

IN THE SUPREME COURT OF PENNSYLVANIA

| | | |
|------------------------------------|---|---------------------------------|
| OFFICE OF DISCIPLINARY COUNSEL, | : | No. 2715 Disciplinary Docket 3 |
| | : | |
| | : | No. 56 DB 2020 |
| Petitioner | : | |
| | : | Attorney Registration No. 87410 |
| v. | : | |
| | : | (Philadelphia) |
| | : | |
| ANDREW RUSSELL HURDA, | : | |
| | : | |
| Respondent | : | |

ORDER

PER CURIAM

AND NOW, this 16th day of March, 2021, upon consideration of the Recommendation of the Three-Member Panel of the Disciplinary Board, the Joint Petition in Support of Discipline on Consent is granted, and Andrew Russell Hurda is suspended on consent from the Bar of this Commonwealth for a period of four years, retroactive to June 11, 2020. Respondent shall comply with all the provisions of Pa.R.D.E. 217 and pay costs to the Disciplinary Board. See Pa.R.D.E. 208(g).

A True Copy Patricia Nicola
As Of 03/16/2021

Patricia Nicola
Attest:
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 2715 Disc. Dkt. No. 3
Petitioner :
v. : No. 56 DB 2020 &
: ODC File No. C1-20-164
: Atty. Reg. No. 87410
ANDREW RUSSELL HURDA, :
Respondent : (Philadelphia)

JOINT PETITION IN SUPPORT OF DISCIPLINE
ON CONSENT UNDER RULE 215(d), Pa.R.D.E.

Petitioner, Office of Disciplinary Counsel ("ODC"), by Thomas J. Farrell, Esquire, Chief Disciplinary Counsel, and by Richard Hernandez, Esquire, Disciplinary Counsel, and Respondent, Andrew Russell Hurda, file this Joint Petition In Support of Discipline On Consent Under Rule 215(d) of the Pennsylvania Rules of Disciplinary Enforcement ("the Joint Petition") and respectfully represent that:

1. 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 Pennsylvania Rule of Disciplinary Enforcement ("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

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01/07/2021
The Disciplinary Board of the
Supreme Court of Pennsylvania

Pennsylvania and to prosecute all disciplinary proceedings brought in accordance with the various provisions of said Rules of Disciplinary Enforcement.

2. Respondent, Andrew Russell Hurda, was born in 1976, was admitted to practice law in the Commonwealth on October 25, 2001, and currently resides in Philadelphia, Pennsylvania.

3. Pursuant to Pa.R.D.E. 201(a)(1) and (3), Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court.

4. By Order of the Supreme Court of Pennsylvania dated June 11, 2020, effective July 11, 2020, Respondent was placed on temporary suspension pursuant to Pa.R.D.E. 214(d)(2) ("the temporary suspension Order").

5. Respondent is aware that there are two open complaint files under investigation by ODC.

6. The one matter, which commenced as ODC File No. C1-20-252 and is now assigned Disciplinary Board docket number 56 DB 2020 and Supreme Court docket number 2715 DD3, is the basis of the temporary suspension Order and relates to Respondent's convictions in five separate criminal matters.

7. In connection with the second matter, which is assigned ODC File No. C1-20-164, Respondent received a Request for Statement of Respondent's Position (Form DB-7) dated June 29, 2020.

8. In the DB-7 letter, Petitioner alleged that Respondent neglected several client matters, failed to refund advance payments of unearned fees, and made a misrepresentation to an employee of an insurance company.

9. By letter dated August 20, 2020, Respondent submitted a response to the DB-7 letter.

10. Respondent has agreed to enter into a joint recommendation for consent discipline that encompasses the allegations of misconduct raised in the two open complaint files.

**SPECIFIC FACTUAL ADMISSIONS AND
RULES OF PROFESSIONAL CONDUCT VIOLATED**

11. Respondent stipulates that the factual allegations set forth below are true and correct and that he violated the Rules of Professional Conduct and Pennsylvania Rules of Disciplinary Enforcement as set forth herein.

CHARGE I: The Conviction Cases; No. 56 DB 2020

A. THE BUCKS COUNTY CASE

12. In 2010, a criminal case was filed against Respondent in the Court of Common Pleas of Bucks County, said case captioned *Commonwealth of Pennsylvania v. Andrew R. Hurda*, docket number CP-09-CR-0000536-2010 ("the Bucks County case").

