

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, Petitioner	:	No. 1910 Disciplinary Docket No. 3
		:
		No. 180 DB 2011
v.		:
		Attorney Registration No. 30841
JAMES S. BRUNO,		:
Respondent		(Philadelphia)

ORDER

PER CURIAM

AND NOW, this 13th day of November, 2014, upon consideration of the Report and Recommendations of the Disciplinary Board dated July 18, 2014, it is hereby

ORDERED that James S. Bruno is suspended from the practice of law for a period of two years retroactive to February 26, 2013, to be followed by a two-year period of probation after reinstatement, subject to the following conditions:

1. Respondent shall select a practice monitor subject to the approval of the Office of Disciplinary Counsel.
2. Respondent shall cooperate fully with his practice monitor.
3. The practice monitor shall do the following during the period of respondent's probation:
 - a. Meet with respondent at least monthly to examine his progress towards satisfactory and timely completion of client legal matters, including regular communication with clients in returning telephone calls and responding to written correspondence;

- b. Periodically examine respondent's law office organization and procedures to ensure that he is maintaining an acceptable tickler system, filing system, and other administrative aspects of his practice;
 - c. Meet with respondent at least monthly to examine his progress towards satisfactory and timely completion of clients' legal matters and regular client contact;
 - d. File quarterly written reports on a Board-approved form with the Secretary of the Board; and
 - e. Immediately report to the Secretary of the Board any violations by respondent of the terms and conditions of probation.
4. Respondent shall continue any counseling or treatment, out-patient or in-patient, prescribed by his treating physician. He shall provide physician's reports verifying the above counseling and treatment to the Secretary of the Board on a quarterly basis.

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 11/13/2014

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL	:	No. 1910 Disciplinary Docket No. 3
Petitioner	:	
	:	No. 180 DB 2011
v.	:	
	:	Attorney Registration No. 30841
JAMES S. BRUNO	:	
Respondent	:	(Philadelphia)

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 on October 19, 2011, Office of Disciplinary Counsel charged James S. Bruno with violations of the Rules of Professional Conduct arising out of seven separate claims against Respondent. Respondent filed an Answer to Petition for Discipline on December 5, 2011.

A Joint Petition for Discipline on Consent was filed on March 7, 2012. By Order of June 28, 2012, the Supreme Court of Pennsylvania denied the Joint Petition for Discipline on Consent. A second Joint Petition for Discipline on Consent was filed on

November 19, 2012. This Petition was denied by a three-member panel of the Disciplinary Board on December 11, 2012.

By Order of the Supreme Court of Pennsylvania dated February 26, 2013, Respondent was placed on temporary suspension from the practice of law.

Following a prehearing conference on March 7, 2013, the parties agreed that an additional four pending matters would be consolidated with the proceedings and all eleven matters proceed to a hearing. A disciplinary hearing was held on March 26 and May 3, 2013, before a District I Hearing Committee comprised of Chair Kristi A. Buchholz, Esquire, and Members Timothy A. Kulp, Esquire and James F. Kilcur, Esquire. Respondent was represented by Brian E. Quinn, Esquire.

Following the submission of briefs by the parties, the Hearing Committee filed a Report on November 6, 2013, concluding that Respondent violated Rules of Professional Conduct 1.3, 1.4(a)(2), 1.4(a)(3), 1.4(a)(4), 1.4(b), 1.16(d), 3.2, and 8.4(d). The Committee recommended that Respondent be suspended for a period of two years with conditions.

Respondent filed a Brief on Exceptions on December 24, 2013 and requested oral argument before the Board. Respondent's counsel withdrew his appearance and Maureen F. Pie', Esquire entered her appearance on behalf of Respondent.

Petitioner filed a Brief Opposing Exceptions on February 4, 2013.

Oral argument was held on March 10, 2014, before a three-member panel of the Disciplinary Board.

This matter was adjudicated by the Board at its meeting on March 11, 2014.

II. FINDINGS OF FACT

The Board adopts the factual allegations enumerated in the Joint Stipulation of Fact, Law and Exhibits ("JS"), Supplemental Joint Stipulation of Fact ("SJS"), Respondent's Waiver of Fact, Law and Exhibits ("W" and "SJS") and Joint Stipulation of Fact pursuant to Board Rules § 89.151(b), attached hereto as Appendix "A". We make the following additional findings:

1. Following his admission to the Pennsylvania bar, Respondent started his own law practice which consisted mostly of criminal court appointments and pro-bono work. He added dependency cases to his practice and was satisfied with this type of work because he was committed to helping the poor. (N.T. 5/3/13 p. 95-98)

2. Over the years of his practice, Respondent has had issues with disorganization. (N.T. 5/3/13 p. 18-20) His home office was a "disaster." (N.T. 5/3/13 p. 36) One area of disorganization was his billing. Respondent would be reminded every day for weeks and still wouldn't do it. He does not have a secretary. (N.T. 3/23/13 p. 35, 27-28)

3. Respondent has a history of discipline consisting of two Informal Admonitions in 1998, a Private Reprimand in 2004, a Private Reprimand with Probation in 2005, and a Public Censure in 2009.

4. By all accounts, Respondent is an extremely hard worker, working seven days a week. During the week he worked from 5:00 a.m. to 7:00 p.m. On weekends he would often visit clients in prison. (N.T. 5/3/13 p. 27)

5. On December 2, 2011 and December 23, 2011, Dr. Steven Samuel conducted a psychological evaluation of Respondent. Dr. Samuel was referred to Respondent by previous counsel. (ODC 93)

6. Dr. Samuel diagnosed Respondent as suffering from Attention Deficit-Hyperactivity Disorder ("ADHD") and Dysthymic Disorder and opined that the disorders caused the misconduct. (N.T. 5/3/13 p. 324-325) Dr. Samuel recommended that Respondent follow up with a psychiatrist, Dr. Barbara Ziv, for the prescription of Adderall, which Respondent did.

7. Dr. Ziv prescribed Adderall for Respondent in January or February of 2012. She prescribed a dosage of 20 mg, which at Dr. Ziv's direction, Respondent broke in half and tried on weekends. This enabled him to focus somewhat better on paperwork over the weekends, but the effect was short-lived. (N.T. 5/3/13 p. 32-35)

8. Respondent met with Dr. William Russell in January of 2013. Dr. Russell is Director of Forensic Services at Assessment and Treatment Alternatives. (N.T. 3/23/13 p. 28-30)

9. Dr. Russell conducted a clinical interview with Respondent, prior to which he reviewed diagnostic tests that were done by Dr. Samuel, reviewed Dr. Samuel's evaluation reports, and spoke with Respondent's wife. (N.T. 3/26/13 p. 58-60)

10. Dr. Russell diagnosed Respondent with ADHD combined with a depressive disorder. (N.T. 3/26/13 p. 38)

11. Dr. Russell explained that in adults with ADHD, the adult attempts to cope with distractibility and disorganization through over-focusing on certain things and trying to filter out everything else. The adult becomes hyper-focused for a period of time, pays attention to one thing at a given point, and excludes everything else. (N.T. 3/26/13 p. 40) With Respondent, the ADHD and depressive disorder exhibited themselves in that Respondent was able to maintain focus to do trial work, but by the end of the day, the

disorganization and forgetfulness would overtake him and he could not focus on his paperwork. (N.T. 3/26/13, p 38-41)

12. After meeting with Respondent several times, Dr. Russell was concerned about the effectiveness of Respondent's medication and adjusted the medication so that Respondent would take extended release Adderall daily. Wellbutrin was also added to treat Respondent's depression. (N.T. 5/3/13 p. 38-39)

13. Respondent's response to the delayed action medication was dramatic. He took the Adderall at 9:00 a.m. and it would last until 4:00 or 5:00 p.m. When he got home from work he was able to take another half tab to allow him to focus on paperwork. (N.T. 3/26/13 p. 50) Respondent noted that after he started taking the extended release Adderall, he could stay on task, do what he was supposed to do, and not forget. He felt even better with the added Wellbutrin. (N.T. 5/3/13 p. 173) Cognitive therapy has helped Respondent with strategies to keep organized. (N.T. 5/3/13 p. 185-186)

14. Once Respondent's medication was under control, he and Dr. Russell addressed reorganizing and establishing new behavior patterns for dealing with paperwork and developing insight into Respondent's symptomology. (N.T. 3/23/13, p. 49-53)

15. Dr. Russell gave Respondent assignments, including breaking down Respondent's cases into different categories and integrating two computer systems into one to help manage information. Respondent was compliant with all recommendations made by Dr. Russell. (N.T. 3/26/13 p 48-53, 55-56)

16. Dr. Russell explained that a treatment plan is a plan of action that is predicated upon all of the available information that is gone over with the patient, where the patient and the doctor agree on a direction of treatment, agree on procedures, and very

specific objectives are set. (N.T. 3/26/13. P 66-67) Respondent's treatment plan was memorialized in Dr. Russell's notes. (N.T. 3/26/13 p. 71-72)

17. Dr. Samuel's notes do not contain a treatment plan. Respondent saw Dr. Samuel for an evaluation. (N.T. 3/26/13 p. 76) Respondent and his wife both believed that Respondent was seeing Dr. Samuel for the purposes of evaluation and a report in the disciplinary matter, not for treatment purposes. (N.T. 5/3/13 p. 73-74)

18. Respondent never realized that he could feel better until his treatment with Dr. Russell. He understands that his brain works in a certain way and that he needs to modify his behavior, which he is willing to do and is working hard at doing. (N.T. 5/3/13 80-84, 85)

19. Mrs. Maureen Bruno, Respondent's wife, has noticed improvement in Respondent since his treatment with Dr. Russell. She believes that the treatment has been extremely effective. Since January 2013, Respondent has learned specific strategies to stay on task and to stay organized. Mrs. Bruno has also acquired useful strategies to reinforce what Respondent is learning in therapy. (N.T. 5/3/13 p 80-84, 85)

20. The strategies or assignments given to Respondent by Dr. Russell are not geared to the practice of law per se. These exercises address lifelong patterns of behavior and apply to all activities in Respondent's life. (N.T. 3/26/13 p. 117)

21. In Dr. Russell's opinion, if Respondent remains compliant with medication and continues receiving coaching in organization skills, he will be able to do work in a timely manner. (N.T. 3/26/13 p. 57)

22. Numerous witnesses testified on behalf of Respondent. These included 12 members of the bar who currently practice with Respondent and were aware of the circumstances. By all accounts, Respondent was a well-prepared and effective

advocate for his clients. He has an excellent reputation in the community as a truthful, law abiding person. (N.T. 3/26/13 p 125-131; 132-143; 148; 176-177, 180; 226-227; 254-256; 275-288; 323; 336-345)

23. Respondent has stipulated to all of the misconduct and cooperated with Petitioner in these proceedings.

24. The criminal dockets introduced by Respondent illustrate that the appellate and/or PCRA rights of the clients, all of whom are serving life in prison for homicide, were reinstated and the clients were ultimately not harmed by Respondent's misconduct. (R-2 - R-19(a)) Nonetheless, as a result of Respondent's misconduct the Court was impacted in the additional work required in the administration of justice.

