

IN THE SUPREME COURT OF PENNSYLVANIA

In the Matter of : No. 97 DB 2009
: :
: :
PETER PAUL BEILL : Attorney Registration No. 46757
: :
: :
PETITION FOR REINSTATEMENT :
FROM INACTIVE STATUS : (Dauphin County)
: :
AND :
: :
OFFICE OF DISCIPLINARY COUNSEL, : No. 1515 Disciplinary Docket No. 3
Petitioner :
: :
: : No. 113 DB 2009
v. :
: : Attorney Registration No. 46757
PETER PAUL BEILL, :
Respondent : (Dauphin County)

ORDER


PER CURIAM:

AND NOW, this 4th day of May, 2011, upon consideration of the Report and Recommendations of the Disciplinary Board dated January 26, 2011, the Petition for Reinstatement from Inactive Status is denied, and it is hereby

ORDERED that Peter Paul Beill is suspended from the Bar of this Commonwealth for a period of three years retroactive to May 26, 2009, and he shall comply with all the provisions of Rule 217, Pa.R.D.E.

It is further ORDERED that the expenses incurred in the investigation and processing of this matter shall be paid by Peter Paul Beill.

A True Copy Patricia Nicola
As Of 5/4/2011

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

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Respondent	:	(Dauphin 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 Rules 208(d)(2)(iii) and 218(c)(5) of the Pennsylvania Rules of Disciplinary Enforcement, The Disciplinary Board of the Supreme Court of Pennsylvania submits its findings and recommendations to your Honorable Court with respect to the above-captioned Petition for Reinstatement from Inactive Status and Petition for Discipline.

I. HISTORY OF PROCEEDINGS

On May 26, 2009, Peter Paul Beill filed a Petition for Reinstatement from Inactive Status. Office of Disciplinary Counsel filed a Response on August 31, 2009 and

opposed the Reinstatement due to the disclosure of Petitioner's third degree felony conviction.

On October 2, 2009, Office of Disciplinary Counsel filed a Petition for Discipline against Mr. Beill, charging him with violations of the Rules of Professional Conduct and Rules of Disciplinary Enforcement arising out of his criminal conviction for the Sale or Transfer of Firearms. Mr. Beill filed an Answer to Petition for Discipline on October 23, 2009.

By Order of the Board dated October 28, 2009, the Petition for Reinstatement and Petition for Discipline were consolidated.

A hearing was held on January 11, 2010 before a District III Hearing Committee comprised of Chair Victor A. Neubaum, Esquire, and Members David E. Deluce, Esquire, and Charles J. Vogt, Esquire. Mr. Beill (hereinafter Petitioner) was represented by Robert H. Davis, Jr., Esquire.

Following the submission of briefs by the parties, the Hearing Committee filed a Report on May 14, 2010. The Committee recommended that the Petition for Reinstatement be denied and further recommended that Petitioner be suspended for a period of four years.

Petitioner filed a Brief on Exceptions on June 14, 2010 and requested oral argument before the Board.

Office of Disciplinary Counsel filed a Brief Opposing Exceptions on June 24, 2010.

Oral argument was held on September 23, 2010, before a three member panel of the Board.

This matter was adjudicated by the Board at the meeting on October 11, 2010.

II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Office of Disciplinary Counsel, whose principal office is located at Pennsylvania Judicial Center, 601 Commonwealth Avenue, Suite 2700, Harrisburg PA 17106-62485, is invested, pursuant to Rule 207, Pa.R.D.E., 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. Petitioner is Peter Paul Beill. He was born in 1959 and was admitted to practice law in Pennsylvania in 1986. His registered address is 46 N. 17th Street, Harrisburg, PA 17103. He is subject to the jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

3. Petitioner has no prior discipline.

4. By Order of the Supreme Court of August 4, 2003, Petitioner was transferred to inactive status for failure to comply with continuing legal education requirements.

