

IN THE SUPREME COURT OF PENNSYLVANIA

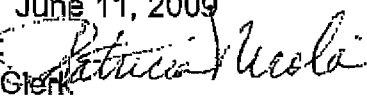
OFFICE OF DISCIPLINARY COUNSEL, : No. 1288 Disciplinary Docket No. 3
Petitioner :
v. : No. 118 DB 2007
MICHAEL JOHN PISANCHYN, JR., : Attorney Registration No. 87542
Respondent : (Lackawanna County)

ORDER

PER CURIAM:

AND NOW, this 11th day of June, 2009, upon consideration of the Recommendation of the Three-Member Panel of the Disciplinary Board dated March 30, 2009, 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 Michael John Pisanchyn, Jr., be subjected to public censure by the Supreme Court.

A True Copy Patricia Nicola
As of: June 11, 2009
Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

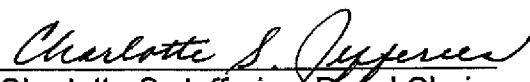
OFFICE OF DISCIPLINARY COUNSEL	:	No. 1288 Disciplinary Docket No. 3
Petitioner	:	
	:	No. 118 DB 2007
v.	:	
	:	Attorney Registration No. 87542
MICHAEL JOHN PISANCHYN, JR.	:	
Respondent	:	(Lackawanna County)

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 Charlotte S. Jefferies, William A. Pietragallo and Stephan K. Todd, has reviewed the Joint Petition in Support of Discipline on Consent filed in the above-captioned matter on March 10, 2009.

The Panel approves the Joint Petition consenting to a Public Censure 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.


Charlotte S. Jefferies, Panel Chair
The Disciplinary Board of the
Supreme Court of Pennsylvania

Date: March 30, 2009

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

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 1288 Disciplinary Docket
Petitioner	:	No. 3 – Supreme Court
	:	
v.	:	No. 118 DB 2007 – Disciplinary
	:	Board
	:	
MICHAEL JOHN PISANCHYN, JR.,	:	Attorney Registration No.
Respondent	:	87542
	:	
	:	(Lackawanna County)

**JOINT PETITION IN SUPPORT OF DISCIPLINE
ON CONSENT PURSUANT TO Pa.R.D.E.215(d), et. seq.**

Petitioner, Office of Disciplinary Counsel (“ODC”), by Paul J. Killion, Chief Disciplinary Counsel, and Edwin W. Frese, Jr., Disciplinary Counsel, and Respondent, Michael John Pisanchyn, Jr., Esquire (“Respondent”), respectfully petition this Honorable Board in support of discipline on consent, pursuant to Pennsylvania Rule of Disciplinary Enforcement (“Pa.R.D.E.”) 215(d), *et. seq.*, and in support thereof state:

1. ODC, whose principal office is situated at Suite 1400, 200 North Second Street, Harrisburg, Pennsylvania, is invested, pursuant to Pa. R.D.E. 207, with the power and duty to investigate all matters involving alleged misconduct of an attorney admitted to practice law in the Commonwealth of

FILED

MAR 10 2009

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

Pennsylvania and to prosecute all disciplinary proceedings brought in accordance with the various provisions of the aforesaid Enforcement Rules.

2. Respondent was born in 1974 and admitted to the practice of law in this Commonwealth on October 29, 2001. He is on Active Status with Attorney Registration Number 87542 and a Registered Address of 108 N. Washington Avenue, Scranton, PA 18503. Respondent is subject to the jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

3. Respondent's affidavit stating, *inter alia*, his consent to the recommended discipline of a public censure is attached hereto as Exhibit "A."

SPECIFIC FACTUAL ALLEGATIONS ADMITTED

4. On March 7, 2006, a two count Information was filed at No. 499 C.R. 2006 in the Court of Common Pleas of Lackawanna County, Pennsylvania by which the Respondent was charged as follows:

Count One: Simple Assault – 18 Pa.C.S. §2701(a)(1), a second degree misdemeanor; and,

Count Two: Harassment – 18 Pa.C.S. §2709(a)(1), a summary offense.

5. Beginning October 10, 2006, Respondent was tried before a jury which became deadlocked and a mistrial was declared on October 14, 2006.

6. By Order of December 28, 2006, the Lackawanna County Court granted the Commonwealth's motion to amend the Information to include:

Count Three: Recklessly Endangering Another Person – 18

Pa.C.S. §2705, a second degree misdemeanor; and,

Count Four: Disorderly Conduct – 18 Pa.C.S. §5503(a)(1), a third degree misdemeanor.

7. On February 8, 2007, a jury returned verdicts of Guilty on the three misdemeanor offenses. Respondent was also found guilty of the summary offense of Harassment.