25. Respondent is embarrassed and ashamed. (N.T. 5/3/13, p. 191-192) He acknowledges and accepts responsibility for the additional work required of the Court in the administration of justice. (N.T. 5/3/13 p. 192, 380)

26. Respondent did not seek to be placed on the Homicide Appointment List, in an effort to remove the possibility of any further issues contributing to misconduct. (N.T. 5/3/13 p. 137-138)

III. CONCLUSIONS OF LAW

By his conduct, Respondent has violated the following Rules of Professional Conduct:

1. RPC 1.3 - A lawyer shall act with reasonable diligence and promptness in representing a client.

2. RPC 1.4(a)(2) - A lawyer shall reasonably consult with the client about the means by which the client's objectives are to be accomplished.

3. RPC 1.4(a)(3) - A lawyer shall keep the client reasonably informed about the status of the matter.

4. RPC 1.4(a)(4) - A lawyer shall promptly comply with reasonable requests for information.

5. RPC 1.4(b) - A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

6. RPC 1.16(d) - Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law.

7. RPC 3.2 - A lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client.

8. RPC 8.4(d) - It is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.

9. Respondent has proven, by clear and convincing evidence, that his attention deficit disorder and depression are factors in causing his misconduct and that this constitutes a mitigating factor pursuant to Office of Disciplinary Counsel v. Braun, 553 A.2d 894 (Pa. 1989).

IV. DISCUSSION

Respondent admitted to violating numerous Rules of Professional Conduct in eleven individual client matters. All of his misconduct generally involved neglect and

consisted of failure to file responses to pleadings, failure to comply with court orders, failure to timely file Petitions for Allowance of Appeal and Notices of Appeal to the Superior Court, failure to keep clients informed of the status of matters being handled and failure to respond to clients' letters and telephone calls. All of the clients but one had been convicted of homicide¹ and were serving lengthy prison sentences. None of the clients suffered irreparable harm, because all were ultimately permitted to pursue their appellate and PCRA claims despite Respondent's failure to file them on time.

Respondent's admissions and the overwhelming evidence of his misconduct leave only the issue of the appropriate level of discipline for our consideration. After thoroughly reviewing the record of Respondent's hearing, the report of the Hearing Committee, the briefs of both Respondent and Petitioner, all of the aggravating and mitigating circumstances as well as the relevant decisional law, we unanimously recommend that Respondent be suspended for one year and one day retroactive to the date of his temporary suspension, with a three-year period of probation and a practice monitor.

A. Mitigating Factors

1. Braun

It is undisputed that Respondent suffers from Attention Deficit Disorder and Dysthymic Disorder, a form of depression. It is further undisputed that these psychiatric disorders were a direct cause of all Respondent's misconduct. Therefore, the hearing committee concluded and the Petitioner conceded that Respondent is entitled to mitigation under Office of Disciplinary Counsel v. Braun, 553 A.2d 894 (Pa. 1989). The record

¹ One client had been convicted of drug-related offenses.

strongly supports this conclusion and we agree that Respondent's discipline must be mitigated under Braun².

Respondent's psychiatric disorder is just one of several compelling mitigating circumstances we find in this case.

2. Respondent's Non-Expert Witnesses

In further mitigation, Respondent presented an impressive array of witnesses, including twelve practicing attorneys, two members of the clergy, an employee of the Philadelphia Court of Common Pleas, a Vietnam War veteran and former Philadelphia police officer, a community worker, and a University of Pennsylvania student who was one of the many beneficiaries of respondent's charitable work.

Of the dozen lawyers who appeared at Respondent's hearing seven were former prosecutors, most of whom were from the Office of the Philadelphia District Attorney, including a former chief and assistant chief of the Office's Child Abuse Unit. One of the prosecutors had clerked for the Supreme Court of Delaware. One served in the Air Force JAG Corps. He became staff judge advocate for the State of Delaware and recently retired from the Delaware National Guard as a lieutenant colonel.

The five lawyers who had not been prosecutors practiced in the same areas as Respondent, criminal law and dependency.

The attorneys demonstrated a thorough knowledge of Respondent as well as his reputation among his peers and the judges before whom he

² According to the undisputed psychiatric evidence, the hallmark traits of Attention Deficit Disorder are disorganization and lack of focus. These characteristics were directly responsible for Respondent's failure to meet deadlines, communicate with clients and otherwise discharge his responsibilities to his clients and the court.

practiced. Respondent was variously described as a caring, skillful, ethical and honest courtroom attorney who enjoyed an excellent reputation for those qualities among the professionals with whom he came in contact.

The members of the clergy, a Vincentian Brother and a nun, spoke of Respondent's commitment to providing free legal services to members of their parish as well as his excellent reputation for honesty.

The remaining witnesses testified about Respondent's charitable and volunteer work in the community and, like most of the witnesses, his sterling reputation for honesty.

We found Respondent's 20 non-expert witnesses credible, persuasive, and strongly supportive of mitigation.³

3. Remorse and Responsibility

Respondent fully cooperated with the Office of Disciplinary Counsel and stipulated to all of the allegations of misconduct brought against him. Respondent also acknowledged and regretted the harm he caused to his clients and the court system. We find that his expressions of remorse and acceptance of responsibility for the negative impact his misconduct had on his clients, the court system and the administration of justice were credible.⁴

³ The Hearing Committee was not as impressed with the testimony mainly because they believed that the witnesses or the people to whom they spoke were not familiar with Respondent's prior record of misconduct or the allegations which are the subject of this case. While it is true that not all of the witnesses spoke to this issue many of them did. By our count, 11 of the 20 non-expert witnesses testified that they were aware of Respondent's current or prior disciplinary issues, as were many of the people with whom they spoke and that knowledge did not alter their opinions of Respondent's reputation. Since 20 witnesses testified credibly and persuasively on a variety of mitigating issues and more than 50% of them addressed the issue of knowledge of Respondent's misconduct, we have no difficulty concluding that overall Respondent's witnesses provided powerful evidence of mitigation.

⁴ The Hearing Committee questioned the sincerity of Respondent's expressions of remorse and acceptance of responsibility and counted Respondent's testimony on those matters as aggravating as opposed to mitigating factors. Since we did not observe or hear Respondent's testimony we are not in a position to evaluate the Hearing

B. Aggravating Factors

Without question the most disturbing aggravating factor in this case is Respondent's prior record of misconduct. Respondent received two informal admonitions in 1988, a private reprimand and probation for one year with a practice monitor in 2005 and most seriously, a Public Censure in 2009. All of Respondent's prior discipline resulted from acts of misconduct similar to those that are the subject of the instant case, including failure to file briefs, failure to communicate with clients and failure to diligently pursue client matters.

Unfortunately, the underlying psychiatric disorders that caused Respondent's current misconduct were first diagnosed long after his prior misconduct. In retrospect it is obvious that the disorganization and lack of focus that resulted in Respondent's prior acts of misconduct were caused by his then undetected ADHD and depression. In fact, Respondent testified that on prior occasions he was counseled to work harder and be more responsible. Of course, without proper medical treatment for his underlying psychiatric disorders, Respondent was basically incapable of changing his behavior. Even so, we cannot overlook Respondent's prior record, especially his censure by the Supreme Court, and consider it a substantial aggravating factor.

C. Discipline

In view of the strong evidence of mitigating circumstances, including the incontrovertible proof that Respondent's psychiatric disorder was causally connected to his misconduct, as well as the army of witnesses attesting to Respondent's reputation

Committee's assessment of Respondent's demeanor while testifying. Nevertheless we cannot ignore the fact that the record is replete with what appears to us to be genuine expressions of remorse and acceptance of responsibility. When we consider Respondent's words along with his actions, *i.e.*, cooperation with the disciplinary system, stipulation to all allegations of wrongdoing and his decision to never take homicide appointments in order to eliminate any risk that he would miss appellate deadlines, we cannot find Respondent's testimony to be an

for honesty, dedication to his indigent clients, competence in his practice areas, and charitable endeavors, we recommend that Respondent be suspended for one year and one day, retroactive to the date of his temporary suspension, with probation of three years⁵ and a practice monitor.

In determining the length of the suspension we considered the recommendations of the Hearing Committee (two years) and Petitioner, (four years) but rejected them in light of the decisional law⁶ as well as Respondent's excellent response to the treatment he has been receiving for his psychiatric disorder.

In the matter of Office of Disciplinary Counsel v. Thomas William Smith, No. 21 DB 2000 (Pa. 2003) the respondent, much like our Respondent here, neglected 11 client matters, failed to communicate with the clients and engaged in misrepresentation. In mitigation, the respondent established a causal connection between his alcoholism and misconduct. Even though the respondent had received a public censure for a conviction involving the failure to file tax returns and the majority of the Disciplinary Board recommended a four-year suspension, the Supreme Court ordered a suspension of one year and one day.

In a case involving the same psychiatric disorder present here, ADHD and Dysthymic Disorder and similar misconduct, neglect, lack of communication and misrepresentation in 16 immigration matters, but no prior history of misconduct, the

aggravating factor.

⁵ Under Disciplinary Rule §89.291 Respondent qualifies for probation. He can perform legal services and his continued practice of law will not cause the court or profession to fall into disrepute; he is unlikely to harm the public during the period of his probation and the necessary conditions of probation can be adequately supervised; and he is not guilty of acts warranting disbarment.

⁶ Petitioner cited several instances where lengthy suspensions were imposed for cases involving serial neglect and records of prior misconduct; however, none of those decisions involved *Braun* mitigation and therefore do not seem nearly as relevant to the instant matter as those decisions discussed above.

respondent was suspended for one year and one day. Office of Disciplinary Counsel v. Ann Adele Ruben, No. 6 DB 2011 (2011).

It is clear from these prior decisions that *Braun* mitigation justifies shorter terms of suspension than would otherwise be imposed in cases involving multiple acts of neglect.

Additionally, we note that it was not until January 2013 that Respondent received the proper diagnosis and treatment regimen from Dr. Russell.⁷ Currently, Respondent takes the medication Adderall to treat his Attention Deficit Disorder, as well as medication for his depression, and has improved significantly. He also engages in cognitive therapy, which involves practical assistance in getting and staying organized. The record reveals that this has been effective as well.⁸

Respondent plans to continue to treat with Dr. Russell and his team until he is told that such treatment is no longer required. Under these circumstances we believe that the risk of Respondent engaging in the type of behavior that resulted in his serial violations of the Rules of Professional Conduct will be greatly diminished. The goal of protecting the public will be met by monitoring Respondent's ongoing rehabilitation.