5. On May 26, 2009, Petitioner filed a Petition for Reinstatement from Inactive Status. This was accompanied by a Special Reinstatement Questionnaire, wherein, in response to Question 10, Petitioner revealed that he had entered a plea of nolo

contendere to the crime of Sale or Transfer of Firearms in Blair County, Pennsylvania, in 2004.

6. By letter dated July 16, 2009, Chief Disciplinary Counsel filed a Certificate of Conviction with the Supreme Court pursuant to Rule 214(c), Pa.R.D.E., and requested that the Court refer the conviction to the Board for the institution of a formal proceeding to be considered with Petitioner's reinstatement request.

7. By Order of September 22, 2009, the Supreme Court referred the conviction to the Board.

8. On October 22, 2003, Agent Anthony L. Sassano of the Pennsylvania Attorney General's Office filed a criminal complaint and obtained an arrest warrant for Petitioner, charging him with one count of Possession of a Controlled Substance in violation of 35 P.S. Section 780-113(a)(16), one count of Possession with Intent to Deliver a Controlled Substance in violation of 35 P.S. Section 780-113(a)(30), and nine counts of Sale or Transfer of Firearms in violation of 18 Pa.C.S. Section 6111(c).

9. On December 10, 2003, the Blair County District Attorney filed an information against Petitioner containing the same charges.

10. On July 9, 2004, Petitioner entered a plea of Nolo Contendere to Count 3 of the Information charging Sale or Transfer of Firearms, punishable by imprisonment of up to seven years and/or a fine of up to \$15,000.

11. On October 15, 2004, Petitioner was sentenced to pay the costs of prosecution, a fine of \$500, and be incarcerated in the Blair County Prison for a minimum of six months up to 48 months. Petitioner served approximately 11 months in jail. He was discharged from parole effective October 7, 2008.

12. Petitioner did not timely notify the Secretary of the Disciplinary Board of his conviction of a serious crime, pursuant to Rule 214(a), Pa.R.D.E.

13. An article published in the Altoona Mirror newspaper dated October 23, 2003 reported that disciplinary proceedings, if any, related to the charges would follow Petitioner's conviction. (N.T. 30, Beill #14).

14. Petitioner testified that he thought the matter of notifying the Board of his conviction was taken care of because the Prothonotary sends a certificate to the Supreme Court when an attorney is convicted.

15. On March 21, 2005, a judgment of \$802.02 was entered against Petitioner relative to his failure to pay his fines and costs of prosecution; a Praecipe for Satisfaction of Judgment was filed on March 7, 2008.

16. Between December 6, 2002 and January 23, 2003, Petitioner purchased nine handguns from two gun stores in Altoona.

17. On the nine Application/ Record of Sale forms Petitioner completed in order to purchase nine handguns, between December 6, 2002 and January 23, 2003, he listed three different Altoona addresses for his residence and three different Altoona addresses for his law office, each time verifying under penalty of 18 Pa.C.S.A. Section 4904 that the information was true and correct. He did not list the address of 824 First Avenue, Altoona, where he then lived, on any of the forms.

18. On three of the four Firearms Transaction Record Part 1 forms Petitioner filled out to purchase six handguns between December 6, 2002 and January 21, 2003, Petitioner falsely certified as true and correct that he was the actual purchaser of the listed firearm(s) when, in fact, by his own admission, he purchased one of the guns for

another person, and based on other credible testimony purchased all of the guns for another person.

19. On the four Firearms Transaction Record Part 1 forms Petitioner filled out between December 6, 2002 and January 23, 2003 in order to purchase nine handguns, Petitioner certified as true and correct that he was not “an unlawful user of, addicted to, marijuana, or any depressant, stimulant or narcotic drug, or any other controlled substance.” These statements are contrary to his testimony before the Hearing Committee. (N.T. 113)

20. Petitioner testified that he used cocaine and alcohol in late 2002 and early 2003. At that time he was living with his girlfriend and legal secretary, Michele Grajeck, who, according to Petitioner, was deeply into crack cocaine and who introduced Petitioner to Joseph Hines, known to Petitioner as a drug dealer from Philadelphia.