8. On May 29, 2007, the Honorable Michael Barrasse sentenced the Respondent on the charge of Recklessly Endangering Another Person to serve a term of imprisonment in the Lackawanna County Prison of from four to twenty-four months and ordered him to make restitution to the victim of his assault in the amount of \$2,259.65, to pay the costs of prosecution, and to pay any medical expenses not otherwise covered, the first four months to be served on SCRAM [secure continuous remote alcohol monitor] house arrest followed by six months of SCRAM monitoring. It was agreed that the other offenses merged into the Recklessly Endangering charge for purposes of sentencing. Respondent was also directed to continue counseling with a therapist for anger management, to refrain from taking drugs or alcohol, and to not frequent any liquor-licensed establishment.

9. By letter of May 29, 2007, the Respondent notified the Disciplinary Board of his conviction of a serious crime pursuant to Pa.R.D.E. 214(a).

10. On June 28, 2007, the Respondent filed a Notice of Appeal to the Superior Court and his appeal was docketed to No. 1132 MDA 2007.

11. By Order of the Supreme Court of Pennsylvania of September 19, 2007, at No. 1288 Disciplinary Docket No. 3, Respondent's criminal conviction

was referred to the Disciplinary Board pursuant to Rule 214(f)(1) and (g), Pa.R.D.E., for a determination of the degree of discipline to be imposed. The Disciplinary Board docketed the matter to No. 118 DB 2007.

12. On March 18, 2008, the Superior Court remanded the Respondent's appeal back to the Trial Court for an Opinion under Pa.P.A.P. 1925(a).

13. By Memorandum filed July 25, 2008, a panel of the Superior Court affirmed the Respondent's conviction.

14. On August 7, 2008, the Respondent filed an Application for Reconsideration/Reargument with the Superior Court.

15. On September 26, 2008, the Respondent filed an Application to Withdraw Appeal with the Superior Court.

16. On October 1, 2008, the Superior Court denied Respondent's Application for Reargument as moot.

17. On October 10, 2008, Judge Barrasse released Respondent from home confinement and directed that his monitoring bracelet be removed.

18. The Respondent's criminal conviction arose out of a bar fight on October 29, 2005, at the Wildcat Saloon in Archbald, wherein the Respondent physically assaulted David Laguzzi by punching him in the head several times, causing personal injuries including a black eye, headaches and hearing loss, believing that Mr. Laguzzi or his girlfriend had thrown a beer on Respondent's brother's fiancée.

19. In his Opinion pursuant to Pa.R.A.P. 1925(b), Judge Barrasse set forth the following factors in justifying having sentenced Respondent in the aggravated range. "First, the victim in this case, David Laguzzi, sustained numerous injuries, which resulted in prolonged pain, recurring migraine headaches, recurring dizziness and ringing in his injured ear. Second, the Defendant continued to assault Mr. Laguzzi after he had been knocked to the ground by the Defendant. N.T. 2/06/07 p.56. Third, the Defendant has not accepted full responsibility for the incident: specifically he maintains that a drink being thrown rather than his personal actions started the altercation. N.T. 5/29/07 p.6. Finally, a lesser sentence would depreciate the seriousness of the crime."

20. The Respondent has no record of prior discipline.

RULE OF DISCIPLINARY ENFORCEMENT VIOLATED

21. The convictions of the Respondent constitute an independent basis for the imposition of discipline, pursuant to Rule 203(b)(1), Pa.R.D.E.

RECOMMENDATION FOR A PUBLIC CENSURE

In determining the appropriate measure of discipline, precedent must be examined to measure the Respondent's misconduct against other similar matters. *In re Anonymous No. 56 DB 1994, 28 Pa.D.&C.4th398(1995)*. Any aggravating and mitigating factors are also to be considered. *In re Anonymous No. 35 DB 1988, 8 Pa. D.&C.4th 344(1990)*. The primary purpose of our disciplinary system is to protect the public from unfit attorneys and to maintain

the integrity of the legal system. *Office of Disciplinary Counsel v. Keller*, 506 A.2d 872 (Pa. 1986). There are a number of disciplinary cases involving simple assaults. The sanctions imposed range from private reprimand up to a suspension for eighteen months. It is submitted that this case is more egregious than those resulting in private discipline but less serious than those resulting in suspensions.