⁷ The Hearing Committee raised some questions about Respondent's consultation with Dr. Samuel. It is clear from the record that Respondent was referred to Dr. Samuel by his attorney for the purpose of evaluation and the issuance of a report with a view toward having him serve as an expert witness before the Hearing Committee. Respondent did not believe he was meeting with Dr. Samuel for treatment. In fact, Dr. Samuel referred Respondent to Dr. Ziv, whose treatment was ineffective. Dr. Ziv's failure to alleviate Respondent's symptoms caused Respondent to seek treatment from Dr. Russell. In our view, the Hearing Committee's negative comments about Respondent's credibility in connection with his contact with Dr. Samuel are simply not supported by the record.

⁸ Respondent's wife, attorney Maureen Bruno, testified that she is reinforcing the treatment strategies at home and has observed the positive changes in Respondent's behavior.

V. RECOMMENDATION

We unanimously recommend that Respondent be suspended from the practice of law for one year and one day retroactive to February 26, 2013, to be followed by a three year period of probation, subject to the following conditions:

1. Respondent shall select a practice monitor subject to the approval of the Office of Disciplinary Counsel.
2. Respondent shall cooperate fully with his practice monitor.
3. The practice monitor shall do the following during the period of Respondent's probation:
 - a. Meet with the Respondent at least monthly to examine Respondent's progress towards satisfactory and timely completion of client legal matters, including regular communication with clients in returning telephone calls and responding to written correspondence;
 - b. Periodically examine Respondent's law office organization and procedures to ensure that Respondent is maintaining an acceptable tickler system, filing system, and other administrative aspects of Respondent's practice;
 - c. Meet with Respondent at least monthly to examine Respondent's progress towards satisfactory and timely completion of clients' legal matters and regular client contact;
 - d. File quarterly written reports on a Board-approved form with the Secretary of the Board; and
 - e. Immediately report to the Secretary of the Board any violations by the Respondent of the terms and conditions of probation.

4. Respondent shall continue any counseling or treatment, out-patient or in-patient, prescribed by his treating physician. Respondent shall provide physician's reports verifying the above counseling and treatment to the Secretary of the Board on a quarterly basis.

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: 

Howell K. Rosenberg, Board Member

Date: July 18, 2014



THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA
601 Commonwealth Avenue, Suite 5600
PO Box 62625
Harrisburg, PA 17106-2625

July 18, 2014

OFFICE OF DISCIPLINARY COUNSEL	:	No. 1910 Disciplinary Docket No. 3
Petitioner	:	
	:	No. 180 DB 2011
v.	:	
	:	Attorney Registration No. 30841
JAMES S. BRUNO	:	
Respondent	:	(Philadelphia)

**Expenses Incurred in the Investigation and Prosecution
of the above-captioned proceedings***

01/23/2012	State Police criminal records check	\$ 10.00
02/14/2012	Transcript from Prehearing Conference held 2/01/2012	282.00
03/23/2012	Administrative Fee	250.00
04/02/2012	On Consent Costs Paid	-542.00
10/12/2012	Transcript of Prehearing Conference held 10/4/2012	267.50
04/01/2013	Transcript of Prehearing Conference held 3/7/2013	296.50
03/26/2013	Transcript of Hearing held 3/26/2013	3,240.00
06/04/2013	Transcript of Hearing held 5/3/2013	3,327.00
10/19/2011	2 Copies of Petition for Discipline	28.00
12/05/2011	2 Copies of Answer to Petition for Discipline	22.00
02/26/2013	2 Copies of Supreme Court Order	1.00
11/06/2013	2 Copies of Report of Hearing Committee	12.00
02/04/2014	2 Copies of Petitioner's Brief Opposing Exceptions	27.00
TOTAL AMOUNT DUE		\$ 7,221.00

(Make check payable to PA Disciplinary Board)

* Failure to pay the taxed expenses within ten (10) days will result in revocation of the Report approving the discipline on consent.

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :

Petitioner :

: No. 180 DB 2011

v. :

: Atty. Registration No. 30841

JAMES S. BRUNO,

Respondent : (Philadelphia)

JOINT STIPULATIONS OF FACT, LAW AND EXHIBITS

Petitioner and Respondent submit to the Hearing Committee the following joint stipulations of fact, law and exhibits in the above matter.

1. Photocopies shall be admissible in lieu of originals.
2. Petitioner and Respondent stipulate to the authenticity and admissibility of ODC-1 thru ODC-38 and agree that these Exhibits shall be admitted into evidence without objection.
3. These Joint Stipulations and referenced Exhibits may be distributed to the Hearing Committee Members in advance of the hearing date.
4. Petitioner, whose principal office is located at Pennsylvania Judicial Center, Suite 2700, 601 Commonwealth Avenue, P.O. Box 62485, 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 Pennsylvania and to prosecute all disciplinary proceedings brought in accordance with the various provisions of said Rules of Disciplinary Enforcement.

5. Respondent, James S. Bruno, was born on January 20, 1954, and was admitted to practice law in the Commonwealth of Pennsylvania on October 30, 1979. Respondent's registered address is 1500 Walnut Street, Suite 1100, Philadelphia, PA 19102.

6. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court.

CHARGE I

7. In April 2005, Londell A. Bond was found guilty of, *inter alia*, murder after a jury trial in the Court of Common Pleas of Philadelphia County. Mr. Bond was sentenced to life in prison.

8. A true and correct copy of the docket is marked "ODC-1."

9. On September 5, 2008, Mr. Bond filed a *pro se* PCRA Petition. (ODC-1)

10. On February 11, 2009, Mr. Bond filed a supplemental PCRA petition and memorandum of law. (ODC-1)

11. On March 9, 2009, the court appointed Respondent to represent Mr. Bond in his PCRA Petition. (ODC-1)

12. By letter dated March 12, 2009, to Barbara Ann McDermott, Esquire, Mr. Bond's former counsel, Respondent, *inter alia*, requested Mr. Bond's file.

13. A true and correct copy of the letter is marked "ODC-2."

14. Respondent forwarded a copy of this letter to Mr. Bond.

15. By letter dated March 12, 2009, to Mr. Bond, Respondent, *inter alia*:

- a. advised Mr. Bond that Respondent had been appointed to represent him in his PCRA proceeding ("PCRA");
- b. requested that Mr. Bond send to Respondent a list of various issues that he wanted raised in his PCRA;
- c. requested the name of Mr. Bond's counselor so that Respondent could arrange a telephone conference; and
- d. requested the name and telephone number of a family member in order to keep Mr. Bond apprised of his matter.

16. A true and correct copy of the letter is marked "ODC-3."

17. By letter dated March 17, 2009, Mr. Bond responded to Respondent's request.

18. A true and correct copy of the letter is marked "ODC-4."

19. Respondent received that letter.

20. Thereafter by letter dated June 1, 2009, Mr. Bond,
inter alia:

- a. stated that between April 16, 2009 and May 29, 2009 he was able to speak with Respondent briefly on two occasions at the conclusion of which he believed that Respondent would speak to his grandmother, Mary Bond, to retrieve all of his documents;
- b. stated that Respondent promised a telephone conference via his counselor, Mr. Keller, which never occurred; and
- c. requested that Respondent contact him regarding the issues Respondent planned to raise on his behalf.

21. A true and correct copy of the letter is marked "ODC-5."

22. Respondent received that letter.

23. Respondent failed to respond to Mr. Bond's letter.

24. By letter dated July 7, 2009, Mr. Bond again, *inter alia*, requested that Respondent contact him and provide him with a status update of his PCRA.

25. A true and correct copy of the letter is marked "ODC-6."

26. Respondent received that letter.

27. Respondent failed to respond to Mr. Bond's letter.

28. By letter dated July 28, 2009, Mr. Bond again, *inter alia*, requested that Respondent contact him.

29. A true and correct copy of the letter is marked "ODC-7."

30. Respondent received that letter.

31. Respondent failed to respond.

32. By letter dated September 7, 2009, Mr. Bond, *inter alia*:

a. stated that he still did not know what was going on in his matter;

b. stated that both his attempts as well as his family's attempts to contact Respondent to ascertain the status of his matter had proved to be futile; and

c. requested that Respondent initiate a telephone conference with him to discuss his case.

33. A true and correct copy of the letter is marked "ODC-8."

34. Respondent received that letter.

35. Respondent failed to respond to Mr. Bond's letter.

36. On October 22, 2009, Respondent filed a Supplemental PCRA Petition and Memorandum of Law. (ODC-1)

37. Respondent failed to inform Mr. Bond that Respondent filed the supplemental petition and memorandum.

38. On January 6, 2010, the Commonwealth filed a Motion to Dismiss Under Pa.R.Crim.P. 907 ("Rule 907"). (ODC-1)

39. Respondent received the motion.

40. Respondent failed to inform Mr. Bond of the Commonwealth's motion.

41. On January 15, 2010, the PCRA Court filed a dismissal notice under Rule 907 and served both Respondent and Mr. Bond. (ODC-1)

42. By letter dated January 16, 2010, Mr. Bond, *inter alia*:

- a. informed Respondent that he had received a Rule 907 Notice of dismissal of his PCRA;
- b. stated that he did not know what claims Respondent raised on his behalf because Respondent failed to send him anything or to respond to his letters;
- c. requested that Respondent file an objection to the Notice and/or file an appeal to the Superior Court; and
- d. requested that Respondent contact him, his wife, or his grandmother.

43. A true and correct copy of the letter is marked "ODC-9."

44. Respondent received that letter.

45. Respondent failed to respond to Mr. Bond's letter and to contact him to discuss his options in responding to the notice to dismiss.

46. Respondent failed to respond to the motion to dismiss as requested by Mr. Bond.

47. On February 8, 2010, Mr. Bond filed a *pro se* objection to the proposed dismissal. (ODC-1)

48. By Order dated February 17, 2010, the Court:

- a. granted the Commonwealth's request for dismissal of the PCRA; and
- b. denied Mr. Bond's PCRA petition.

(ODC-1)

49. Respondent received a copy of the Court's Order.

50. Respondent failed to advise Mr. Bond of the dismissal of his PCRA.

51. By letter dated February 19, 2010, Mr. Bond, *inter alia*:

- a. informed Respondent that he had received the Court's February 12, 2010 Order;
- b. stated that he had thirty days to file an appeal to the Superior Court;
- c. requested that Respondent file a Notice of Appeal on his behalf; and
- d. requested that Respondent contact him or his family.

52. A true and correct copy of the letter is marked "ODC-10."

53. Respondent received Mr. Bond's letter.

54. Respondent failed to respond to Mr. Bond's letter.

55. On March 5, 2010, Mr. Bond filed a *pro se* Notice of Appeal in the Superior Court, which was docketed at 600 EDA 2010.

