

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 1361 Disciplinary Docket No. 3
Petitioner :
 : No. 41 DB 2008
v. :
 : Attorney Registration No. 40804
RICHARD H. CLINE, :
Respondent : (Out Of State)

ORDER

PER CURIAM:

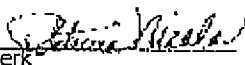
AND NOW, this 11th day of March, 2011, upon consideration of the Report and Recommendations of the Disciplinary Board dated November 4, 2010, it is hereby

ORDERED that Richard H. Cline is suspended from the Bar of this Commonwealth for a period of five years retroactive to October 15, 2009, and he shall comply with all the provisions of Rule 217, Pa. R.D.E.

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

Mr. Justice McCaffery dissents.

A True Copy Patricia Nicola
As Of 3/11/2011

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL	:	No. 1361 Disciplinary Docket No. 3
Petitioner	:	
	:	No. 41 DB 2008
v.	:	
	:	Attorney Registration No. 40804
RICHARD H. CLINE	:	
Respondent	:	(Out of State)

REPORT AND RECOMMENDATIONS OF
THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

TO THE HONORABLE CHIEF JUSTICE AND JUSTICES
OF THE SUPREME COURT OF PENNSYLVANIA:

Pursuant to Rule 208(d)(2)(iii) of the Pennsylvania Rules of Disciplinary Enforcement, the Disciplinary Board of the Supreme Court of Pennsylvania ("Board") herewith submits its findings and recommendations to your Honorable Court with respect to the above-captioned Petition for Discipline.

I. HISTORY OF PROCEEDINGS

On September 15, 2008, Office of Disciplinary Counsel filed a Petition for Discipline against Richard H. Cline. The Petition charged Respondent with violations of the Pennsylvania Rules of Disciplinary Enforcement arising out of his criminal conviction of forgery in the State of Illinois. A Joint Petition for Discipline on Consent was entered into by the parties and the Disciplinary Board approved the Joint Petition. Respondent was

directed to pay any necessary expenses and costs incurred as a condition of granting the Petition. Respondent failed to pay the costs and expenses and on August 6, 2009, the Disciplinary Board filed with the Supreme Court a Recommendation that Respondent be placed on temporary suspension pursuant to Rule 208(f)(5), Pa.R.D.E. By Order of October 15, 2009, the Supreme Court directed that Respondent be placed on temporary suspension.

On November 5, 2009 a notice was sent to the parties that proceedings would resume and Respondent's Answer to Petition for Discipline was due on November 25, 2009. Respondent did not file an Answer.

A disciplinary hearing was held on February 25, 2010 before a District IV Hearing Committee comprised of Chair John E. Hall, Esquire, and Members Charles C. Gallo, Esquire and Richard P. Kidwell, Esquire. Respondent did not appear.

The Hearing Committee filed a Report on August 27, 2010, concluding that Respondent violated the Rules as charged in the Petition for Discipline and recommending that he be suspended for a period of five years.

This matter was adjudicated by the Disciplinary Board at the meeting on October 11, 2010.

II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner, Office of Disciplinary Counsel, whose principal office is located at Pennsylvania Judicial Center, 601 Commonwealth Ave., Suite 2700, Harrisburg, Pennsylvania 17106, 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 the aforesaid Rules.

2. Respondent is Richard H. Cline. He was born in 1958 and was admitted to practice law in the Commonwealth of Pennsylvania in 1984. His current mailing address is 340 W. Lincoln Ave., Libertyville IL 60048-2725. He is subject to the jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

3. Respondent has no record of prior discipline.

4. Respondent was transferred to inactive status by Supreme Court Order entered May 24, 1996, as a result of his failure to comply with Rule 111(b), Pa.R.C.L.E.

5. On or about February 9, 2007, Respondent was arrested by the Mundelein Police Department in Lake County, Illinois and charged with forgery.

6. The Information filed against Respondent alleged that he knowingly made a document capable of defrauding another, said document being a prescription form for 90 tablets of Ritalin, dated February 7, 2007, and purportedly signed by Dr. Steve Andrews.

7. On March 30, 2007, Respondent executed a written plea agreement, and voluntarily entered a plea of guilty to the charge of forgery.

8. Respondent's plea of guilty to the class 3 felony of forgery is a conviction which could result in a sentence of imprisonment in Illinois for a period of one year or more.

9. On March 30, 2007, Judge John T. Phillips of the Circuit Court of the Nineteenth Judicial Circuit for Lake County, Illinois imposed sentence upon Respondent:

a. A term of 30 months probation with conditions that Respondent:

(i) not violate any criminal statute of any jurisdiction;

(ii) appear in person before the Adult Probation Office and the T.I.M. court coordinator as directed;

(iii) refrain from possession of a firearm or other dangerous weapon;

(iv) not leave the State of Illinois without the consent of Court;

(v) permit the T.I.M. coordinator or probation officer to visit him at home, employment, treatment facility, residential place or elsewhere; and

(vi) Serve incarceration and/or imprisonment as follows:

1. serve 18 months confinement for 24 hours each day seven days a week except for work release, evaluation, court appearance or employment purpose all of which was stayed pending compliance;

2. three years of incarceration in the custody of the Illinois Department of Corrections all of which was stayed pending compliance with the terms of probation.

10. Respondent was further ordered to pay costs of drug and alcohol testing and probation in addition to court costs. He was further directed to submit to

random drug and alcohol testing, and to have no contact with pharmacies and only see doctors approved by the drug coordinator.

