

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 1536 Disciplinary Docket No. 3
Petitioner :
v. : No. 159 DB 2009
: Attorney Registration No. 200982
MARK EUGENE ROWE, :
Respondent : (Butler County)

ORDER

PER CURIAM:

AND NOW, this 25th day of October, 2011, upon consideration of the Report and Recommendations of the Disciplinary Board dated June 9, 2011, it is hereby

ORDERED that Mark Eugene Rowe is suspended from the Bar of this Commonwealth for a period of eighteen months and he shall comply with all the provisions of Rule 217, Pa.R.D.E.

It is further **ORDERED** that respondent shall pay costs to the Disciplinary Board pursuant to Rule 208(g), Pa.R.D.E.

A True Copy Patricia Nicola
As Of 10/25/2011

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL	:	No. 1536 Disciplinary Docket No. 3
Petitioner	:	
	:	No. 159 DB 2009
v.	:	
	:	Attorney Registration No. 200982
MARK EUGENE ROWE	:	
Respondent	:	(Butler 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

On May 25, 2010, Office of Disciplinary Counsel filed a Petition for Discipline against Mark Eugene Rowe, for his convictions of two "serious" crimes as defined by Rule 214(i), Pa.R.D.E. Each of the criminal convictions of Mr. Rowe constitutes an independent basis for discipline. Respondent failed to file an Answer to Petition for Discipline.

A disciplinary hearing was held on September 14, 2010, before a District IV Hearing Committee comprised of Chair Gary K. Schonhaler, Esquire, and Members John E. Hall, Esquire, and Charles C. Gallo, Esquire. Petitioner presented the testimony of three witnesses and offered 13 exhibits, all of which were admitted without objection. Respondent testified on his own behalf. He offered no exhibits and called no other witnesses.

Petitioner filed a Brief with the Hearing Committee following the close of the record.

The Hearing Committee filed a Report on January 27, 2011, concluding that Respondent violated the Rules of Disciplinary Enforcement and recommending that he be suspended for a period of 18 months.

This matter was adjudicated by the Disciplinary Board at the meeting on April 13, 2011.

II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner, whose principal office is located at Pennsylvania Judicial Center, Suite 2700, 601 Commonwealth Avenue, Harrisburg, Pennsylvania, is invested, pursuant to Rule 207 of the Pennsylvania Rules of Disciplinary Enforcement, 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. Respondent is Mark Eugene Rowe. He was born in 1960 and was admitted to practice law in the Commonwealth of Pennsylvania in 2006. His current attorney registration mailing address is P.O. Box 137, 146 State Street, Saxonburg, PA 16056. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

3. Respondent has no history of discipline in Pennsylvania.

4. On May 3, 2009, Respondent was transferred to inactive status for failure to comply with his Pennsylvania Continuing Legal Education requirements. Respondent remains on inactive status.

5. On March 31, 2008, in the Court of Common Pleas of Butler County, Respondent was charged with Simple Assault in violation of 18 Pa.C.S. Section 2701(a)(1), a misdemeanor of the second degree; Unlawful Restraint, in violation of 18 Pa.C.S. Section 2902(a)(1), a misdemeanor of the first degree; Recklessly Endangering Another Person, in violation of 18 Pa.C.S. Section 2705, a misdemeanor of the second degree; and Harassment in violation of 18 Pa.C.S. Section 2709(a)(1), a summary offense.

6. On July 9, 2008, Respondent, while represented by counsel, entered a plea of guilty to simple assault. All other counts were dismissed.

7. Respondent was sentenced on August 27, 2008 to a term of probation for a period of 12 months with the Butler County Probation Board, attend any counseling as directed, and pay court costs.

8. Following Respondent's entry of a guilty plea on July 9, 2008 but prior to his sentencing, he was involved in a second assault involving the same victim occurring on July 23, 2008.

9. On November 14, 2008, Respondent was charged in the Court of Common Pleas of Butler County with the crime of Simple Assault, in violation of 18 Pa.C.S. Section 2701(a)(1), a misdemeanor of the second degree; and Harassment, in violation of 18 Pa.C.S. Section 2709(a)(1), a summary offense.

10. On March 4, 2009, Respondent, while represented by counsel, entered a plea of guilty to simple assault and the summary charge was dismissed.

11. On March 26, 2009, Respondent was sentenced to probation for a period of 12 months with the Butler County Probation Board, attend any counseling as directed, and pay court costs.

12. By letter dated July 7, 2009, Respondent notified the Office of the Secretary of the Disciplinary Board of his criminal convictions.

13. The victim of both of the assaults to which Respondent pleaded guilty was his girlfriend, Patricia Lachance, who was also an employee of Respondent's business, Rowe's Tavern located in Saxonburg, Pennsylvania.

14. The first assault to which Respondent pleaded guilty occurred on January 18, 2008 during the early morning hours after Ms. Lachance had finished work at Rowe's Tavern. She attempted to leave the tavern to go home but was prevented from doing so by Respondent.