56. A true and correct copy of the docket is marked "ODC-11."

58. A true and correct copy of the docket is marked "ODC-12."

59. By letter dated March 19, 2010, Mr. Bond, *inter alia*, requested that Respondent file a motion to withdraw from his case.

60. A true and correct copy of the letter is marked "ODC-13."

61. Respondent received that letter.

62. Respondent failed to respond to Mr. Bond's letter.

63. By Order dated March 26, 2010, the appeal docketed at 600 EDA 2010 was dismissed *sua sponte* because that appeal was a duplicate of the appeal docketed at 732 EDA 2010. (ODC-11)

64. By Order dated March 29, 2010, the lower court directed Respondent to comply with the provisions of Pa.R.A.P. 1925(b). (ODC-1)

65. Respondent was required to file a concise statement of errors complained of on appeal within twenty-one days of the lower court's Order.

66. By letter dated April 1, 2010, Mr. Bond, *inter alia*, requested a copy of the claims that Respondent filed on his behalf in the lower court.

67. A true and correct copy of the letter is marked "ODC-14."

68. Respondent received Mr. Bond's letter.

69. Respondent failed to respond to Mr. Bond's letter.

70. On April 5, 2010, Mr. Bond filed an Application for Remand and Appointment of New Counsel under docket number 600 EDA 2010. (ODC-11)

71. On or before April 19, 2010, Respondent failed to file a concise statement as required by Pa.R.A.P. 1925(b) or file an application for an extension of time to file the statement.

72. By Order dated April 26, 2010, Superior Court directed Respondent to comply with Pa.R.A.P. 3517 by filing a docketing statement. (ODC-12)

73. The docketing statement was due on or before May 6, 2010.

74. On May 7, 2010, Respondent filed an untimely docketing statement. (ODC-12)

75. By Order dated May 18, 2010, the Superior Court:

- a. denied Mr. Bond's *pro se* petition for remand and appointment of counsel filed at 600 EDA 2010;
- b. directed that Mr. Bond's *pro se* petition for remand and appointment of counsel be docketed at 732 EDA 2010;
- c. directed the Prothonotary to forward a copy of Mr. Bond's petition to Respondent; and
- d. directed Respondent to comply with *Commonwealth v. Lawrence*, 596 A.2d. 165 (Pa.Super. 1991), which required Respondent to file a petition for remand upon review of Mr. Bond's allegations of ineffectiveness.

(ODC-12)

76. Respondent received a copy of the Superior Court's May 18, 2010 Order and Mr. Bond's petition.

77. Respondent failed to comply with *Commonwealth v. Lawrence*.

78. By Order dated May 27, 2010, the Superior Court denied Mr. Bond's Application for Remand as moot. (ODC-12)

79. On July 16, 2010, Mr. Bond filed an application for an order to compel Respondent to comply with the Court's May 18, 2010 Order. (ODC-12)

80. By Order dated August 20, 2010, the Superior Court:

- a. denied Mr. Bond's application;
- b. directed the Prothonotary to provide a copy of Mr. Bond's application to Respondent;
- c. again directed Respondent to comply with *Commonwealth v. Lawrence*;
- d. directed Respondent to comply with *Commonwealth v. Battle*, 879 A.2d 266 (Pa.Super. 2005), which required Respondent to file a petition for remand to insure that the ineffectiveness claims are presented to the Court;
- e. directed Respondent to file the petition within 30 days from the date of the Order; and
- f. stated that failure to comply with the Order may result in Respondent's removal from Mr. Bond's case.

(ODC-12)

81. Respondent received a copy of the Court's Order.

82. Respondent failed to comply with the Order.

83. On September 3, 2010, the lower court removed Respondent from representing Mr. Bond. (ODC-1)

84. On September 7, 2010, the lower court appointed Gary Sanford Server, Esquire, to represent Mr. Bond. (ODC-1)

85. On October 12, 2010, Mr. Server entered his appearance in Superior Court as counsel on behalf of Mr. Bond. (ODC-12)

86. During his representation of Mr. Bond, Respondent violated the following Rules of Professional Conduct:

- a. RPC 1.3, which states that a lawyer shall act with reasonable diligence and promptness in representing a client;
- b. RPC 1.4(a)(2), which states that a lawyer shall reasonably consult with the client about the means by which the client's objectives are to be accomplished;
- c. RPC 1.4(a)(3), which states that a lawyer shall keep a client reasonably informed about the status of a matter;
- d. RPC 1.4(a)(4), which states that a lawyer shall promptly comply with reasonable requests for information;
- e. RPC 1.4(b), which states that a lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation; and
- f. RPC 8.4(d), which states that it is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.

Charge II

87. In 2005, Cyprian Diaz was found guilty of, *inter alia*, first degree murder in the Court of Common Pleas of Philadelphia County and sentenced to life imprisonment.

88. A true and correct copy of the docket is marked "ODC-15."

89. In August 2007, Mr. Diaz filed a *pro se* PCRA petition. (ODC-15)

90. On December 18, 2007, the court appointed Respondent to represent Mr. Diaz in his PCRA matter. (ODC-15)

91. Respondent failed to notify Mr. Diaz that Respondent had been appointed to represent him.

92. On April 4, 2008, Respondent filed an Amended PCRA Petition. (ODC-15)

93. Respondent failed to notify Mr. Diaz that Respondent filed the Amended PCRA petition.

94. By Order dated May 5, 2008, the court granted the PCRA petition, which allowed Respondent leave to file an appeal *nunc pro tunc* with the Supreme Court within thirty days from the date of the Order. (ODC-15)

95. Respondent failed to notify Mr. Diaz that the PCRA petition had been granted.

96. On June 5, 2008, Respondent filed a Petition for Extension of Time to File Petition for Allowance of Appeal *Nunc*

Pro Tunc with the Supreme Court, which was docketed at 81 EM 2008.

97. A true and correct copy of the docket is marked "ODC-16."

98. By Order dated October 1, 2008, the Supreme Court:

- a. granted Respondent's petition; and
- b. directed Respondent to file a petition for allowance of appeal within 15 days from the date of the Order.

(ODC-16)

103. On October 23, 2008, the Supreme Court closed Mr. Diaz's matter at 81 EM 2008. (ODC-16)

104. The court served Respondent with notice of the closure.

105. Respondent failed to inform Mr. Diaz that his case had been closed.

106. On January 12, 2009, Respondent filed a Petition for Extension of Time to File Petition for Allowance of Appeal Nunc Pro Tunc with the Supreme Court, which was docketed at 5 EM 2009.

107. A true and correct copy of the docket is marked "ODC-18."

108. By Order dated April 28, 2009, the Supreme Court:

- a. granted Respondent's petition; and
- b. directed Respondent to file a petition for allowance of appeal within 15 days of the entry of the Order.

(ODC-18)

109. On May 11, 2009, Respondent filed a Petition for Allowance of Appeal on behalf of Mr. Diaz, which was docketed at 253 EAL 2009.

110. A true and correct copy of the docket is marked "ODC-19."

111. By Order dated February 12, 2010, the Supreme Court denied the Petition for Allowance of Appeal. (ODC-19)

Charge III

114. In April 1997, Henh Lau was found guilty of, *inter alia*, first degree murder in the Court of Common Pleas of Philadelphia County.

115. A true and correct copy of the docket is marked "ODC-20."

116. In October 2005, Mr. Lau filed a *pro se* PCRA petition.

117. On December 2, 2005, Respondent was appointed to represent Mr. Lau in his PCRA matter. (ODC-20)

118. Respondent failed to notify Mr. Lau that Respondent had been appointed to represent him.

119. On August 23, 2006, Respondent filed an amended PCRA petition on behalf of Mr. Lau. (ODC-20)

120. On November 15, 2007, the court filed a dismissal notice under Rule 907. (ODC-20)

121. Respondent received a copy of the Notice.

122. Respondent failed to contact Mr. Lau to confirm that he had received a copy of the Notice to dismiss or to discuss with Mr. Lau his options.

123. In July 2009, Mr. Lau filed a complaint against Respondent with the Office of Disciplinary Counsel wherein he alleged, *inter alia*, that Respondent failed to communicate with him.

124. On August 13, 2009, Disciplinary Counsel Donna M. Snyder contacted Respondent in regard to Mr. Lau's complaint, at which time Respondent informed her, *inter alia*, that Respondent would send Mr. Lau a letter providing him a status of his PCRA matter.

125. Respondent failed to forward a letter to Mr. Lau.

126. By Order dated November 18, 2009, the court dismissed Mr. Lau's PCRA petition. (ODC-20)

Charge IV

132. In September 2004, Akil Sabur was found guilty of, *inter alia*, murder in the Court of Common Pleas of Philadelphia County.

133. A true and correct copy of the docket is marked "ODC-21."

134. On May 15, 2006, Mr. Sabur filed a PCRA petition. (ODC-21)

135. On July 27, 2006, Barbara Ann McDermott, Esquire, was appointed to represent Mr. Sabur. (ODC-21)

136. On December 18, 2006, Ms. McDermott filed an amended PCRA petition on behalf of Mr. Sabur. (ODC-21)

137. On March 31, 2008, Mr. Sabur filed a *pro se* PCRA petition. (ODC-21)

138. On June 24, 2008, Ms. McDermott was permitted to withdraw from Mr. Sabur's matter. (ODC-21)

139. On or about July 22, 2008, the court appointed Respondent to represent Mr. Sabur in his PCRA matter. (ODC-21)

140. By Order dated August 5, 2008, the court directed, *inter alia*, that Mr. Sabur's amended PCRA petition be filed by October 6, 2008. (ODC-21)

141. On October 6, 2008, Respondent filed an amended PCRA petition on behalf of Mr. Sabur. (ODC-21)

143. On December 31, 2008, the Commonwealth filed a Motion to Dismiss Mr. Sabur's PCRA. (ODC-21)

145. On January 8, 2009, the court filed a dismissal notice under Rule 907. (ODC-21)

146. Respondent failed to notify Mr. Sabur of this dismissal notice.

147. By Order dated January 29, 2009, the court denied Mr. Sabur's PCRA petition. (ODC-21)

149. By letter dated February 7, 2009, to the Honorable Gary S. Judge Glazer, Mr. Sabur stated that he had sent Respondent numerous letters in an attempt to obtain information from Respondent.

150. By letter dated February 17, 2009, Judge Glazer requested that Respondent immediately contact Mr. Sabur.

151. A true and correct copy of Judge Glazer's letter is marked "ODC-22."

152. Respondent received Judge Glazer's letter.

153. On or about February 26, 2009, Respondent filed a Notice of Appeal to the Superior Court, which was docketed at 595 EDA 2009.