11. The March 30, 2007 Order from Circuit Court Judge Phillips specifically revoked Respondent's probation in a prior criminal matter in Lake County.

12. Previously on August 10, 2006, Respondent entered a plea of guilty to the Illinois class four felony of unlawful possession of a controlled substance. He was sentenced to a period of 24 months probation.

13. By letter received September 10, 2007, by the Office of the Secretary, Respondent notified the Disciplinary Board of his Illinois conviction of forgery.

14. A Petition for Discipline was filed against Respondent and the parties subsequently entered into a Joint Petition for Discipline on Consent, which was approved by the Disciplinary Board. The Board directed Respondent to pay any necessary expenses and costs incurred.

15. Because Respondent failed to pay costs and expenses, the Disciplinary Board, on August 6, 2009, filed with the Supreme Court a Recommendation that Respondent be placed on temporary suspension pursuant to Pa.R.D.E. 208(f)(5), as a result of his failure to pay the \$250 expenses assessed in connection with the Joint Petition for Discipline on Consent.

16. By Order dated October 15, 2009, the Supreme Court directed that Respondent be placed on temporary suspension.

17. By operation of Rule 215, Pa.R.D.E., the Petition for Discipline was scheduled for a pre-hearing conference and a disciplinary hearing.

18. Respondent was notified of the dates for both hearings by two mailings from Disciplinary Counsel and by letters from and a telephone conversation with, the Disciplinary Board Hearing Coordinator.

19. A pre-hearing conference was held on January 26, 2010 and a disciplinary hearing was held on February 25, 2010. Respondent did not participate in either hearing.

III. CONCLUSIONS OF LAW

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

1. Pa.R.D.E. 214(i) – Respondent's conviction of forgery is a serious crime.
2. Pa.R.D.E. 203(b)(1) – Conviction of a serious crime is an independent basis for discipline.

IV. DISCUSSION

This matter is before the Board for consideration of the appropriate level of discipline to address Respondent's criminal conviction of forgery. When an attorney has been convicted of a serious crime, as Respondent has, the sole issue to be determined shall be the extent of final discipline to be imposed. Pa.R.D.E. 214(f)(1). The events surrounding the criminal charge must be taken into account when determining an appropriate measure of discipline. Office of Disciplinary Counsel v. Valentino, 730 A.2d 479 (Pa. 1999).

Respondent was convicted of forgery after he knowingly, with the intent to defraud, made a document capable of defrauding another, said document being a prescription form for 90 tablets of Ritalin, and purportedly signed by Dr. Steve Andrews. Respondent's criminal conduct is serious and forms the basis for professional discipline.

Respondent reported his conviction to the Disciplinary Board and in due course a Petition for Discipline was filed against him. Respondent did not file an Answer to the Petition, nor did he participate in the pre-hearing conference or the disciplinary hearing. The record is clear that Respondent received proper notice of the date and time of the hearings.

Several prior cases have dealt with the crime of forgery, and more specifically forgery to obtain medications. These cases have resulted in suspensions for the respondent-attorney. The most similar matter is Office of Disciplinary Counsel v. Kevin John Walsh, No. 98 DB 2002 (Pa. April 8, 2004). Therein, Mr. Walsh entered a plea of guilty to violating five counts of the Pharmacy Act by procuring various drugs for himself or another, by fraud, deceit, misrepresentation or subterfuge. Mr. Walsh was suspended for five years retroactive to his temporary suspension. Mr. Walsh did not participate in the disciplinary hearing process.

In the matter of Office of Disciplinary Counsel v. Laurie Jill Besden, No. 190 DB 2005 (Pa. July 29, 2008), the Supreme Court ordered a suspension of three years for Ms. Besden. Ms. Besden was addicted to opiate medications and her falsification of prescriptions to obtain drugs resulted in her conviction of felony and misdemeanor violations.

The Hearing Committee in the instant matter recommended a suspension of five years, with Petitioner recommending a suspension of no less than five years. Review of the record in this matter persuades the Board that Respondent should be disbarred. He was convicted of the serious crime of forgery in Illinois. He has a prior record of criminal activity in Illinois. Additionally, at the time of these events he was a formerly admitted attorney in Pennsylvania, having been transferred to inactive status in 1996 for failure to fulfill his Continuing Legal Education requirements. Respondent failed to participate in this Commonwealth's disciplinary system, despite many opportunities to explain his motives or express remorse, and so lost an opportunity to demonstrate an interest in preserving his license.

The Board is cognizant that disbarment is an extreme sanction reserved for the most egregious cases, as it represents a termination of the license to practice law without a promise of its restoration at any future time. Office of Disciplinary Counsel v. Keller, 506 A.2d 872 (Pa. 1986). We respectfully submit that this is such a case. Respondent has failed to conform to the ethics of his profession. This Respondent is not worthy of retaining a law license in Pennsylvania.

For these reasons, the Board recommends that Respondent be disbarred.

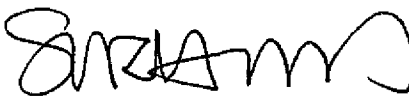
V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that the Respondent, Richard H. Cline, be Disbarred from the practice of law in this Commonwealth.

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: 
Stephan K. Todd, Board Member

Date: November 4, 2010

Board Chair Buchholz and Board Member Momjian recused.

Board Member Baer did not participate in the adjudication.