13. On April 22, 2010, Respondent appeared before the Honorable Rea B. Boylan and pled guilty to two separate driving under the influence (DUI) offenses, General Impairment, a misdemeanor, in violation of 75 Pa.C.S.A. § 3802(a)(1), and High Rate of Alcohol, a misdemeanor, in violation of 75 Pa.C.S.A. § 3802(b).

14. The factual basis for the guilty plea was that on December 15, 2009, in Quakertown Borough, Respondent was operating a vehicle with a blood alcohol level of .12%.

15. The crime of DUI - General Impairment is punishable by a term of imprisonment not exceeding six months. 75 Pa.C.S.A. § 3803(a)(1).

16. The crime of DUI - High Rate of Alcohol is punishable by a term of imprisonment not exceeding six months.

75 Pa.C.S.A. § 3803(b)(2).

17. Respondent was not required to report this conviction to the Disciplinary Board because neither offense constituted a "serious crime" (an offense punishable by imprisonment for one year or more) under former Pa.R.D.E. 214(i). See also former Pa.R.D.E. 214(a).

18. On April 22, 2010, Judge Boylan sentenced Respondent on the offense of DUI - High Rate of Alcohol to a term of imprisonment of 48 hours to six months, suspended that sentence in favor of a flat term of imprisonment of 48 hours, imposed a fine of \$500 and court costs, directed Respondent to surrender his driver's license, and required Respondent to complete an Alcohol Highway Safety Class; Judge Boylan decided not to impose a penalty on the offense of DUI - General Impairment.

B. THE MONTGOMERY COUNTY CASE

19. In 2010, following Respondent's arrest for DUI, the Commonwealth filed a criminal case against Respondent in the Court of Common Pleas of Montgomery County, said case captioned *Commonwealth of Pennsylvania v. Andrew Russell Hurda*, docket number CP-46-CR-0002752-2010 ("the Montgomery

County case").

20. On March 30, 2011, Respondent appeared before the Honorable Thomas C. Branca and pled guilty to the amended offense of Recklessly Endangering Another Person, graded as a misdemeanor of the second degree, in violation of 18 Pa.C.S.A. § 2705.

21. The crime of Recklessly Endangering Another Person is punishable by a term of imprisonment not exceeding two years. 18 Pa.C.S.A. § 1104(2).

22. Respondent was required to report this conviction to the Disciplinary Board because this offense constituted a "serious crime" under former Pa.R.D.E. 214(i). See also former Pa.R.D.E. 214(a).

23. Respondent did not report this conviction to the Disciplinary Board as required by former Pa.R.D.E. 214(a).

24. On March 30, 2011, Judge Branca sentenced Respondent to a term of probation for two years and imposed a fine of \$500 and court costs.

C. THE 2011 NORTHAMPTON COUNTY CASE

25. In 2011, a criminal case was filed against Respondent in the Court of Common Pleas of Northampton County,

said case captioned *Commonwealth of Pennsylvania v. Andrew R. Hurda*, docket number CP-48-CR-0002154-2011 ("the 2011 Northampton County case").

26. On October 14, 2011, Respondent appeared before the Honorable Michael J. Koury and pled guilty to DUI - General Impairment, a misdemeanor, in violation of 75 Pa.C.S.A. § 3802(a)(2), and the offense of Driving While Operating Privilege is Suspended or Revoked, designated a summary offense, in violation of 75 Pa.C.S.A. § 1543(b)(1)(1.1)(i).

27. The factual basis for the guilty plea was that on May 6, 2011, in Hellertown Borough, Respondent was operating a vehicle with a blood alcohol level of .09% while Respondent's driver's license was suspended.

28. The crime of DUI - General Impairment is punishable by a term of imprisonment not exceeding six months. 75 Pa.C.S.A. § 3803(a)(1).

29. The crime of Driving While Operating Privilege is Suspended or Revoked is punishable by a mandatory term of imprisonment of 90 days. 75 Pa.C.S.A. § 1543(b)(1.1)(i).

30. Respondent was not required to report this conviction to the Disciplinary Board because neither offense

constituted a "serious crime" under former Pa.R.D.E. 214(i). See also former Pa.R.D.E. 214(a).