154. A true and correct copy of the docket is marked "ODC-23."

155. Respondent was required to file Mr. Sabur's brief on or before April 20, 2009.

156. Respondent failed to file the brief by April 20, 2009.

157. By Order dated May 18, 2009, the Superior Court, *inter alia*:

- a. noted that despite being Ordered to do so, Respondent failed to file a brief on behalf of Mr. Sabur;
- b. remanded the appeal for thirty days for a determination as to whether Respondent abandoned Mr. Sabur and to take further action as required to protect Mr. Sabur's rights; and

- c. ordered that Respondent notify the court, in writing, within thirty days of all actions taken on behalf of Mr. Sabur.

(ODC-23)

158. By letter dated May 19, 2009, to Superior Court, Judge Glazer, *inter alia*:

- a. stated that his law clerk contacted Respondent;
- b. it was determined that Respondent had not abandoned Mr. Sabur; and
- c. informed the Superior Court that Respondent would file a brief on May 26, 2009.

159. A true and correct copy of Judge Glazer's letter is marked "ODC-24."

161. In early November 2009, Mr. Sabur sent a second letter to Judge Glazer in regard to his appeal.

162. A true and correct copy of Mr. Sabur's letter is marked "ODC-25."

163. By letter dated November 10, 2009, to Respondent, Judge Glazer:

- a. enclosed a copy of Mr. Sabur's letter;
- b. stated that Mr. Sabur was uncertain about the status of his appeal; and
- c. requested that Respondent contact Mr. Sabur immediately.

164. A true and correct copy of Judge Glazer's letter is marked "ODC-26."

165. Respondent received Judge Glazer's letter.

166. By Order dated January 20, 2010, the Superior Court affirmed the lower court's judgment. (ODC-23)

167. On February 19, 2010, Respondent filed a Petition for Allowance of Appeal to the Pennsylvania Supreme Court, which was docketed at 74 EAL 2010.

168. A true and correct copy of the docket is marked "ODC-27."

169. By Order dated June 24, 2010, the Supreme Court denied the Petition for Allowance of Appeal. (ODC-27)

Charge V

171. In September 2005, Gabriel G. Ocasio was found guilty of, *inter alia*, first degree murder in the Court of Common Pleas of Philadelphia County and sentenced to life imprisonment.

172. A true and correct copy of the docket is marked "ODC-28."

173. On October 12, 2007, Mr. Ocasio filed a *pro se* PCRA petition. (ODC-28)

174. On April 8, 2008, the court appointed Respondent to represent Mr. Ocasio in his PCRA matter, and Respondent entered his appearance. (ODC-28)

175. On August 26, 2008, Respondent's private investigator, Richard T. Strohm, wrote to Mr. Ocasio a letter informing him

that Respondent had hired Mr. Strohm to help with the investigation regarding Mr. Ocasio's PCRA.

176. On November 7, 2008, Respondent filed an Amended PCRA Petition on behalf of Mr. Ocasio. (ODC-28)

177. Respondent failed to inform Mr. Ocasio that Respondent filed the Amended PCRA petition on his behalf.

178. From September 24, 2008 through December 14, 2008, Mr. Ocasio sent Respondent four letters requesting, *inter alia*:

- a. information regarding Respondent's representation of Mr. Ocasio in his PCRA Petition;
- b. any documents that Respondent filed in court; and
- c. any documents that Respondent received from the court.

179. Respondent received the letters.

181. On February 12, 2009, the Commonwealth filed a Motion to Dismiss. (ODC-28)

182. On February 27, 2009, the court filed a dismissal notice under Pa.R.Crim.P. 907. (ODC-28)

184. On or about March 16, 2009, Mr. Ocasio filed a *pro se* response to the dismissal notice. (ODC-28)

185. On March 25, 2009, Respondent telephoned Mr. Ocasio, at which time Respondent, *inter alia*, told Mr. Ocasio that:

- a. he should not request Respondent's removal from his PCRA matter;
- c. Respondent would mail him every document filed.

186. Respondent failed to mail the documents to Mr. Ocasio.

187. By letter dated April 2, 2009, Mr. Ocasio, *inter alia*:

- a. told Respondent that he mailed Respondent several documents;
- b. requested copies of all documents, including the Amended PCRA petition; and
- c. offered to send Respondent his entire file.

188. On April 4, 2009, Respondent telephoned Mr. Ocasio and requested his entire file; Respondent promised to return the file after Respondent made copies.

189. On April 7, 2009, Mr. Ocasio forwarded his file to Respondent by UPS.

190. On April 17, 2009, Respondent filed an amended PCRA petition. (ODC-28)

192. On or about June 18, 2009, Respondent filed a Supplemental Amended PCRA on behalf of Mr. Ocasio. (ODC-28)

194. On June 26, 2009, the Commonwealth filed a Motion to Dismiss the supplemental amended petition. (ODC-28)

195. Respondent failed to notify Mr. Ocasio of the motion to dismiss.

196. On August 21, 2009, the court filed a dismissal notice under Rule 907. (ODC-28)

197. On or about September 10, 2009, Mr. Ocasio filed a *pro se* response to the dismissal notice. (ODC-28)

198. By Order dated September 11, 2009, the PCRA Court dismissed Mr. Ocasio's PCRA petition. (ODC-28)

199. Respondent failed to inform Mr. Ocasio that his PCRA petition had been dismissed and to inquire whether Mr. Ocasio desired to appeal.

200. On November 14, 2009, Mr. Ocasio contacted Respondent via telephone and requested that Respondent forward to him all documents in regard to his PCRA.

201. Respondent failed to forward to Mr. Ocasio the requested documents.

202. By letter dated December 2, 2009, Respondent informed Mr. Ocasio that Respondent tried unsuccessfully to arrange a phone conference with Mr. Ocasio.

203. By letter dated December 18, 2009, Respondent forwarded to Mr. Ocasio copies of two letters relating to investigative actions taken by Respondent in regard to Mr. Ocasio's PCRA matter.

204. Between December 21, 2009 and May 13, 2010, Mr. Ocasio forwarded to Respondent six letters wherein he, *inter alia*, expressed his dissatisfaction with Respondent's representation and requested that Respondent contact him.

205. Respondent received these letters.

- a. On March 10, 2010, Respondent attempted to arrange a telephone conversation with Mr. Ocasio by contacting the staff at SCI Somerset.

Charge VI

208. In October 2008, Jerome Finch pled guilty to, *inter alia*, first degree murder in the Court of Common Pleas of Philadelphia County and sentenced to life imprisonment.

209. A true and correct copy of the docket is marked "ODC-29."

210. On June 5, 2009, Mr. Finch filed a filed a *pro se* PCRA petition. (ODC-29)

211. On September 3, 2009, the court appointed Respondent to represent Mr. Finch in his PCRA matter, and Respondent entered his appearance. (ODC-29)

212. By Order dated April 7, 2010, the court granted Mr. Finch's PCRA petition and permitted Mr. Finch to file an appeal of his sentence *nunc pro tunc*. (ODC-29)

213. On May 13, 2010, Respondent filed a Notice of Appeal to the Superior Court, which was docketed at 1243 EDA 2010.

214. A true and correct copy of the Superior Court docket is marked "ODC-30."

215. By letter dated May 13, 2010, Karen Reid Bramblett, Prothonotary, *inter alia*:

- a. enclosed a Docketing Statement;

b. requested that Respondent return the Docketing Statement by May 27, 2010; and

c. informed Respondent that failure to file a timely completed Docketing Statement may result in the dismissal of the appeal.

216. A true and correct copy of Ms. Bramblett's letter is marked "ODC-31."

217. Respondent failed to file the completed Docketing Statement by May 27, 2010.

218. By Order dated June 14, 2010, the Superior Court, *inter alia*, directed Respondent to file the Docketing Statement by June 24, 2010.

219. A true and correct copy of the Order is marked "ODC-32."

220. On June 24, 2010, Respondent filed the Docketing Statement. (ODC-30)

221. Respondent was required to file Mr. Finch's brief on or before September 27, 2010.

222. A true and correct copy of the Court's Order is marked "ODC-33."

223. Respondent failed to file Mr. Finch's brief on or before September 27, 2010 or anytime thereafter. (ODC-30)

224. By Order dated November 9, 2010, the Superior Court, *inter alia*:

- a. directed the trial court to withhold counsel fees pertaining to the appeal if counsel was court-appointed; and
- b. directed Respondent to file with the court, within 10 days, a certification that Mr. Finch had been notified of the dismissal.

(ODC-29)

225. By letter dated November 9, 2010, Charles E. O'Conner, Jr., Deputy Prothonotary, forwarded a copy of the November 9, 2010 Order to Respondent.

226. A true and correct copy of the letter is marked "ODC-34."

227. Respondent received a copy of the Superior Court Order.

228. Respondent failed to file a certification with Superior Court as directed within 10 days from the date of the Order or anytime thereafter that Mr. Finch had been notified of the dismissal of his appeal. (ODC-30)

229. During his representation of Mr. Finch, Respondent violated the following Rules of Professional Conduct:

- a. RPC 1.3;
- b. RPC 1.16(d); and
- c. RPC 8.4(d).

Charge VII

230. In October 2007, Luis Andujar was found guilty of, *inter alia*, first degree murder in the Court of Common Pleas of Philadelphia County and sentenced to life imprisonment.

231. A true and correct copy of the docket is marked "ODC-35."

232. On November 9, 2009, Mr. Andujar filed a *pro se* PCRA petition.

233. On July 8, 2010, the court appointed Respondent to represent Mr. Andujar in his PCRA matter, and on July 9, 2010 Respondent entered his appearance. (ODC-35)

235. On July 17, 2010, Mr. Andujar filed an amended PCRA petition. (ODC-35)

236. By letter dated November 29, 2010, Mr. Andujar, *inter alia*:

- a. informed Respondent that he had recently learned that Respondent had been appointed to represent him; and
- b. requested a status on his PCRA petition.

237. A true and correct copy of the letter is marked "ODC-36."

240. By letter dated December 14, 2010, Mr. Andujar, *inter alia*:

- a. stated that he had previously sent Respondent a letter and had not received a response; and
- b. again requested a status on his PCRA petition.

241. A true and correct copy of the letter is marked "ODC-37."

244. By letter dated December 26, 2010, Mr. Andujar, *inter alia*, again requested a status in regard to his PCRA petition.

245. A true and correct copy of the letter is marked "ODC-38."

248. On May 13, 2011, Respondent filed a Memorandum of Law. (ODC-35)

249. On June 16, 2011, the Commonwealth filed a supplemental motion to dismiss the PCRA petition. (ODC-35)

250. On July 28, 2011, the court filed a dismissal notice under Rule 907. (ODC-35)

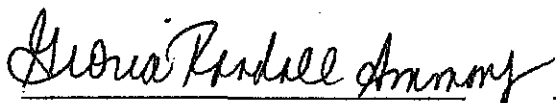
251. On August 17, 2011, Mr. Andujar filed a second amended *pro se* PCRA petition and a response to the 907 notice. (ODC-35)

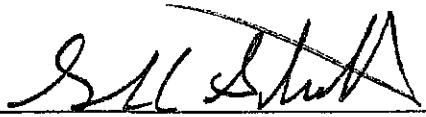
252. On August 29, 2011, Mr. Andujar filed a second *pro se* amended PCRA petition. (ODC-35)

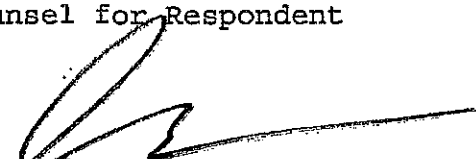
253. On September 19, 2011, Respondent filed a supplemental amended PCRA petition. (ODC-35)

Signed this 19th day of October, 2012.

