

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 1669 Disciplinary Docket No. 3
Petitioner	:	
	:	No. 212 DB 2010
v.	:	
	:	Attorney Registration No. 83722
JOHN KERRINGTON LEWIS, JR.	:	
Respondent	:	(Allegheny County)

**ORDER**

**PER CURIAM:**

**AND NOW**, this 12<sup>th</sup> day of August, 2015, a Rule having been entered by this Court on July 10, 2015, pursuant to Pa.R.D.E. 208(h), directing Respondent to show cause why the Order of this Court entered on September 4, 2013, should not be modified, and upon consideration of the responses filed, it is hereby

ORDERED that the Rule is made absolute; Respondent is suspended from the Bar of this Commonwealth for a period of one year and one day; and he shall comply with all the provisions of Pa.R.D.E. 217.

It is further ORDERED that Respondent shall pay the additional expenses incurred as a result of the revocation proceedings pursuant to Pa.R.D.E. 208(g).

A True Copy Patricia Nicola  
As Of 8/12/2015

Attest:   
Chief Clerk  
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

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	:	No. 212 DB 2010
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JOHN KERRINGTON LEWIS, JR.	:	
Respondent	:	(Allegheny County)

THE REPORT AND RECOMMENDATION OF  
DESIGNATED MEMBER OF  
THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

TO THE DISCIPLINARY BOARD OF THE SUPREME COURT OF PENNSYLVANIA:

Pursuant to Rule 208(h)(2) of the Pennsylvania Rules of Disciplinary Enforcement, this designated member of the Disciplinary Board of the Supreme Court of Pennsylvania herewith submits a recommendation to the Board with respect to the Petition to Schedule a Probation Violation Hearing by Petitioner, Office of Disciplinary Counsel.

I. HISTORY OF PROCEEDINGS

By Order dated February 21, 2012, the Disciplinary Board of the Supreme Court of Pennsylvania, having reviewed and approved the Report and Recommendation of the Hearing Committee, directed that Respondent, John Kerrington Lewis, Jr., receive a Private Reprimand with probation for a period of two years, subject to certain

conditions. One of the conditions was that Respondent abstain from using alcohol or any mind-altering chemical.

On January 15, 2013, Office of Disciplinary Counsel filed a Petition to Schedule a Probation Violation Hearing, which alleged that Respondent violated the conditions of his probation by consuming alcohol. Petitioner requested that a Member of the Disciplinary Board be designated to hold a hearing as required by Rule 208(h), Pa. R.D.E., to determine whether Respondent's probation should be modified or a formal proceeding should commence.

A hearing was held on February 26, 2013, before Disciplinary Board Member Stephen K. Todd, Esquire. Petitioner offered the testimony of Mark F. Flaherty, Esquire, Respondent's sobriety monitor, and Robin Witt, Respondent's therapist. Respondent was represented by John E. Quinn, Esquire, and testified on his own behalf. Respondent offered no objection to the representations as presented by Petitioner and contained in the Petition.

On June 8, 2015, Office of Disciplinary Counsel filed another Petition to Schedule a Probation Violation Hearing, which alleged that Respondent violated the conditions of his probation by consuming alcohol and was subsequently arrested for DUI. Petitioner requested that a Member of the Disciplinary Board be designated to conduct a hearing as required under Rule 208(h) Pa. R.D.E., to determine whether Respondent's probation should be modified.

A Probation Violation Hearing was held on June 19, 2015, before Disciplinary Board Member Tracey McCants Lewis, Esquire. Petitioner offered the testimony of Mark F. Flaherty, Esquire, Respondent's sobriety monitor, and Courtney M.

Ezzo, Respondent's therapist. Respondent was represented by John E. Quinn, Esquire, and testified on his own behalf. Respondent offered no objection to the representations as set forth by Petitioner and contained in the Petition.

## II. FINDINGS OF FACT

The Board makes the following findings:

1. Petitioner is the Office of Disciplinary Counsel, whose principal office is located at 601 Commonwealth Avenue, Suite 2700, Harrisburg, Pennsylvania 17106. Petitioner is invested, pursuant to Rule 207 of the Pennsylvania Rules of Disciplinary Enforcement, with the power and duty to investigate all matters involving alleged misconduct of any 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.

2. Respondent is John Kerrington Lewis, Jr. He was admitted to the practice of law in the Commonwealth of Pennsylvania on October 18, 1999. Respondent is subject to the jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

3. On February 21, 2012, the Disciplinary Board ordered that Respondent receive a Private Reprimand with probation for a period of two years, subject to conditions. The underlying basis for the Reprimand was Respondent's DUI conviction.

4. The Board's Order directed in part that Respondent abstain from consuming alcohol or any other mind-altering chemical.

5. Pursuant to the Board's Order and in accordance with the provisions of Disciplinary Board Rule 89.293(c) (addressing substance abuse probation), Respondent was assigned a sobriety monitor, Mark F. Flaherty, Esquire, who along with Respondent was to file with the Secretary of the Board quarterly written reports concerning Respondent's compliance with probation. In addition, the Order required Respondent to meet at least monthly with his therapist Robin Witt, who also was required to file quarterly reports to the Secretary of the Board.

6. In the quarterly reports for the third quarter of 2012, Respondent, Mr. Flaherty, and Ms. Witt all reported that Respondent had violated the conditions of his probation by consuming alcohol on November 25, 2012. In her report, Ms. Witt also reported that Respondent had cancelled several appointments with her.

7. A Violation of Probation Hearing was held on February 26, 2013, before Disciplinary Board Member Stephen Todd, Esquire.

8. Thereafter, Petitioner and Respondent entered into a Joint Petition in Support of Discipline on Consent under Rule 215(d), PA.R.D.E.