31. On January 20, 2012, Judge Koury sentenced Respondent on the offense of DUI - General Impairment to a term of imprisonment of 5 days to six months, imposed a fine of \$1,500 and court costs, and suspended Respondent's driver's license for twelve months. On the offense of Driving While Operating Privilege is Suspended or Revoked, Judge Koury sentenced Respondent to a consecutive term of imprisonment of 90 days and imposed a fine of \$1,000 and court costs. Based on Respondent's prior testimony at the October 14, 2011 guilty plea hearing regarding his on-going in-patient treatment for alcohol dependency, and Respondent's presentation at sentencing of a letter purportedly issued by a treatment facility that stated that Respondent had completed 120 days of alcohol dependency treatment at an in-patient facility in Doylestown, Pennsylvania, Judge Koury directed that the in-patient treatment be credited toward Respondent's term of imprisonment.

32. On February 22, 2012, a hearing was held before Judge Koury, at which hearing Judge Koury amended

Respondent's sentence and directed that Respondent not be given sentencing credit for treatment at an in-patient facility. At this hearing, Judge Koury had received evidence showing that the prior testimony Respondent offered at his October 14, 2011 guilty plea hearing regarding the duration of his in-patient treatment was false, that the letter Respondent had presented at the January 20, 2012 sentencing hearing was forged, and that Respondent had completed no more than 21 days of alcohol dependency treatment at an in-patient facility.

D. THE DELAWARE COUNTY CASE

33. In 2012, a criminal case was filed against Respondent in the Court of Common Pleas of Delaware County, said case captioned *Commonwealth of Pennsylvania v. Andrew R. Hurda*, docket number CP-23-CR-0001900-2012 ("the Delaware County case").

34. On May 14, 2012, Respondent appeared before the Honorable James P. Bradley and pled guilty to DUI - Highest Rate of Alcohol, in violation of 75 Pa.C.S.A. § 3802(c), which is graded as a misdemeanor of the first degree, *id.* § 3803(b)(4).

35. The factual basis for the guilty plea was that Respondent was operating a vehicle on the roads in the Commonwealth of Pennsylvania with a blood alcohol level of .171%.

36. The crime of DUI - Highest Rate of Alcohol is punishable by a term of imprisonment not exceeding five years. 18 Pa.C.S.A. § 1104(4).

37. Respondent was required to report this conviction to the Office of Disciplinary Counsel because this offense constituted a "crime" (an offense punishable by imprisonment) under Pa.R.D.E. 214(h). See also Pa.R.D.E. 214(a).

38. Respondent did not report this conviction to the Office of Disciplinary Counsel as required by Pa.R.D.E. 214(a).

39. On May 14, 2012, Judge Bradley sentenced Respondent to a term of imprisonment of 90 days to twenty-three months with credit for time served, to be followed by a three-year period of probation, imposed a fine of \$1,000 and court costs, directed Respondent to make a restitution payment of \$577.58 to Ms. Denise Ward, and required Respondent to submit to a drug and alcohol evaluation and to comply with general and

DUI rules and regulations governing probation and parole.

E. THE 2012 NORTHAMPTON COUNTY CASE

40. In 2012, a criminal case was filed against Respondent in the Court of Common Pleas of Northampton County, said case captioned *Commonwealth of Pennsylvania v. Andrew Russell Hurda*, docket number CP-48-CR-0002799-2012 ("the 2012 Northampton County case").

41. On April 8, 2013, Respondent appeared before the Honorable Leonard N. Zito and pled guilty to the offense of False Swearing in Official Matters, graded as a misdemeanor of the second degree, in violation of 18 Pa.C.S.A. § 4903(a)(1).

42. The factual basis for the guilty plea was the false testimony that Respondent offered at the October 14, 2011 guilty plea hearing and the forged letter Respondent presented at the January 20, 2012 sentencing hearing in connection with the 2011 Northampton County case, as discussed above in paragraphs 31 and 32.

43. The crime of False Swearing in Official Matters is punishable by a term of imprisonment not exceeding two years. 18 Pa.C.S.A. § 1104(2).

44. Respondent was required to report this conviction to the Office of Disciplinary Counsel because this offense constituted a "crime" (an offense punishable by imprisonment) under Pa.R.D.E. 214(h). See also Pa.R.D.E. 214(a).

45. Respondent did not report this conviction to the Office of Disciplinary Counsel as required by Pa.R.D.E. 214(a).

46. On April 8, 2013, Judge Zito sentenced Respondent to a term of probation of eighteen months, imposed a condition that Respondent remain drug and alcohol free, and imposed court costs.