OFFICE OF DISCIPLINARY COUNSEL


Gloria Randall Ammons
Disciplinary Counsel


Samuel C. Stretton, Esquire
Counsel for Respondent


James S. Bruno
Respondent

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :

Petitioner :

: No. 180 DB 2011

:

v. :

: Atty. Registration No. 30841

JAMES S. BRUNO, :

Respondent : (Philadelphia)

SUPPLEMENTAL JOINT STIPULATIONS OF FACT

Petitioner and Respondent submit to the Hearing Committee the following supplemental joint stipulations of fact in the above matter:

CHARGE II- Cyprian Diaz

112. Respondent failed to inform Mr. Diaz that the petition had been denied.

Charge III- Henh Lau

128. Respondent failed to inform Mr. Lau that his PCRA proceeding had been dismissed.

130. Throughout the representation, Respondent failed to respond to Mr. Lau's letters and telephone calls.

Charge IV- Akil Sabur

142. Respondent failed to notify Mr. Sabur that Respondent filed the amended PCRA petition.

144. Respondent failed to inform Mr. Sabur that the Commonwealth filed a Motion to Dismiss his PCRA.

148. Respondent failed to inform Mr. Sabur of the denial of his PCRA petition.

Charge V - Gabriel G. Ocasio

180. Respondent failed to respond to any of Mr. Ocasio's requests.

183. Respondent failed to contact Mr. Ocasio to confirm that he had received the notice to dismiss from the Court and to discuss with him his options.

193. Respondent failed to provide Mr. Ocasio with a copy of the amended PCRA petition.

206. Respondent failed to respond to the letters.

Charge VII- Luis Andujar

234. Respondent failed to advise Mr. Andujar that he had been appointed to represent Mr. Andujar.

238. Respondent received that letter.

239. Respondent failed to respond.

242. Respondent received that letter.

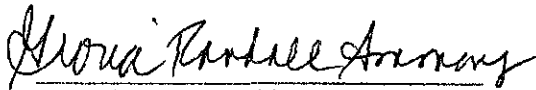
243. Respondent failed to respond.

246. Respondent received that letter.

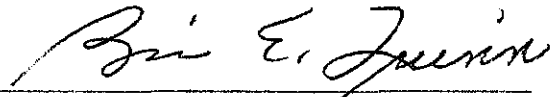
247. Respondent failed to respond.

Signed this 20th day of March, 2013.

OFFICE OF DISCIPLINARY COUNSEL



Gloria Randall Ammons
Disciplinary Counsel



Brian E. Quinn, Esquire
Counsel for Respondent



James S. Bruno
Respondent

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 1910 Disciplinary Docket
Petitioner : No. 3

:
: Board File Nos. 180 DB 2011
: C1-12-433
: C1-12-434
: C1-12-839
: C1-12-1108

v.

JAMES S. BRUNO,

:
: Atty. Registration No. 30841
Respondent : (Philadelphia)

RESPONDENT'S WAIVER OF ENFORCEMENT AND DISCIPLINARY BOARD RULES;
SUPPLEMENTAL JOINT STIPULATIONS OF FACT, LAW AND EXHIBITS

1. ODC has been and is currently conducting an investigation at Board File Nos. C1-12-433, C1-12-434, C1-12-839 and C1-12-1108 of alleged misconduct on the part of Respondent in violation of the Rules of Professional Conduct.

2. Respondent, after consulting with counsel, knowingly, intelligently and voluntarily waives the filing of a petition for discipline under the provisions of Rule 208(b), Pa.R.D.E., and §89.51 et seq., D.Bd. Rules, with the understanding that the matters at C1-12-433, C1-12-434, C1-12-839 and C1-12-1108 and these Stipulations will be consolidated with the proceedings and petition for discipline docketed at 180 DB 2011 and immediately referred to the Hearing Committee for the purpose of the Hearing Committee's hearing testimony and receiving evidence in support

of the additional allegations of misconduct set forth in paragraphs 7 through 158, *infra*, and upon completion of the hearing, to make such findings of fact, conclusions of law, and recommendation for disciplinary action as the Hearing Committee may deem appropriate.

3. With respect to the additional allegations of misconduct set forth in paragraphs 7 through 158, *infra*, Petitioner and Respondent agree that Petitioner will be permitted to proceed as if a petition for discipline containing those allegations had been filed, and Petitioner will have the burden of proving: 1) the facts; and 2) the Rule violations as set forth in paragraphs 93, 127, 137, and 158, *infra*.

4. Petitioner and Respondent stipulate to the authenticity and admissibility of Exhibits ODC-56 through ODC-91 and agree that these Exhibits shall be admitted into evidence without objection.

5. Photocopies shall be admissible in lieu of originals.

6. These Joint Stipulations and referenced Exhibits may be distributed to the Hearing Committee Members in advance of the hearing date.

C1-12-433

7. In or around November 1994, Dennis Horton was found guilty in the Court of Common Pleas of Philadelphia County of, *inter alia*, murder, and sentenced to life imprisonment.

8. A true and correct copy of the docket is marked as "ODC-56."

9. On March 11, 2009, Respondent was appointed to represent Mt. Horton in his PCRA matter.

10. By letter dated March 12, 2009, to Mr. Horton, Respondent, *inter alia*:

- a. informed him that Respondent had been appointed to replace his previous counsel, Barbara A. McDermott, Esquire;
- b. requested a list of the various issues that he wished to raise in his matter;
- c. requested a copy of any briefs that had been filed on his behalf; and
- d. requested the name of his counselor so that Respondent could arrange a telephone conference.

11. A true and correct copy of the letter is marked as "ODC-57."

12. By letter dated March 19, 2009, to Respondent, Mr. Horton, *inter alia*, explained the basis for his claims.

13. A true and correct copy of the letter is marked as "ODC-58."

14. By letter dated March 26, 2009, to Respondent, Mr. Horton forwarded a copy of an amended PCRA petition that he had drafted but had not filed.

15. A true and correct copy of the letter is marked as "ODC-59."

16. By letter dated October 6, 2009, Mr. Horton, *inter alia*:

- a. inquired about the current status of his case;
- b. noted that his last correspondence from Respondent was on March 12, 2009;
- c. confirmed that Respondent had spoken to his mother on one or two occasions after Respondent had been appointed to represent him; and
- d. inquired about Respondent's progress in obtaining Mr. Horton's medical records.

17. A true and correct copy of the letter is marked as "ODC-60."

18. Respondent received that letter.

19. Respondent failed to respond to Mr. Horton's letter.

20. By letter dated November 29, 2009, Mr. Horton, *inter alia*:

- a. inquired about a telephone call between Respondent and his brother-in-law;
- b. stated that his brother-in-law did not believe that Respondent understood Mr. Horton's claims;
- c. explained his claims again; and
- d. referenced the five letters that he had sent to Respondent on March 19, 2009, March 26, 2009, April 12, 2009, May 29, 2009 and October 6, 2009, to which Respondent had not responded.

21. A true and correct copy of the letter is marked as "ODC-61."

22. Respondent received that letter.

23. Respondent failed to promptly respond to that letter.

24. On December 8, 2009, Respondent filed an Amended PCRA petition.

25. (Left blank intentionally)

26. On December 22, 2009, Respondent was scheduled to have a telephone conference with Mr. Horton at 1:30 p.m.

a. The conference telephone call was never completed because Respondent's telephone call was disconnected.

b. Respondent did not telephone Mr. Horton again.

27. By letter dated January 29, 2010, to the Honorable D. Webster Keogh, Mr. Horton, *inter alia*:

a. stated that he was having problems establishing any type of communication with Respondent over the past year;

b. complained about Respondent's deficient representation;

c. requested Judge Keogh to direct Respondent to bring Respondent's level of representation of Mr. Horton to a satisfactory level; and

d. requested, in the alternative, that Judge Keogh appoint new counsel to represent him.

28. A true and correct copy of the letter is marked as "ODC-62."

29. In a letter to Judge Keogh dated February 4, 2010, Mr. Horton again requested, *inter alia*:

a. appointment of new counsel; or

- b. if new counsel could not be appointed, Judge Keogh direct Respondent to handle Mr. Horton's case in a more professional manner.

30. A true and correct copy of the letter is marked as "ODC-63."

31. On or about February 22, 2010, Mr. Horton received two letters from Respondent, which were dated December 14, 2009 and February 19, 2010, respectively.

32. True and correct copies of the letters are marked "ODC-64" and "ODC-65."

33. In Respondent's December 14, 2009 letter, Respondent stated that, *inter alia*:

- a. Respondent had filed an amended PCRA petition on December 8, 2009; and
- b. Respondent was engaged in a four-defendant murder trial, but Respondent anticipated contacting Mr. Horton's counselor in the next week or so.

34. In Respondent's February 19, 2010 letter, Respondent, *inter alia*:

- a. enclosed a copy of the letter that Respondent sent to Mr. Horton dated December 14, 2009;
- b. stated that Respondent had filed an amended PCRA petition on December 8, 2009;
- c. enclosed a copy of said PCRA petition;
- d. stated that Respondent had set up a telephone conference for March 4, 2010;
- e. reiterated Respondent's statement in the December 14, 2009 letter about medical records; and

f. stated that the Commonwealth was to file its response to the PCRA petition on March 9, 2010.

35. By letter dated February 23, 2010, to Respondent, Mr. Horton, *inter alia*:

- a. stated that he had read Respondent's amended PCRA petition;
- b. stated that the petition had serious defects and deficiencies that would cause the petition to be denied; and
- c. complained about not having a telephone conference.

36. A true and correct copy of the letter is marked as "ODC-66."

37. By letter dated February 23, 2010, to Judge Keogh, Mr. Horton, *inter alia*, requested that the court appoint new counsel to represent him.

38. A true and correct copy of the letter is marked as "ODC-67."

39. On March 4, 2010, during a telephone conference with Mr. Horton, Respondent, *inter alia*:

- b. stated that Respondent borrowed Mr. Horton's co-defendant's PCRA petition from the co-defendant's attorney, Sondra R. Rodrigues, Esquire; and
- e. stated that Respondent would file another amended petition.