In the case of *In re Anonymous No. 13 DB 76*, 5 Pa.D.&C.3d 210 (1978), the respondent-attorney was found guilty of assault and battery of a Pennsylvania State Trooper who had stopped the attorney for a minor traffic violation. The attorney was a successful criminal defense counsel who had been recently asked by fellow defense counsel what he had done to upset the State Police and who advised the attorney that the State Police were out to "get him." When stopped, the attorney got out of his car and approached the Trooper's. He ignored the Trooper's directions to get back into his car. When the Trooper was about to exit his vehicle, the attorney pushed the driver's door into the Trooper's leg causing pain and bruising. The attorney was found guilty and fined \$200. His appeal to the Superior Court and allocator were denied. The Hearing Committee found the attorney's attitude toward an officer of the law in the course of his duties quite disturbing in that the attorney was not prepared to accept the officer as his superior for the moment. It stated that the attorney's breach was too serious for an informal admonition but too mild to warrant public censure. It recommended and the Board imposed a private reprimand.

In the case of *Office of Disciplinary Counsel v. Anonymous No. 39 DB 85*, 47 Pa.D.&C.3d 376(1987), the respondent-attorney represented a nursing home while its employees voted on whether to join a union. Following the election which the union lost, a verbal argument arose between the attorney and the union representative during which the representative made an ethnic slur which caused the attorney to strike the representative. The attorney was convicted of simple assault for which he was sentenced to a 30 day suspended prison sentence and to pay the costs. The attorney presented strong character witnesses who testified to his fitness and excellent character reputation. The attorney had no prior criminal or disciplinary record. The Hearing Committee and Disciplinary Board recommended a private reprimand which the Court directed the Board to impose, with two Justices dissenting for a public censure.

In the case of *Office of Disciplinary Counsel v. Joseph James D'Alba*, 17 DB 1996 (D.Bd. Rpt. 3/8/02) (S.Ct. Order 4/29/02), the attorney was convicted of indirect criminal contempt for violating a PFA Order, defiant trespass for entering the home of his former girlfriend, and three counts of simple assault for altercations with the former girlfriend, her boyfriend, and a police officer and a fireman who responded to the altercation. The incidents took place in May of 1995 after which he moved from the area and did not engage in the practice of law. On the trespass and assaults, the attorney was sentenced to two years probation. On the contempt, he was sentenced to six months imprisonment, modified to partial confinement for work release. While the attorney was depressed and taking medication, there was no conclusive evidence that the

medication induced the assaults. The Hearing Committee recommended a private reprimand in view of the passage of time since the criminal acts and the positive changes the attorney had made in his life. However, the Disciplinary Board felt that a private reprimand would be insufficient and recommended a three-month suspension, noting that the attorney would have to petition for reinstatement since he had been inactive since 1996. The Court imposed a three-month suspension.

In the case of *Office of Disciplinary Counsel v. Brian J. Grady*, No. 155 DB 1997 (D.Bd. Rpt. 4/5/99) (S.Ct. Order 7/15/99), the attorney, an Assistant District Attorney, verbally accosted the Judge in his robing room over a ruling excluding evidence the ADA believed was necessary to win his case. When the defense counsel tried to interrupt, the ADA assaulted him, got him in a headlock, and banged his head against a wall. The Judge held the ADA in contempt and fined him \$2,500. The District Attorney suspended him without pay for 30 days, placed him on probation for a year, and banned him from returning to the courtroom for a minimum of six months. No criminal charges were brought. The Hearing Committee recommended a private reprimand. However, a majority of the Board recommended a six-month suspension, with five member dissenting for a public censure, and one member dissenting for a suspension of a year and one day. The Court imposed a six-month suspension.

In the case of *Office of Disciplinary Counsel v. Robert Thomas Gibson*, No. 161 DB 2002 (D.Bd. Rpt. 8/25/04) (S.Ct. Order 11/4/04), the attorney was convicted of aggravated assault, simple assault, aggravated harassment by

prisoner, and the summary offenses of disorderly conduct and public drunkenness for conduct occurring during a barroom brawl, which spilled out into the street and the police were called. The attorney did not cooperate with the police and spat on one of the police officers and punched her in the face while she was attempting to put him in an ambulance to go to the hospital for injuries he sustained in the fight. The Supreme Court placed the attorney on temporary suspension. At the disciplinary hearing, the attorney presented Braun mitigation, acknowledged his misbehavior, but denied spitting and punching the police officer. ODC recommended a two-year suspension, which the Hearing Committee recommended. A majority of the Board recommended a private reprimand and requested the Court to dissolve the temporary suspension. Four members dissented and recommended a year suspension retroactive to the date of the temporary suspension, 12/9/02, which sanction the Court imposed. In effect, the attorney was suspended for two years.