47. By his conduct as alleged in paragraphs 12 through 46 above, Respondent violated the following Rule of Professional Conduct and Pennsylvania Rules of Disciplinary Enforcement:

- a. RPC 8.4(b) (five counts), which states that 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;

- b. Pa.R.D.E. 203(b) (1) (five counts), which states that conviction of a crime shall be grounds for discipline; and
- c. Pa.R.D.E. 203(b) (3) (three counts) [superseded effective 4/18/12], which states that a wilful violation of any other provision of the Enforcement Rules shall be grounds for discipline, via:
 - (1) former Pa.R.D.E. 214(a), which states that an attorney convicted of a serious crime shall report the fact of such conviction within 20 days to the Secretary of the Board. The responsibility of the attorney to make such report shall not be abated because the conviction is under appeal or the clerk of the court has transmitted a certificate to Disciplinary Counsel pursuant to subdivision (b) [of Rule 214]; and
 - (2) Pa.R.D.E. 214(a), which states that an attorney convicted of a crime shall report the fact of such conviction within 20 days to the Office of Disciplinary Counsel. The responsibility of the attorney to make such report shall not be abated because the conviction is under appeal or the clerk of the court has transmitted a certificate to Disciplinary Counsel pursuant to subdivision (b) [of Rule 214].

CHARGE II: **The Complaint of Ms. TJ Henderson;**
ODC File No. C1-20-164

A. REFERRALS FROM SURROGATE SERVICES INTERNATIONAL, LLC

48. Ms. TJ Henderson is the CEO of Surrogate Services International, LLC ("Surrogate"), which is a company that matches a couple with a woman that agrees to serve as a "Gestational Carrier."

49. Surrogate refers both the couple and the woman who serves as a Gestational Carrier to lawyers who assist each of the parties in drafting necessary documents and agreements and providing legal advice.

50. A couple who retains Surrogate pays monies to Surrogate, which monies are held in an individual escrow account with Wells Fargo Bank in the names of the couple.

51. Surrogate is responsible for disbursing a portion of the monies held in the individual escrow account to satisfy the fees owed to the lawyer representing the couple and the lawyer representing the woman who serves as a Gestational Carrier.

52. Ms. Henderson referred legal work to Respondent.

53. In the spring and summer of 2019, Ms. Henderson referred three matters to Respondent; these matters required

Respondent to represent the following three women who had agreed to serve as Gestational Carriers:

- a. "Ms. MR";
- b. "Ms. VLD"; and
- c. "Ms. LH."

54. The scope of Respondent's representation of Ms. MR, Ms. VLD, and Ms. LH required Respondent to perform one or both of the following categories of legal services:

- a. to review with each of them a "Gestational Carrier Agreement" ("the Agreement") that would be entered into between them and a couple, to explain the Agreement to each of them, to provide legal advice about any proposed changes to the Agreement, and to negotiate any modifications to the Agreement; and
- b. to draft a Will, Power of Attorney, Advanced Health Care Directive, and any necessary Codicils for each of them.

55. On August 2, 2019, Respondent sent an invoice to Ms. Henderson to request payment of \$750 for legal services

to be rendered on behalf of Ms. MR in connection with the drafting of a Will, Power of Attorney, Advanced Health Care Directive, and any necessary Codicils.

56. On August 5, 2019, Respondent received from Ms. Henderson check number 1002, in the amount of \$750, drawn on an escrow account with Wells Fargo Bank, in payment of Respondent's August 2, 2019 invoice.

57. Respondent transacted check number 1002 and used the proceeds.

58. On September 27, 2019, Respondent sent an invoice to Ms. Henderson to request payment of \$1,700 for legal services to be rendered on behalf of Ms. VLD and her husband in connection with the Agreement.

59. On September 27, 2019, Respondent sent an invoice to Ms. Henderson to request payment of \$750 for legal services to be rendered on behalf of Ms. VLD and her husband in connection with the drafting of a Will, Power of Attorney, Advanced Health Care Directive, and any necessary Codicils.

60. On September 30, 2019, Respondent sent an invoice to Ms. Henderson to request payment of \$1,700 for legal

services to be rendered on behalf of Ms. LH and her husband in connection with the Agreement.

61. On September 30, 2019, Respondent sent an invoice to Ms. Henderson for \$750 for legal services to be rendered on behalf of Ms. LH and her husband in connection with the drafting of a Will, Power of Attorney, Advanced Health Care Directive, and any necessary Codicils.