39(a). If called to testify, Mr. Horton would testify that during the March 4, 2010 telephone conference Respondent stated that, *inter alia*:

- a. the amended PCRA petition was in "bad shape" because Respondent had lost half of the materials that Mr. Horton had sent to Respondent;
- b. requested that Mr. Horton re-send to Respondent copies of all of the material that had been lost; and
- c. Respondent was sure Respondent would win the case.

40. On March 9, 2010, during a conversation with Mr. Horton's mother at a status hearing, Respondent told her, *inter alia*, that:

- a. Respondent had spoken with Mr. Horton;
- b. Respondent was excited about the medical records claim;
- c. Respondent would subpoena the prison, Albert Einstein Hospital, and Worker's Insurance Company to obtain any medical records since 1993; and
- d. once Respondent received the other materials from Mr. Horton, Respondent would reschedule another phone conference.

41. By letter dated March 11, 2010, Mr. Horton, *inter alia*, forwarded to Respondent all of the information Respondent had requested.

42. A true and correct copy of the letter is marked as "ODC-68."

43. On May 14, 2010, the court filed a dismissal notice under Pa.R.Crim.P. 907.

44. On June 3, 2010, Mr. Horton filed a response to the dismissal notice, which alleged, *inter alia*, ineffective assistance of counsel.

45. On June 9, 2010, a status hearing was held at which time the matter was continued in order for Respondent to confer with Mr. Horton and file a supplemental PCRA petition.

46. On August 3, 2010, Mr. Horton filed a *pro se* supplemental amended PCRA petition.

47. By letter dated August 6, 2010, to Respondent, Mr. Horton, *inter alia*:

- a. enclosed a copy of a supplemental amended PCRA petition;
- b. enclosed a copy of his medical records; and
- c. explained that he filed the petition on his own behalf because he had not heard from Respondent.

48. A true and correct copy of the docket is marked as "ODC-69."

49. Respondent received that letter.

50. Respondent failed to respond to Mr. Horton's letter.

51. By Order dated September 16, 2010, the court dismissed Mr. Horton's PCRA petition.

52. Respondent received a copy of the Order.

53. On October 13, 2010, Mr. Horton filed a notice of appeal, which was docketed in Superior Court at 2852 EDA 2010 on October 21, 2010.

54. A true and correct copy of the docket is marked as "ODC-70."

55. On October 18, 2010, Respondent filed a notice of appeal, which was docketed in Superior Court at 2881 EDA 2010 on October 22, 2010.

56. A true and correct copy of the docket is marked as "ODC-71."

57. By Order dated November 23, 2010, the appeal docketed at 2852 was dismissed as duplicative of the appeal at 2881 EDA 2010.

58. By letters dated September 26, 2010, October 26, 2010, and November 18, 2010, Mr. Horton requested that Respondent send him a copy of the Commonwealth's February 19, 2010 response to Mr. Horton's PCRA petition, to assist Mr. Horton in pursuing his appeal.

59. True and correct copies of the letters are marked, respectively, "ODC-72," "ODC-73," and "ODC-74."

60. Respondent received those letters.

61. Respondent failed to respond to any of the letters.

62. On January 24, 2011, Mr. Horton filed in Superior Court a *pro se* application for relief, which alleged, *inter alia*, ineffective assistance of counsel.

63. By Order dated February 14, 2011, the Superior Court:

- a. denied the application without prejudice to Mr. Horton's right to re-apply for the requested relief via counsel;
- b. referred the pro se petition to Respondent; and
- c. referred Respondent to *Commonwealth v. Lawrence* (upon review of pro se allegations of ineffectiveness of counsel, counsel should prepare a petition for remand) and *Commonwealth v. Battle* (remanding for the filing of a proper petition for remand including the identification of the pro se allegations of ineffectiveness and counsel's analysis of those claims).

64. On March 21, 2011, Respondent filed an application for remand and/or extension of time to file a brief.

65. By Order dated April 11, 2011, the application for remand was deferred to a panel of the Superior Court.

- a. The brief was due on or before May 11, 2011.

66. By letter dated April 18, 2011, to Respondent, Mr. Horton requested a copy of the petition for remand and/or extension of time.

67. A true and correct copy of the letter is marked "ODC-75."

68. Respondent received that letter.

69. Respondent failed to respond to the letter.

70. By letter dated April 18, 2011, to the Superior Court Prothonotary, Mr. Horton requested that Respondent be directed to forward a copy of the petition to remand to him.

71. A true and correct copy of the letter is marked "ODC-76."

72. On April 25, 2011, Mr. Horton filed a *pro se* application for remand and to proceed *pro se*.

73. By Order dated June 2, 2011, the Superior Court, *inter alia*:

- a. directed the PCRA court to conduct an on-the-record-determination as to whether Mr. Horton's waiver of counsel was knowing, intelligent and voluntary;
- b. directed the PCRA Court to notify the Superior Court Prothonotary of its determination within sixty days; and
- c. vacated the existing briefing schedule.

74. By Order dated July 7, 2011, the lower court permitted Respondent to withdraw as counsel and allowed Mr. Horton to proceed *pro se*.

75. By letter dated July 21, 2011, to Respondent, Mr. Horton, *inter alia*, requested that Respondent forward his file to him.

76. A true and correct copy of the docket is marked "ODC-77."

77. Respondent received the letter.

78. Respondent failed to respond.

79. By letter dated August 8, 2011, to the Superior Court, Mr. Horton requested that the Superior Court either:

- a. direct Respondent to forward to him a copy of the Commonwealth's response brief; or
 - b. forward a copy to him.
- 80. A true and correct copy of the docket is marked "ODC-78."
- 81. Under cover of a letter dated September 9, 2011, the Superior Court forwarded to Mr. Horton a copy of the Commonwealth's response brief.
- 82. A true and correct copy of the letter is marked "ODC-79."
- 83. By letter dated March 25, 2012, to the Superior Court Prothonotary, Mr. Horton, *inter alia*:
 - a. stated that Respondent failed to forward to him documents, in particular the petition for remand Respondent filed on his behalf on March 21, 2011; and
 - b. requested that Respondent be directed to forward those documents or in that alternative, the Court forward those documents to Mr. Horton.
- 84. A true and correct copy of the letter is marked "ODC-80."
- 85. By Order dated April 18, 2012, the Superior Court directed Respondent to forward to Mr. Horton a copy of the petition for remand that Respondent filed on March 21, 2011.
- 86. A true and correct copy of the Order is marked "ODC-81."
- 87. Respondent received the Order.

88. Respondent failed to forward the document as directed by the Superior Court.

89. By letter dated June 7, 2012, to the Superior Court Prothonotary, Mr. Horton again requested that Respondent be directed to forward the petition for remand or in the alternative the Court forward to him a copy of the petition.

90. A true and correct copy of the letter is marked "ODC-82."

91. Under cover of a letter dated June 12, 2012, the Prothonotary forwarded a copy of the petition to Mr. Horton.

92. A true and correct copy of the docket is marked as "ODC-83."

93. During his representation of Mr. Horton, Respondent violated the following Rules of Professional misconduct:

- a. RPC 1.3;
- b. RPC 1.4(a)(3);
- c. RPC 1.4(a)(4);
- a. RPC 1.16(d); and
- b. RPC 8.4(d).

C1-12-334

94. On or about December 22, 2006, Respondent was appointed to represent Kenny Shields in his criminal matter in Philadelphia County, case captioned *Commonwealth of Pennsylvania*

v. Kenny R R. Shields, No. MC-51-CR-1314110-2006 (later CP-51-CR-0002482-2008).

95. True and correct copies of the Municipal Court and Court of Common Pleas dockets are marked, respectively, "ODC-84" and "ODC-85."

96. On December 1, 2009, the Commonwealth withdrew the death penalty.

97. On January 12, 2010, a jury found Mr. Shields guilty of, *inter alia*, first degree murder.

98. On March 10, 2010, Mr. Shields filed a motion for withdrawal of counsel based on, *inter alia*, ineffective assistance of counsel.

99. On April 16, 2010, the trial court imposed a sentence of life imprisonment.

100. On May 17, 2010, Respondent filed a notice of appeal, which was docketed in Superior Court at 1303 EDA 2010 on May 19, 2010.

101. A true and correct copy of the Superior Court docket is marked "ODC-86."

102. On May 19, 2010, the Prothonotary forwarded a docketing statement to Respondent.

103. Respondent failed to file the docketing statement.

a. Under Pa.R.A.P. 3517, Respondent was required to file the docketing statement by May 29, 2010.

104. Respondent failed to file the docketing statement.
105. By Order dated June 21, 2010, the Court directed Respondent to file the docketing statement by July 1, 2010.
106. By Order dated June 21, 2010, the lower court directed Respondent to comply with the provisions of Pa.R.A.P. 1925(b).
- a. Respondent was required to file a concise statement of errors complained of on appeal within twenty-one days of the lower court's Order.
107. Respondent received a copy of that Order.
108. On July 1, 2010, Respondent filed the docketing statement.
109. Respondent failed to file a concise statement on or before July 12, 2010 or file an application for an extension of time to file the statement.
110. On September 22, 2010, Respondent filed a petition for extension of time to file the concise statement *nunc pro tunc*.
111. On September 27, 2010, Respondent filed the concise statement.
112. On January 21, 2011, Respondent filed an application for extension of time to file a brief.
- a. By Order dated January 25, 2011, Respondent's application was granted.
- b. The brief was due on or before February 4, 2011.

113. On March 21, 2011, Respondent filed a second application for extension to file a brief.

114. By Order dated March 23, 2011, the Court:

- a. granted Respondent's application;
- b. ordered that Respondent file Respondent's brief on or before March 25, 2011; and
- c. ordered that no further extensions would be granted.

115. Thereafter, Respondent failed to file a brief on behalf of Mr. Shields.

116. By Order dated April 15, 2011, the Court:

- a. dismissed Mr. Shields' appeal due to Respondent's failure to file a brief;
- b. directed the trial court to withhold counsel fees; and
- c. directed Respondent to file with the court, within ten days, certification that Mr. Shields had been notified of the dismissal.

117. A true and correct copy of the Order is marked "ODC-87."

118. On April 18, 2011, Respondent filed an application for reconsideration of dismissal wherein Respondent stated that, *inter alia*:

- a. Respondent had failed to file a brief within the Court's briefing schedule;
- b. Respondent had been prepared to file a brief that morning when he discovered that the appeal had been dismissed;

- c. if the Court permitted the filing of the brief, Respondent would not submit a "fee"; and
- d. Respondent had notified Mr. Shields of the dismissal.

119. A true and correct copy of the application is marked "ODC-88."

120. By Order dated April 20, 2011, the Superior Court reinstated the appeal.

- a. The brief was due on or before May 9, 2011.