21. Petitioner testified that he legally purchased all nine of the handguns for personal use to go shooting in the woods with Ms. Grajeck, he gave one of the guns to Mr. Hines, and the other guns remained locked in a closet. This testimony was not credible.

22. Petitioner testified that he bought the guns at a time when he was out of control due to drugs and alcohol abuse. This testimony is not supported by clear and convincing evidence.

23. Petitioner presented testimony from John Monte, an addiction and mental health counselor, and Dr. Jeffrey Chimahosky, Petitioner’s primary care physician from 2007 to the date of the hearing.

24. During Petitioner’s time in prison, he was diagnosed as suffering from bipolar disorder and received treatment from the Altoona Home Nursing Agency.

25. Following Petitioner's release on parole in 2005, he was accepted into a 28 day modification program at Common Ground run by Gaudenzia to aid those recovering from addictions to transition back to life after incarceration. He successfully completed this program.

26. In December 2005, Petitioner attended and completed another program of recovery, Concept 90, until he was released to Cifelli House, run by John Monte.

27. Petitioner completed all outpatient program requirements, including aftercare counseling, group therapy, attendance at AA/NA and obtaining a sponsor.

28. Mr. Monte and Dr. Chimahosky opined there was a direct causal link between Petitioner's commission of the crime and his loss of control due to use of drugs and alcohol. However, neither expert had any direct knowledge of Petitioner's loss of control while under the influence of drugs and alcohol nor of any actual alcohol or drug abuse during the period of criminal activity.

III. CONCLUSIONS OF LAW

1. Petitioner's conviction of one count of Sale or Transfer of Firearms is an independent ground for discipline pursuant to Rule 203(b)(1), Pa.R.D.E.

2. Petitioner failed to notify the Secretary of the Disciplinary Board of his conviction of a serious crime as required by Rule 214(a).

3. Petitioner's belief that the Board had notification of his conviction due to a newspaper article and due to his belief that the Prothonotary sends convictions to the Supreme Court did not relieve him of his obligation to report to the Secretary of the Board.

4. RPC 8.4(b) - 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.

5. Petitioner did not meet his burden to establish by clear and satisfactory evidence that his purported addictions and mental health condition were causal factors in his criminal conduct. Petitioner is not entitled to Braun mitigation.

6. Petitioner did not meet his burden under Rule 218(d)(3), Pa.R.D.E. that he has the moral qualifications, competency and learning in the law required for admission to practice in the Commonwealth.

IV. DISCUSSION

This matter is before the Board for consideration of both a Petition for Discipline charging Petitioner with misconduct arising from a criminal conviction, and a Petition for Reinstatement from Inactive Status filed by Petitioner seeking readmission to practice law in Pennsylvania.

The criminal conviction came to light upon Petitioner's voluntary disclosure in his Reinstatement Questionnaire filed with the Board on May 26, 2009. At that point in time, Office of Disciplinary Counsel sent the conviction to the Court, which referred it to the Board for formal proceedings.

A certificate of conviction of an attorney for a crime is conclusive evidence of the commission of that crime in any disciplinary proceeding instituted against the attorney based upon the conviction. Pa.R.D.E. 214(e). The sole issue to be determined in the disciplinary proceeding is the degree of discipline to be imposed. Rule 214(f)(1), Pa.R.D.E.

In determining the appropriate discipline to recommend, the seriousness of the misconduct must be considered along with any mitigating or aggravating circumstances. Office of Disciplinary Counsel v. Valentino, 730 A.2d 479 (Pa. 1999).

The criminal charge to which Petitioner pleaded nolo contendere is extremely serious. It was a felony of the third degree punishable by imprisonment up to seven years. Petitioner was sentenced to serve six to 48 months and actually served about eleven months. Petitioner bought a total of nine handguns and gave at least one of them to a person known by him to be a drug dealer. At the disciplinary hearing, Petitioner attempted to contradict previous accounts given by him as to the whereabouts of the handguns, and by this testimony proves himself to be not credible.