15. An argument ensued, and Ms. Lachance and Respondent fell over a bar stool, whereupon Respondent then picked up Ms. Lachance by the neck and "jacked [her] up against the wall" and struck her in the face. (PE 2; N.T. 45)

16. Eventually, Ms. Lachance called police dispatch and Officer Curt Suprano of the Saxonburg Police Department responded and observed Ms. Lachance as

having "severe swelling and bruising to the left face, lips, and marks about [her] neck and [she] was complaining of a severe headache." (PE 2, N.T. 45; PE 11 -A, N.T. 15)

17. Officer Suprano also observed that Ms. Lachance's left eye was nearly swollen shut.

18. Within 24 to 48 hours after having called the police and receiving medical attention, Ms. Lachance attempted to recant statements she provided to the police.

19. Ms. Lachance spoke on numerous occasions to Christine E. Studeny, Esquire, of the District Attorney's Office of Butler County, and explained to her that she did not want Respondent to go to jail insofar as it was affecting her ability to work and earn a living. Eventually Ms. Studeny agreed to reduce the simple assault from a second degree misdemeanor to a third degree misdemeanor.

20. The second assault to which Respondent pleaded guilty stemmed from a July 23, 2008 incident between Respondent and Ms. Lachance when, during the course of an argument, Respondent punched her in the stomach and elbowed her in the left rib area.

21. Ms. Lachance was brought to the emergency room for treatment of her injuries and Pennsylvania State Trooper D. Thomas Cegan was dispatched to the hospital to investigate, resulting in charges filed against Respondent.

22. Respondent testified at the disciplinary hearing.

23. Respondent has completed all of the requirements with Butler County with regard to his probation and costs.

24. Respondent never really practiced law during the time he held an active license. He estimates he had three cases, mostly for friends who needed pro bono help.

25. At the time of the hearing, Respondent was unemployed, having sold the liquor license to his tavern in 2008 and losing his building to foreclosure in 2010.

26. Respondent was admitted to practice law in Pennsylvania in 2006, but failed to take his required "Bridge The Gap" Continuing Legal Education Program until July 15, 2009, more than three years after his admission.

27. Respondent has taken no CLE courses since July 2009.

III. CONCLUSIONS OF LAW

By his actions as set forth above, Respondent violated the following Rules of Disciplinary Enforcement:

1. Respondent's two convictions for simple assault constitute convictions of a serious crime as defined by Rule 214(i), Pa.R.D.E.

2. Respondent's convictions constitute an independent basis for discipline pursuant to Rule 203(b)(1), Pa.R.D.E.

IV. DISCUSSION

This matter is before the Disciplinary Board for consideration of the disciplinary charges filed against Respondent arising from his two convictions of simple assault. These convictions are considered to be "serious crimes" pursuant to Rule 214(i).

When an attorney has been convicted of a serious crime, “the sole issue to be determined shall be the extent of the final discipline to be imposed.” Rule 214(f)(1), Pa.R.D.E. Events surrounding the criminal conviction must be taken into account when determining an appropriate measure of discipline. Office of Disciplinary Counsel v. Valentino, 730 A.2d 479 (Pa. 1999). The appropriateness of a disciplinary sanction is based on the nature and gravity of the misconduct and the aggravating and mitigating factors present. Office of Disciplinary Counsel v. Gwendolyn N. Harmon, 72 Pa. D. & C. 4th 115 (2004).

On two separate occasions, Respondent physically assaulted Patricia Lachance, his girlfriend, who was also an employee of Respondent's business. In both instances, the victim required medical attention and law enforcement officials were involved. Less than three weeks after Respondent entered his guilty plea in the first assault, and even prior to his sentencing, Respondent assaulted the victim a second time. Respondent received probation for 12 months for each instance.

Respondent testified at the disciplinary hearing. He offered no explanation for his misconduct, indicated no remorse, and provided no mitigating evidence. His practice of law in Pennsylvania has been very minimal, and he failed to take the required CLE courses to fulfill his obligations pursuant to the Pennsylvania Rules of Continuing Legal Education.

Disciplinary sanctions are intended to protect the public from unfit attorneys and maintain the integrity of the legal system. Office of Disciplinary Counsel v. Christie, 639 A.2d 782 (Pa. 1994). The total picture presented of this particular Respondent is that he is unfit to practice law. An attorney who engages in criminal behavior on multiple

occasions and disregards his professional obligation to maintain his attorney license is not the type of attorney who should be permitted to represent members of the public.

Prior similar cases have resulted in suspension. In the matter of Office of Disciplinary Counsel v. Jeffrey T. Spangler, 69 Pa. D. & C. 4th 254 (2004), the attorney was suspended for a period of 18 months following his convictions of simple assault and recklessly endangering another person.

The Board recommends that Respondent be suspended for a period of 18 months.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that the Respondent, Mark Eugene Rowe, be Suspended from the practice of law for a period of 18 months.

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 A. Nasatir, Board Member

Date: June 9, 2011

Board Members Buchholz, Lawrence and Cohen recused.

Board Member Jefferies did not participate in the adjudication.