In the case of *Office of Disciplinary Counsel v. Anthony J. McKnight*, No. 156 DB 1994 (D.Bd. Rpt. 2/7/01) (S/Ct. Order 4/2/01), the attorney was convicted of simple assault in the Superior Court for the District of Columbia after he acted in a menacing manner toward his ex-fiancée and threw a beer on her while they were at an entertainment establishment. His conduct was part of a course of destructive and harassing behavior toward the ex-fiancée, which lasted for approximately fourteen months. He was sentenced to 180 days in jail, suspended as to all but 45 days, followed by two years probation during which he was required to enter and complete a domestic intervention program. His discipline

was aggravated by the following factors: a prior informal admonition; two counts of contempt for failing to appear in court, on which he was fined \$500 each; an additional count of contempt on which he was sentenced to 100 hours of community service; and failure to withdraw in civil and criminal cases after being transferred to inactive status. The Hearing Committee and Disciplinary Board recommended and the Court imposed a suspension of one year and one day.

It is respectfully submitted that the Respondent's misconduct is more serious than that of the attorneys who were privately reprimanded, but not as serious as those who were suspended for some period of time and warrants the imposition of a public censure.

WHEREFORE, Petitioner and Respondent respectfully ask that a Three-Member Panel of your Honorable Board:

- a. Approve this Petition; and,
- b. File this Petition and a recommendation for a public censure

with the Supreme Court of Pennsylvania.

Respectfully Submitted,

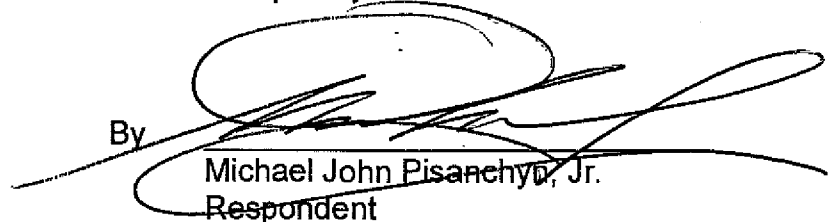
OFFICE OF DISCIPLINARY COUNSEL
Paul J. Killion
Chief Disciplinary Counsel

By



Edwin W. Frese, Jr.
Disciplinary Counsel

By



Michael John Pisanchyn, Jr.
Respondent

3/9/09
Date

3/02/09
Date

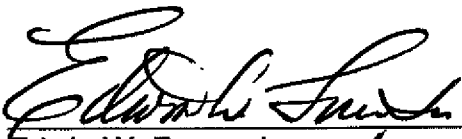
**BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA**

OFFICE OF DISCIPLINARY COUNSEL, : Petitioner	No. 1288 Disciplinary Docket No. 3 – Supreme Court
v.	No. 118 DB 2007 – Disciplinary Board
MICHAEL JOHN PISANCHYN, JR., Respondent	Attorney Registration No. 87542
	(Lackawanna County)

VERIFICATION

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

3/9/09
Date

By 
Edwin W. Frese, Jr.
Disciplinary Counsel

3/2/09
Date

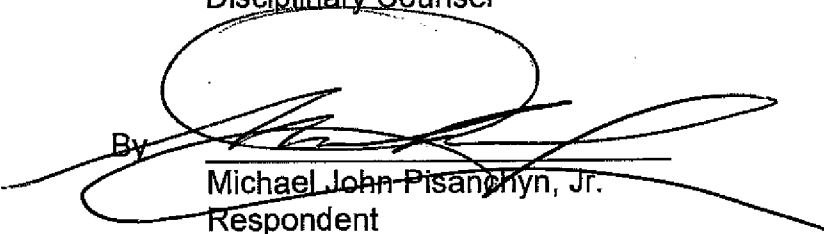
By 
Michael John Pisanchyn, Jr.
Respondent

EXHIBIT A

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

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 1288 Disciplinary Docket
Petitioner	:	No. 3 – Supreme Court
	:	
v.	:	No. 118 DB 2007 – Disciplinary
	:	Board
	:	
MICHAEL JOHN PISANCHYN, JR.,	:	Attorney Registration No.
Respondent	:	87542
	:	
	:	(Lackawanna County)

AFFIDAVIT PURSUANT TO RULE 215(d), Pa.R.D.E.

Respondent, Michael John Pisanchyn, Jr., hereby states that he consents to the imposition of a public censure as jointly recommended by Petitioner, Office of Disciplinary Counsel, and Respondent, in the Joint Petition in Support of Discipline on Consent pursuant to Rule 215(d), Pennsylvania Rules of Disciplinary Enforcement, 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 counsel in connection with the decision to consent to discipline;
2. He is aware that there is presently pending a proceeding involving allegations that he is guilty of 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 were to be prosecuted he may not successfully defend against them.

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 2nd day of March, 2009



Michael John Pisanchyn, Jr.
Respondent