In an effort to mitigate his criminal conduct pursuant to Office of Disciplinary Counsel v. Braun, 552 A.2d 894 (Pa. 1989), Petitioner claims that his criminal conviction was due to severe drug and alcohol addiction and an undiagnosed bipolar disorder. Petitioner introduced expert testimony from John Monte, who owns and operates a number of transitional houses, and Jeffrey Chimahosky, DO, Petitioner's primary care physician. Each testified that in their opinion Petitioner's purported drug and alcohol abuse and his mental illness were causal factors in Petitioner's criminal conduct.

A careful review of the testimony reveals that the experts' opinions were predicated upon Petitioner's uncorroborated testimony that at the time he was buying the handguns he was totally out of control on drugs and alcohol. The evidence supports a finding that Petitioner was using drugs and alcohol, but does not support a finding that he was addicted to drugs and alcohol, and such addiction caused his misconduct. There is no mention of an addiction to drugs or alcohol in Petitioner's Presentence Investigation

conducted by the Blair County Parole Department, at his sentencing before the Blair County Court, or in his Motion for Reconsideration of his sentence. Likewise, no clear and convincing evidence was presented that Petitioner suffered from a psychiatric disorder at the time of the misconduct. The Board finds that the experts' opinions are without sufficient factual support and so concludes that Petitioner did not meet Braun.

Petitioner's criminal conduct and failure to report his conviction are serious acts and warrant a lengthy suspension. His lack of credibility on the witness stand as to why he purchased the guns and what he did with them aggravates his misconduct. Little mitigating evidence was provided, but for Petitioner's lack of disciplinary record prior to these proceedings. Petitioner argues that his cooperation with Office of Disciplinary Counsel must be considered. Petitioner admitted all of the averments in the Answer to Petition, but his lack of candor at the hearing as described above lessens the impact of any cooperation.

The Board does note one point that was not raised in this matter. This entire proceeding was predicated on Petitioner's voluntary disclosure of the criminal conviction, a matter of which Office of Disciplinary Counsel was unaware. While Disciplinary Counsel most likely would have uncovered the conviction in its investigation of the Reinstatement Petition, Petitioner's own admission saved time and resources.

The facts and circumstances persuade the Board that a suspension of three years, retroactive to May 26, 2009, is appropriate discipline. We have uncovered no prior case similar to this matter, yet there are many criminal acts committed by attorneys that have resulted in suspensions ranging from one year and one day to five years. See Office of Disciplinary Counsel v. McFadden, Nos. 121 DB 2008 and 41 DB 2009, 1413 & 1472

Disciplinary Docket No. 3 (Pa. Nov. 23, 2009); Office of Disciplinary Counsel v. Bernard McBride, 116 DB 2008, 1412 Disciplinary Docket No. 3 (Pa. July 24, 2009); Office of Disciplinary Counsel v. Maria Del Sol Morell, 136 DB 2001, 694 Disciplinary Docket No. 3 (Pa. Nov. 18, 2003).

We turn to the matter of the Petition for Reinstatement from Inactive Status. It is the Board's recommendation that the Petition be denied and Petitioner not be reinstated to active status. The primary reason for the recommendation is that Petitioner should receive some form of public discipline for his conviction of a serious crime. We are recommending a three year suspension for the Supreme Court's consideration. Petitioner is not qualified to be reinstated at this time.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that Petitioner, Peter Paul Beill be Suspended from the practice of law for a period of three years retroactive to May 26, 2009, and that the Petition for Reinstatement from Inactive Status be denied.

The Board further recommends that Petitioner be directed to pay the necessary expenses incurred in the investigation and processing of the Petition for Reinstatement.

Respectfully submitted,

THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

By:  _____
Gerald Lawrence, Board Member

Date: January 26, 2011

Board Member Baer did not participate in the adjudication.