

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 2200 Disciplinary Docket No. 3
Petitioner :
v. : No. 155 DB 2014
: Attorney Registration No. 56717
ALLAN G. GALLIMORE :
Respondent : (Allegheny County)

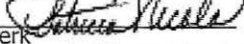
ORDER

PER CURIAM:

AND NOW, this 22nd day of October, 2015, upon consideration of the Report and Recommendations of the Disciplinary Board, Respondent Allan G. Gallimore is disbarred from the Bar of this Commonwealth, and he shall comply with all the provisions of Pa.R.D.E. 217.

Respondent shall pay costs to the Disciplinary Board pursuant to Pa.R.D.E. 208(g).

A True Copy Patricia Nicola
As Of 10/22/2015

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL	:	No. 155 DB 2014
Petitioner	:	
v.	:	Attorney Registration No. 56717
ALLAN G. GALLIMORE	:	
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 Petition for Discipline filed October 14, 2014, Office of Disciplinary Counsel charged Respondent, Allan G. Gallimore with professional misconduct in violation of Rule 203(b)(1), Pa.R.D.E. arising from his criminal conviction of theft by failure to make required disposition of funds received, forgery and the unauthorized practice of law. Respondent was personally served with the Petition for Discipline on October 22, 2014 and failed to file a response.

A pre-hearing conference was held on January 5, 2015, before District IV Hearing Committee Chair Leonard J. Marsico, Esquire. Respondent did not appear. A disciplinary hearing was held on February 19, 2015 before a District IV Hearing

Committee comprised of Chair Marsico and Members Elizabeth L. Hughes, Esquire and P. J. Murray, Esquire. Respondent failed to appear.

Following the submission of a Memorandum of Law filed by Petitioner, the Hearing Committee filed a Report on June 4, 2015, concluding that Respondent violated Rule 203(b)(1), Pa.R.D.E. and recommending that he be disbarred.

No Briefs on Exception were filed by the parties.

This matter was adjudicated by the Disciplinary Board at the meeting on July 25, 2015.

II. FINDINGS OF FACT

The Board makes the following findings:

1. Petitioner, Office of Disciplinary Counsel, whose principal office is located at 601 Commonwealth Avenue, Suite 2700, Harrisburg, Pennsylvania, is invested, pursuant to Rule 207 of the Pennsylvania Rules of Disciplinary Enforcement, with the power and 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 Allan G. Gallimore. He was born in 1954 and was admitted to the practice of law in the Commonwealth of Pennsylvania in 1989. Respondent's attorney registration mailing address is 211 N. Whitfield Street,

Pittsburgh, PA 15206. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

3. Respondent has a prior record of discipline in Pennsylvania. In 2004 he received an Informal Admonition and a Private Reprimand. In 2007, Respondent was suspended for a period of three months, followed by a period of probation for six months.

4. On October 16, 2008, the Supreme Court of Pennsylvania entered an Order whereby Respondent was suspended for a period of one year and one day. Respondent has not been reinstated to the practice of law and remains a suspended attorney in Pennsylvania.

5. On February 27, 2013, a criminal information was filed against Respondent in the Allegheny County Court of Common Pleas at No. CC201300849 charging Respondent with two counts of theft by failure to make required disposition of funds received (18 Pa.C.S. §3927), a felony of the third degree; six counts of forgery (18 Pa.C.S. §4104(A)(2)(C)), a felony of the third degree; and, nine counts of unauthorized practice of law (42 Pa.C.S. §2524), a misdemeanor of the third degree.
PE 1.

6. On October 27, 2013, Respondent entered a plea of guilty to one count each of theft by failure to make required disposition of funds received, forgery, and unauthorized practice of law.

7. The remaining counts were withdrawn.

8. On January 13, 2014, Respondent was sentenced as follows:

a. On the charge of theft by failure to make required disposition of funds received, confinement for a minimum period of three months and

a maximum period of six months in the Allegheny County Jail with eligibility for alternative housing after a 60-day period of incarceration, to be placed on probation for a period of five years, and to pay restitution in the amount of \$57,128.00 to the Estate of Jacqueline Mullins.

b. On the charge of forgery, Respondent was placed on probation for six years with a sentence to commence on January 13, 2014.

c. On the charge of unauthorized practice of law, Respondent received no further penalty.

PE 2.

9. On January 21, 2014, an Amended Order of Sentence was entered which changed Respondent's date to report for incarceration to April 16, 2014.

PE 3.

10. A Petition for Discipline was filed on October 14, 2014. Respondent was personally served with the Petition on October 22, 2014. AE I.

11. Respondent failed to respond to the Petition for Discipline.

12. Respondent received notice of a pre-hearing conference scheduled for January 5, 2015 before Hearing Committee Chair Leonard Marsico.

13. Respondent failed to appear.

14. Respondent received notice of a disciplinary hearing scheduled for February 19, 2015 by personal service on February 13, 2015. AE II and III.

15. Respondent failed to appear for the disciplinary hearing.

16. Petitioner presented the testimony of Augusto N. Delerme, Jr., Esquire. Mr. Delerme is the son of Augusto N. Delerme, Sr., Respondent's former law partner, who was unable to testify at the hearing due to medical reasons.

