sold was less than two grams. Logue pleaded guilty to his crimes, was sentenced to three to twenty-three months imprisonment, and was released for good behavior after serving three months less eighteen days. At his disciplinary hearing, Logue expressed sincere remorse and established a causal

connection between his drug addiction and his misconduct. The Supreme Court imposed a three-year suspension, retroactive to the date of Logue's temporary suspension.

Similarly, the respondent-attorney in *Office of Disciplinary Counsel v. L. Edward Glass*, No. 5 DB 95, D.Bd. Rpt. 4/1/97 (S.Ct. Order 5/21/97), began delivering drugs at the request of a third party. Glass's normal cocaine supplier advised Glass that he did not have any cocaine and requested that Glass obtain cocaine for the supplier through Glass's connections as a criminal defense attorney. Thereafter, on two occasions, Glass obtained a total of 37 grams of cocaine through independent sources and delivered the cocaine to his supplier, who in turn, gave Glass a portion for his personal use. Glass was sentenced to five months in a federal prison camp, three years of supervised release, and a \$1,000 fine. Although the Disciplinary Board found that Glass had established **Braun** mitigation, the Board observed that "[t]here was no doubt that" Glass's crime, which was publicized in the press, "had a disparaging effect on the public's confidence in the legal system and in the profession." D.Bd. Rpt. at 12. The Supreme Court imposed a two-and-one-half-year suspension, retroactive to the date of Glass's temporary suspension.

In *Office of Disciplinary Counsel v. Reed James Davis*, No. 76 DB 2005, D.Bd. Rpt. 1/18/2007 (S.Ct. Order 1/18/2007), the respondent-attorney likewise began delivering cocaine following the bidding of a third party. Davis testified that he was contacted by a college friend, a confidential informant, who asked Davis if he knew where to obtain cocaine. Davis then contacted a client, who gave Davis cocaine to deliver to his college friend, minus a gram or two for Davis's own use. Davis pled guilty to drug-related charges and was sentenced to one to three years of imprisonment. Although the Disciplinary Board found that Davis "was not addicted to cocaine when he began acting as a middleman," the Board found that Davis became addicted thereafter and the "totality of the evidence supports the conclusion that Respondent [Davis] met the **Braun** standard for mitigation." D.Bd. Rpt. at 11-12. The Disciplinary Board, with four dissents, recommended a one-year suspension; the Supreme Court imposed a suspension of one year and one day, retroactive to the date of Davis's temporary suspension.

21. Respondent, like the attorneys in *Logue*, *Glass*, and *Davis*, attempted to deliver drugs at the behest of a third party. But unlike Logue, Glass, and Davis, Respondent only attempted a single delivery. Respondent,

however, was also found in possession of many controlled substances. Indeed, Respondent was in possession of three alprazolam tablets, .41 grams of heroin, and 3.7 grams of cocaine as well as drug-related paraphernalia. Respondent's criminal sentence of eighteen to thirty-six months imprisonment was substantially greater than the sentences received by Logue (three to twenty-three months imprisonment), Glass (five months in federal prison camp), and Davis (one to three years imprisonment).

Respondent's conviction of one count of Possession with Intent to Deliver a Controlled Substance does not adequately reflect the severity of Respondent's misconduct, which involved misrepresentations to correctional officers and the police. Yet, Respondent has worthy mitigation. Respondent's drug addiction, cooperation with disciplinary authorities, absence of disciplinary history, and sincere remorse are weighty factors.

Application of the foregoing precedent to the totality of Respondent's misconduct results in the conclusion that Respondent's unmitigated misconduct would warrant a three-year suspension, but the mitigating factors support Respondent's receiving a two-year suspension, retroactive to the date of his temporary suspension. A two-year suspension is within the range of discipline imposed on

attorneys who have engaged in misconduct similar to Respondent's misconduct.

22. WHEREFORE, Petitioner and Respondent respectfully request that:

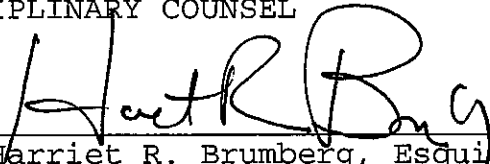
- a. Pursuant to Pa.R.D.E. 215(e) and 215(g), the three-member panel of the Disciplinary Board review and approve the Joint Petition in Support of Discipline on Consent and file its recommendation with the Supreme Court of Pennsylvania recommending that the Supreme Court enter an Order that Respondent receive a two-year suspension, retroactive to January 31, 2011, the date of the Supreme Court's Order placing Respondent on temporary suspension; and
- 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,

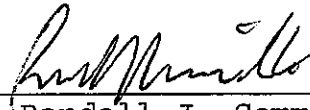
OFFICE OF DISCIPLINARY COUNSEL

PAUL J. KILLION
CHIEF DISCIPLINARY COUNSEL

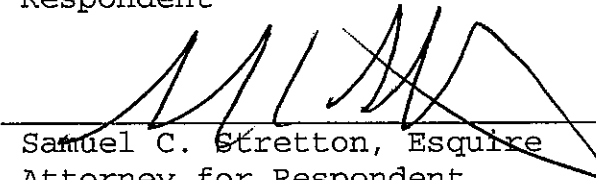
May 2, 2011
Date

By 
Harriet R. Brumberg, Esquire
Disciplinary Counsel

5/10/11
Date

By 
Randall J. Sommovilla
Respondent

5/6/11
Date

By 
Samuel C. Stretton, Esquire
Attorney for Respondent

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


Respondent, Randall J. Sommovilla, hereby states that he consents to the imposition of a two-year suspension, retroactive to January 31, 2011, jointly recommended by the 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 consulted with Samuel C. Stretton, Esquire, in connection with the decision to consent to discipline;

2. He is aware that there is presently pending a disciplinary proceeding at No. 156 DB 2010 involving allegations that he has committed misconduct as set forth in the Joint Petition;

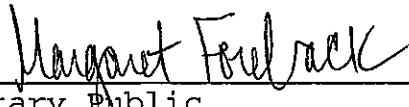
3. He acknowledges that the material facts set forth in the Joint Petition are true; and

4. He consents because he knows that if the charges pending at No. 156 DB 2010 continue to be prosecuted, he could not successfully defend against them.

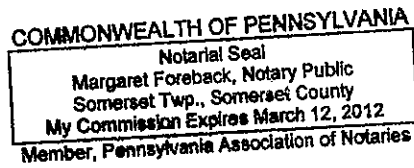


Randall J. Sommovilla

Sworn to and subscribed
before me this 2nd
day of JUNE, 2011.



Notary Public



BEFORE THE DISCIPLINARY BOARD OF THE
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VERIFICATION

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

6/2, 2011
Date

By

Harriet R. Brumberg
Harriet R. Brumberg
Disciplinary Counsel

6/2/11
Date

By

Randall J. Sommovilla
Randall J. Sommovilla
Respondent

6/6/11
Date

By

Samuel C. Stretton, Esquire
Samuel C. Stretton, Esquire
Attorney for Respondent