9. By Order of the Supreme Court of Pennsylvania dated September 4, 2013, the Joint Petition in Support of Discipline on Consent was granted, and Respondent John Kerrington Lewis, Jr. was suspended on consent from the Bar of this Commonwealth for a period of one year and one day, the suspension was stayed in its entirety and he was placed on probation for a period of two years subject to the conditions set forth in the September 4, 2013 Order. One of the conditions was that Respondent abstain from using alcohol or any other mind-altering chemical.

10. On September 5, 2013, Elaine Bixler, Secretary of the Disciplinary Board forwarded correspondence to Mark F. Flaherty, Respondent's sobriety monitor Courtney M. Ezzo, LPC, Respondent's licensed professional counselor, and Respondent. Ms. Bixler provided each of them with a copy of the September 4, 2013 Order from the Supreme Court, the required quarterly reporting forms and noted that Respondent's probation would replace the March 15, 2012 probation.

11. On May 21, 2015, Elaine M. Bixler, Secretary of the Disciplinary Board, notified Paul J. Killion, Chief Disciplinary Counsel, that Respondent had violated the terms and conditions of his probation. Respondent self-reported in his 6<sup>th</sup> quarter report that he drank alcohol on November 30, 2014 and was subsequently arrested for DUI.

12. Ms. Bixler also noted that she had not received any quarterly reports from Respondent's sobriety monitor.

13. Ms. Bixler provided Chief Disciplinary Counsel with a copy of a letter addressed to Respondent dated February 12, 2015 from Romaine Recker, MA, MSED, NCC, in which Ms. Recker stated, in part, that Respondent was admitted to the Greenbriar Treatment Center's outpatient program on December 9, 2014.

14. Ms. Ezzo testified that she did not become aware of Respondent's November 30, 2014 DUI until May 28, 2015, when Respondent disclosed it to her.

15. Ms. Ezzo testified that she and the Respondent have a good rapport and that he's been cooperative in his counseling plan.

16. Ms. Ezzo testified that the Respondent's November 30, 2014 incident was classified as a momentary lapse in his recovery versus a relapse.

17. Mr. Flaherty testified that he did not become aware of Respondent's November 30, 2014 incident until approximately January 13, 2015, when Ms. Bixler, Secretary of the Disciplinary Board informed him that the Respondent reported drinking.

18. Mr. Flaherty also testified that the Respondent is the first person he has personally monitored who drank during the period of their probation.

19. Mr. Flaherty testified that the Respondent has been cooperative with him in his role as sobriety monitor.

20. Respondent, Mr. Lewis testified credibly about the stress and familial pressures that lead to his drinking on November 30, 2014.

21. Respondent had celebrated his two year anniversary of sobriety on November 25, 2014.

22. Respondent testified that he did not immediately inform Mr. Flaherty, his sobriety monitor of his November 30, 2014 consumption of alcohol and subsequent DUI because he was embarrassed and ashamed.

23. Respondent testified that he did not immediately inform Ms. Ezzo of his November 30, 2014 because he very embarrassed.

24. Respondent testified that he completed an inpatient treatment program at Greenbriar Treatment Center that lasted from December 9, 2014 through February 12, 2015.

25. Respondent testified that he has continued and intends to continue attending AA meetings, meeting with Ms. Ezzo, contacting his sobriety monitor and participating in the Greenbriar aftercare program.

26. Respondent, testified credibly as to his remorse and embarrassment for consuming alcohol on November 30, 2014. He testified that he has not consumed any alcohol since this date.

### III. CONCLUSIONS OF LAW

By his conduct as set forth above, Respondent violated the terms and conditions of his probation.

### IV. DISCUSSION

There is no factual dispute presented in this matter. Respondent acknowledges that he violated his probation and expressed remorse. Respondent is actively working to maintain his sobriety and deserves to continue working toward that goal.

Respondent was charged with a DUI on November 30, 2014. The sentencing for that DUI will be held on August 12, 2015. Although this conviction is a matter that will be decided separate and apart from this violation of probation, the decision in that matter may have an effect on this recommendation.

A violation of probation is a grave matter that should serve to alert the Respondent to the seriousness of their actions and the possibility of future consequences. Respondent's previous probation was tailored to assist in his desire to remain sober and continue in the practice of law. Respondent appears to be working diligently to maintain his sobriety. The strategy to assist the Respondent in his efforts



is to provide for increased external supports through his sobriety monitor, counselor, and support groups. Respondent must be aware that any future violations will have an immediate and adverse effect on his continued practice of law in the Commonwealth.

V. RECOMMENDATION

This Member respectfully recommends that the probation previously ordered by the Disciplinary Board on September 4, 2013 be modified as follows:


The probation imposed on September 4, 2013 is extended for one year effective June 8, 2015. In addition to the Conditions of Probation set forth in the Order of September 4, 2013, the following new conditions are imposed:

1. Respondent shall attend four AA meetings per week as well as attend a "Lawyers Meeting" three times each month.
2. The frequency of meetings between Respondent and his sobriety monitor will be increased to at least four times each month, and telephone contact shall be increased to twice each week.
3. Respondent shall authorize Ms. Romaine Recker, M.A., M.S.Ed., NCC, or any successive counselor of Greenbriar Treatment Center to make written reports directly to the Secretary of the Board verifying attendance at the aftercare program.

Respondent shall abide by all of the conditions mandated by the Board's September 4, 2013 Order and all new conditions imposed herein.

It is further recommended that the additional expenses incurred in connection with the violation of probation should be paid by Respondent.

THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

  
Tracey McCants Lewis, Designated Member

Date: 6/26/15