17. Mr. Delerme, Sr. and Respondent were partners in name only as they had never practiced out of the same office. Mr. Delerme, Sr. was also an otolaryngologist in the Altoona area, where he had a law practice. Mr. Delerme, Sr. permitted Respondent to use Mr. Delerme's name on signage in Pittsburgh. N.T. 16-17, 20-21.

18. Mr. Delerme, Sr., had assumed "Voluntary Inactive" status no later than July 1, 2009 due to health reasons, and then assumed "Retired" status as of July 1, 2010. PE 4.

19. Mr. Delerme, Jr. later learned that Respondent was still using his father's name after Respondent's license was suspended.

20. Mr. Delerme, Jr. sent a cease and desist letter to Respondent in December 2010. PE 5; N.T. 22.

21. Respondent did not respond to the letter. Mr. Delerme, Jr.'s brother saw his father's name still on the signage in 2011. PE 6; N.T. 24.

22. Respondent forged Mr. Delerme, Sr.'s name to court filings. PE 5, PE 7-9, PE 13, PE 15-16.

23. Petitioner introduced the testimony of Frank W. Jones, Esquire who was appointed as Administrator *pendente lite* of the estate of Jacqueline L. Mullins. The Mullins Estate was a victim of Respondent's criminal conduct, and the Order of Restitution contained in the Sentencing Orders was for the benefit of the Mullins Estate. PE 2 and 3.

24. Respondent failed to obtain a proper evaluation of the Mullins Estate, overpaid the inheritance tax, failed to comply with charitable bequests contained in the Mullins Will, and failed to complete the estate administration, but nevertheless took an Executor's fee that served as the basis for the \$57,428.00 restitution provision of the Sentencing Orders. PE 2-3.

25. Respondent as of the date of the hearing, had paid approximately \$11,000 toward restitution. N.T. 56.

III. CONCLUSIONS OF LAW

By his actions as set forth above, Respondent violated the following Rule:

1. Pa.R.D.E. 203(b)(1) – Respondent's criminal conviction is an independent basis for discipline.

IV. DISCUSSION

Petitioner instituted Disciplinary proceedings against Respondent by way of a Petition for Discipline filed on October 14, 2014. As a result of Respondent's failure to answer the averments in the Petition for Discipline, those factual averments are deemed admitted, pursuant to Rule 208(b)(3), Pa.R.D.E. The only issue for consideration in the instant matter is the appropriate level of discipline for Respondent, whose criminal conviction of theft by failure to make required disposition of funds received, forgery and unauthorized practice of law conclusively establishes the violation of Rule 203(b)(1), Pa.R.D.E. After considering the nature and gravity of the misconduct

as well as the presence of aggravating or mitigating factors, *Office of Disciplinary Counsel v. Gwendolyn Harmon*, 72 Pa.D. & C.4th 115 (2004), we recommend that Respondent be disbarred.

The underlying facts supporting Respondent's conviction demonstrate that he committed theft while he was engaged in the unauthorized practice of law, and forged the signature of his former partner, Augusto Deleme, Sr. Respondent was sentenced to three to six months of incarceration, probation and restitution. With this sentence, the criminal justice system fulfilled its purpose of punishing Respondent for his crime. Pennsylvania's disciplinary system serves a different purpose, in that disciplinary sanctions are intended to protect the public from unfit attorneys and preserve public confidence in the legal system. *Office of Disciplinary Counsel v. Stern*, 526 A. 2d 1180 (Pa. 1987).

There is no *per se* discipline in Pennsylvania. Sanctions are to be imposed in accordance with the misconduct and based on the circumstances unique to each particular case. *Office of Disciplinary Counsel v. Lucarini*, 472 A.2d 186 (Pa. 1983).

The record in this case evidences Respondent's long history of discipline, both private and public. Respondent remains suspended pursuant to Supreme Court Order dated October 16, 2008. It can be gleaned from such a record that the sanctions imposed prior to the instant misconduct have not had the desired effect of persuading Respondent to re-evaluate the manner in which he practices law in this Commonwealth. Respondent continued to practice law in contravention of a Supreme Court Order and posed as his former law partner in order to further violate the rules of the profession. In addition, Respondent's failure to participate at any level of the proceeding, including his failure to appear at the disciplinary hearing, is an aggravating circumstance that

demonstrates Respondent's complete lack of interest in retaining his law license and a lack of regard for the disciplinary system.

Prior cases provide guidance and suggest that where criminal misconduct is coupled with a respondent-attorney's defiance of a Supreme Court Order and failure to appear for a disciplinary hearing, disbarment is warranted. See, *Office of Disciplinary Counsel v. Marc M. Scola*, 52 DB 2002 (2003); *Office of Disciplinary Counsel v. Keith S. Houser*, 158 DB 2004 (2006); *Office of Disciplinary Counsel v. Michael Romeo Luongo*, 202 DB 2006 and 75 DB 2009 (2010); and *Office of Disciplinary Counsel v. Leonard E. Sweeney*, 42 DB 2012 (2013).

The protection of the public will be best served by Respondent's disbarment.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that the Respondent, Allan G. Gallimore, be Disbarred from the practice of law.

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: 
David E. Schwager, Board Member

Date: 8/11/15