

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 502 Disciplinary Docket No. 3
Petitioner :
 : No. 56 DB 1999
v. :
 : Attorney Registration No. 28708
DONALD ALBERT YOUNG, :
Respondent : (Monroe County)

ORDER

PER CURIAM:

AND NOW, this 8th day of May, 2009, upon consideration of the Report and Recommendations of the Disciplinary Board dated February 20, 2009, it is hereby

ORDERED that Donald Albert Young is disbarred from the Bar of this Commonwealth and he shall comply with all the provisions of Rule 217, Pa. R.D.E.

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

A True Copy Patricia Nicola

As of: May 8, 2009

Attest:

Chief Clerk

Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL	:	No. 502 Disciplinary Docket
Petitioner	:	No. 3
	:	
	:	No. 56 DB 1999
v.	:	
	:	Attorney Registration No. 28708
DONALD ALBERT YOUNG	:	
Respondent	:	(Monroe County)

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

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

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

I. HISTORY OF PROCEEDINGS

By Order of the Supreme Court of Pennsylvania dated April 23, 1999, Donald Albert Young was placed on temporary suspension from the practice of law and the matter was referred to the Disciplinary Board pursuant to Rule 214(f)(1), Pa.R.D.E.

On January 9, 2001, Office of Disciplinary Counsel filed a Petition for Discipline against Respondent, charging him with professional misconduct arising out of his

conviction of the crimes of rape, sexual assault, aggravated indecent assault, endangering the welfare of children, false imprisonment, and simple assault. On April 9, 2001, Respondent filed a Request for Continuance of Hearing until released from prison, which request was granted by Board Order of June 25, 2001.

A disciplinary hearing was held on September 22, 2008, before a District III Hearing Committee comprised of Chair James D. Campbell, Jr., Esquire, and Members Suzanne C. Hixenbaugh, Esquire, and Richard G. Fine, Esquire. Respondent did not appear, having sent a letter to Petitioner dated September 1, 2008, stating that he was unable to participate in the sanctions against him as he believes he is innocent of the criminal charges.

The Hearing Committee filed a Report on November 6, 2008 and recommended disbarment with no retroactivity to the temporary suspension.

This matter was adjudicated by the Disciplinary Board at the meeting on January 28, 2009.

II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner, whose principal office is located at Suite 1400, 200 North Third Street, Harrisburg, Pennsylvania 17101, is invested, pursuant to Rule 207 of the Pennsylvania Rules of Disciplinary Enforcement, with the power and the duty to investigate

all matters involving alleged misconduct of an attorney admitted to practice law in the Commonwealth of Pennsylvania and to prosecute all disciplinary proceedings brought in accordance with the various provisions of the aforesaid Rules.

2. Respondent is Donald Albert Young. He was born in 1945 and was admitted to practice law in the Commonwealth in 1978. Respondent is subject to the jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

3. Respondent has no prior history of discipline.

4. On November 13, 1998, a jury found Respondent guilty of one count of rape; five counts of sexual assault; five counts of aggravated indecent assault; endangering the welfare of children; two counts of false imprisonment; and two counts of simple assault.

5. Respondent's criminal offenses involved multiple victims.

6. On January 12, 1999, Respondent was sentenced to 4 ½ to 9 years in a state correctional institution, plus costs.

7. Respondent was placed on temporary suspension by Order of the Supreme Court on April 23, 1999.

8. Respondent appealed his conviction to the Superior Court and his judgment of sentence was affirmed on December 7, 1999.

9. The Supreme Court of Pennsylvania denied Respondent's petition for allocatur.

10. Respondent filed a pro se Motion for Post-Conviction Collateral Relief with the Superior Court on February 9, 2001, which was heard on August 30, 2007 and dismissed on August 19, 2008.

11. Respondent served nine years in the State Correctional Institution in Mercer, Pennsylvania, and was released from prison in February of 2008.

12. Respondent is currently believed to be living in Easton, Pennsylvania.

13. Respondent submitted a letter dated September 1, 2008 to Petitioner indicating that he would not appear for the disciplinary hearing as he believed he was innocent of the criminal charges against him.

14. Respondent did not appear at the disciplinary hearing on September 22, 2008.

III. CONCLUSIONS OF LAW

By his conduct as set forth above, Respondent violated the following Rule of Disciplinary Enforcement and Rule of Professional Conduct:

1. Pa.R.D.E. 203(b)(1) – Conviction of a crime which under Rule 214 (relating to attorneys convicted of crimes) may result in suspension, is an independent basis for discipline.

2. RPC 8.4(b) – It is professional misconduct for a lawyer to commit a criminal act that reflects adversely on the lawyer’s honesty, trustworthiness or fitness as a lawyer in other respects.

IV. DISCUSSION

This matter is before the Disciplinary Board for consideration of Respondent’s criminal conviction of rape, sexual assault, aggravated indecent assault, endangering the welfare of children, false imprisonment and simple assault. A certificate of conviction serves as conclusive evidence of a crime in a disciplinary proceeding commenced against an attorney based upon that conviction. Office of Disciplinary Counsel v. Costigan, 584 A.2d 296 (Pa. 1990). The facts of the criminal charge as well as any aggravating or mitigating circumstances are determinative of the level of discipline. Office of Disciplinary Counsel v. Eilberg, 441 A.2d 1193 (Pa. 1982).

The record clearly establishes that the facts of this matter are extremely egregious and offensive to the public. The violent, assaultive nature of Respondent’s conduct, the lengthy prison sentence, the lack of mitigating factors and Respondent’s failure to appear for the disciplinary hearing indicate that disbarment is appropriate. Disbarment is reserved for only the most offensive cases; the instant matter falls within that category. Office of Disciplinary Counsel v. Pazuhanich, 81 Pa.D. & C. 4th 136 (2006)(disbarment for attorney convicted of indecent assault, endangering the welfare of a

child and other offenses); and Office of Disciplinary Counsel v. Frankel, 68 Pa. D. & C. 4th 169 (2004) (disbarment for sexual touching of client).

For the above reasons the Board recommends that Respondent be disbarred. We further recommend that the date of disbarment should be computed prospectively, and not made retroactive to the date of Respondent's temporary suspension ordered on April 23, 1999. Respondent was incarcerated from 1999 until 2008 and was unable to practice law, rendering the temporary suspension meaningless until he was released from prison in 2008. Additionally, correspondence to the Petitioner in which Respondent states that he remains innocent of the criminal charges suggests that he remains unrepentant. The egregious facts of the matter indicate to the Board that Respondent does not deserve the benefit of retroactivity.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania recommends unanimously that the Respondent, Donald Albert Young, be disbarred from the practice of law .

It is further recommended that the expenses incurred in the investigation and prosecution of this matter are to be paid by the Respondent.

Respectfully submitted,

THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

By: 

~~Mark S. Baer, Board Member~~

Date: February 20, 2009

Board Member Newman did not participate in the adjudication.