121. On May 9, 2011, Respondent filed the brief on behalf of Mr. Shields.

122. On June 3, 2011, Mr. Shields filed a petition under the Post-Conviction Relief Act.

123. On September 15, 2011, the PCRA Court filed a dismissal notice under Pa.R.Crim.P. 907.

124. By Order dated December 6, 2011, the Superior Court affirmed Mr. Shields' conviction and sentence.

125. On January 4, 2012, Respondent filed a petition for allowance of appeal, which was docketed at 8 EAL 2012.

126. On April 17, 2012, Mr. Shields filed a motion for appointment of counsel.

127. During his representation of Mr. Shields, Respondent violated the following Rules of Professional misconduct:

- a. RPC 1.3; and
- b. RPC 8.4(d).

C1-12-839

128. On April 13, 2012, Respondent was appointed to represent Christopher D. Carrasquillo in his criminal matter in Philadelphia County, case captioned *Commonwealth of Pennsylvania v. Christopher Carrasquillo*, No. MC-51-CR-0014700-2012.

129. A true and correct copy of docket is marked "ODC-89."

130. Respondent failed to advise Mr. Carrasquillo that Respondent was appointed to represent him.

131. Thereafter, Mr. Carrasquillo attempted to contact Respondent in regard to his matter.

132. Respondent failed to respond to Carrasquillo's inquiries.

133. On August 21, 2012, Respondent met with Mr. Carrasquillo's mother, Niyra Torres, at which time Respondent told her, inter alia:

- a. that Respondent was sorry about not communicating with Mr. Carrasquillo; and
- b. that Respondent would be visiting Mr. Carrasquillo at the prison on August 26, 2012.

134. Respondent failed to visit Mr. Carrasquillo on August 26, 2012.

135. Thereafter, Mr. Carrasquillo and his family members have attempted to contact Respondent in regard to Mr. Carrasquillo's matter.

136. Respondent failed to respond.

137. During his representation of Mr. Carrasquillo, Respondent violated the following Rules of Professional misconduct:

- a. RPC 1.4(a)(3); and
- b. RPC 1.4(a)(4).

C1-12-1108

138. On or about December 1, 2009, Respondent was appointed to represent Sharif Myrick in his criminal matter in Philadelphia County, case captioned *Commonwealth of Pennsylvania v. Sharif Myrick*, No. MC-51-CR-0053886-2009 (later CP-51-CR-0002987-2010).

139. A true and correct copy of the Municipal Court and Court of Common Pleas dockets are marked, respectively, "ODC-90" and "ODC-91."

140. On May 16, 2011, a jury found Mr. Myrick guilty of, *inter alia*, first degree murder.

141. On June 15, 2011, Respondent filed a notice of appeal, which was docketed in Superior Court ("the Court") at 1633 EDA 2011 on June 27, 2011.

142. A true and correct copy of the Superior Court docket is marked "ODC-92."

143. On June 27, 2011, the Superior Court Prothonotary forwarded a docketing statement to Respondent.

- a. Under Pa.R.A.P. 3517, Respondent was required to file the docketing statement by July 7, 2011.

144. Respondent failed to file the docketing statement.
145. By Order dated August 1, 2011, the Court directed Respondent to file the docketing statement by August 11, 2011.
146. Respondent received a copy of that Order.
147. On August 11, 2011, Respondent filed the docketing statement.
148. Thereafter, Respondent failed to file a brief on behalf of Mr. Myrick.
149. By Order dated January 27, 2012, the Court:
- a. dismissed Mr. Myrick's appeal due to Respondent's failure to file a brief; and
 - b. directed Respondent to file with the Court, within ten days, a certification that Mr. Myrick had been notified of the dismissal.
150. On February 7, 2012, Respondent filed an application for reconsideration of the dismissal Order.
151. By Order dated March 7, 2012, the Court reinstated the appeal and directed that the appellant's brief be filed within 30 days of the date of the Order.
152. Thereafter, Respondent failed to file the brief.
153. By Order dated June 27, 2012, the Court directed Respondent to file the brief on or before July 23, 2012.
154. On July 5, 2012, Mr. Myrick filed a *pro se* motion for withdrawal of counsel based on ineffective assistance of counsel.

155. Respondent failed to file a brief on behalf of Mr. Myrick on or before July 23, 2012.

156. By Order dated August 6, 2012, the Court, *inter alia*:

- a. explained that the appeal was dismissed on January 27, 2012 due to Respondent's failure to file a brief;
- b. further explained that after the appeal was reinstated and Respondent failed to file the brief by April 6, 2012, the Court specifically directed Respondent to file a brief on or before July 23, 2012;
- c. stated that Respondent had yet to file a brief;
- d. noted that Respondent had failed to file the docketing statement until the Court entered an Order directing the dismissal of the appeal if the docketing statement was not filed within 10 days;
- e. granted Mr. Myrick's petition to withdraw;
- f. dismissed Respondent as counsel;
- g. directed the lower court to withhold any fees due to Respondent in connection with the appeal;
- h. directed the lower court to consider whether Respondent should remain eligible for future court appointments and to appoint substitute counsel; and
- i. vacated the appellant's briefing schedule pending the appointment of counsel.

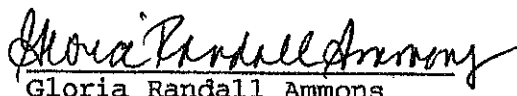
157. On August 8, 2012, the trial court appointed Sondra R. Rodrigues, Esquire, to represent Mr. Myrick.

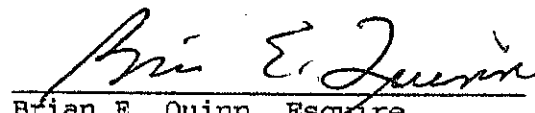
158. During his representation of Mr. Myrick, Respondent violated the following Rules of Professional misconduct:


- a. RPC 1.3; and
- b. RPC 8.4(d).

Signed this 20th day of March, 2013.

OFFICE OF DISCIPLINARY COUNSEL


Gloria Randall Ammons
Disciplinary Counsel


Brian E. Quinn, Esquire
Counsel for Respondent


James S. Bruno
Respondent

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :

Petitioner :

: No. 180 DB 2011

:

v. :

: Atty. Registration No. 30841

JAMES S. BRUNO, :

Respondent : (Philadelphia)

JOINT STIPULATIONS OF FACT PURSUANT TO D.Bd. RULES §89.151(b)

Petitioner and Respondent submit to the Hearing Committee the following joint stipulations of fact in the above matter.

255. Photocopies shall be admissible in lieu of originals.

256. Petitioner and Respondent stipulate to the authenticity and admissibility of ODC-39 through ODC-55 and agree that these Exhibits shall be admitted into evidence without objection.

257. Respondent has open judgments in the Court of Common Pleas of Philadelphia County in the following matters:

- a. *City of Philadelphia v. Bruno*, October Term 2009, No. 04803; \$18,785.42; and
- b. *Commonwealth of Pennsylvania v. Bruno*, April Term 2010, No. 04123; \$1,615.97.

258. True and correct copies of the dockets in the above matters are marked "ODC-39" and "ODC-40."

259. Respondent was a defendant in the Court of Common Pleas of Philadelphia County in the following closed matter:

- a. *Commonwealth of Pennsylvania v. Bruno*, November Term 2010, No. 01125; Judgment \$1,644.73; Satisfied 10/28/11.

260. A true and correct copy of the docket is marked "ODC-41."

261. Respondent is a defendant in the Court of Common Pleas of Philadelphia County in the following open legal malpractice matter:

a. *Horton v. Bruno*, February Term 2013, No. 02725.

262. A true and correct copy of the docket is marked "ODC-55."

263. Respondent was a defendant in the Court of Common Pleas of Philadelphia County in the following closed legal malpractice matter:

a. *Jones, et al. v. Bruno*, October Term 2002, No. 03326; dismissed 9/28/09 for failure to file certification of merit.

264. A true and correct copy of the docket is marked "ODC-42."

265. Respondent is a defendant in the United States District Court for the Eastern District of Pennsylvania in the following open matters:

a. *Scott v. Rogers*, No. 2:12-cv-03654-LLD; Habeas Corpus.

266. A true and correct copy of the docket is marked "ODC-53."

267. Respondent was a defendant in the United States District Court for the Eastern District of Pennsylvania in the following closed matters:

a. *Wallace v. Bruno*, No. 2:11-cv-00225-CMR; Closed 1/21/11;

b. *Lee, et al. v. Nutter, et al.*, No. 2:09-cv-04945-MMB; Closed 11/03/09;

- c. *Bond, et al. v. Wiseman*, No. 2:09-cv-04406-JR; Closed 10/26/09 after plaintiff's request for voluntary dismissal;
- d. *Swinson v. Bruno*, No. 2:08-cv-00536-HB; Closed 2/07/08 for failure to state a claim for which relief may be granted; and
- e. *Royster v. Bruno*, No. 2:04-cv-04684-JP; Closed 9/13/05.

268. True and correct copies of the dockets are marked "ODC-43" through "ODC-47."

269. Respondent has the following record of discipline:

- a. On October 29, 1998, Respondent received an Informal Admonition for violating RPC 1.2(a), RPC 1.4(a) and RPC 1.4(b).
- b. On March 9, 2004, Respondent received a Private Reprimand for violating RPC 1.2(a), RPC 1.3, RPC 1.4(a), and RPC 1.4(b).
- c. On October 31, 2005, Respondent received a Private Reprimand and was placed on probation for one year with a practice monitor, probation commencing on June 14, 2005, for violating RPC 1.2(a), RPC 1.4(a), and RPC 1.4(b).
- d. On October 21, 2009, Respondent received a Public Censure in regard to one matter for violating RPC 1.3, RPC 1.4(a)(3), RPC 1.4(a)(4), and RPC 1.16(d).

270. True and correct copies of the disciplinary sanctions are marked "ODC-48" through "ODC-51."

271. On March 10, 2009, Respondent received a reciprocal public censure in the United States District Court for the Eastern District of Pennsylvania.

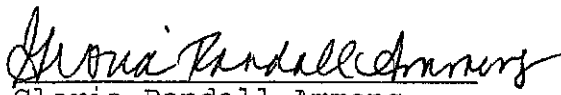
272. A true and correct copy of the docket is marked "ODC-52."

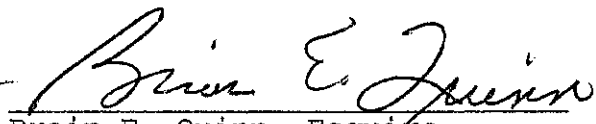
273. By Order dated February 26, 2013, effective, March 28, 1013, Respondent was placed on temporary suspension until further definitive action by the Supreme Court.

274. A true and correct copy of the Order is marked "ODC-54."

Signed this 20th day of March, 2013.

OFFICE OF DISCIPLINARY COUNSEL


Gloria Randall Ammons
Disciplinary Counsel


Brian E. Quinn, Esquire
Counsel for Respondent


James S. Bruno
Respondent