62. Under cover of a letter dated October 4, 2019, sent to Respondent by Ms. Robin Minnick, Executive Assistant for Ms. Henderson, the following two checks, both drawn on an escrow account with Wells Fargo Bank, were enclosed as payments of the September 27, 2019 invoices relating to Ms. VLD:

- a. check number 1004, in the amount of \$750; and
- b. check number 1005, in the amount of \$1,700.

63. Respondent transacted check numbers 1004 and 1005 and used the proceeds.

64. Due to personal financial obligations that Respondent owed to Ms. Henderson, Respondent and Ms. Henderson agreed that Ms. Henderson would receive the

payments totaling \$2,450 from Surrogate in satisfaction of Respondent's September 30, 2019 invoices relating to Ms. LH.

65. Respondent personally received payments from Surrogate totaling \$3,200 for legal services to be rendered to Ms. MR and Ms. VLD.

66. Respondent failed to complete the legal services that he was paid in advance to perform on behalf of Ms. MR, Ms. VLD, and Ms. LH.

67. After Respondent sent an email to Ms. LH introducing himself, he failed to have any further communications with her regarding her legal matters.

68. Respondent failed to refund to either Surrogate or Ms. MR, Ms. VLD, and Ms. LH the advance payments of Respondent's fees that went unearned.

69. Ms. Henderson has made verbal and written requests that Respondent refund the advance payments of his fee that went unearned.

B. MISREPRESENTATION TO PROGRESSIVE INSURANCE EMPLOYEE

70. On April 25, 2019, Respondent was driving Ms. Henderson's vehicle when he rear-ended another vehicle.

71. At the time Respondent was operating Ms. Henderson's vehicle, he did not have a valid Pennsylvania driver's license.

72. At the time Respondent was operating Ms. Henderson's vehicle, she had automobile insurance through Progressive Insurance.

73. On April 26, 2019, Respondent had a recorded telephone conversation with "Chastity," an employee of Progressive Insurance, in regards to the car accident.

74. During the recorded telephone conversation, Chastity asked Respondent if he had a valid Pennsylvania driver's license at the time of the accident.

75. Respondent responded "Yes."

76. Respondent knew he did not have a valid Pennsylvania driver's license.

77. Respondent misrepresented to Chastity that he had a valid Pennsylvania driver's license at the time of the accident.

78. By his conduct as alleged in Paragraphs 48 through 77 above, 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(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
- c. RPC 8.4(c), which states that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

SPECIFIC JOINT RECOMMENDATION FOR DISCIPLINE

79. Petitioner and Respondent jointly recommend that the appropriate discipline for Respondent's admitted misconduct is a suspension of four years, to be made retroactive to June 11, 2020, the date of the temporary suspension Order.

80. Respondent hereby consents to that discipline being imposed upon him by the Supreme Court of Pennsylvania. Attached to this Petition is Respondent's executed Affidavit

required by Rule 215(d), Pa.R.D.E., stating that he consents to the recommended discipline, including the mandatory acknowledgements contained in Rule 215(d)(1) through (4), Pa.R.D.E.

81. In support of Petitioner and Respondent's joint recommendation, it is respectfully submitted that there are several mitigating circumstances:

- a. Respondent has admitted engaging in misconduct and violating the charged Rules of Professional Conduct and Pennsylvania Rules of Disciplinary Enforcement;
- b. Respondent has cooperated with Petitioner, as is evidenced by Respondent's admissions herein and his consent to receiving a four-year suspension;
- c. Respondent is remorseful for his misconduct and understands he should be disciplined, as is evidenced by his consent to receiving a four-year suspension; and
- d. Respondent has no record of discipline in Pennsylvania.

82. There are two disciplinary cases involving attorneys with no record of discipline that support Petitioner and Respondent's joint recommendation for a four-year suspension; the Respondents in those two cases each engaged in a species of misconduct that resembles a particular type of misconduct engaged in by Respondent.

The most serious misconduct Respondent engaged in was having presented false testimony at the October 14, 2011 guilty plea hearing and a false letter at the January 20, 2012 sentencing hearing in connection with the 2011 Northampton County DUI criminal case. In *Office of Disciplinary Counsel v. Daniel E. Houlihan*, Nos. 208 DB 2003 & 110 DB 2004 (D.Bd. Rpt. 1/4/06) (S.Ct. Order 3/28/06), Respondent Houlihan was suspended for four years for having presented false evidence and testimony in an Orphans' Court matter. Respondent Houlihan had mishandled four client matters by neglecting those matters, failing to communicate with his clients, and making misrepresentations to his clients. One of the four client matters involved an adoption that was filed in the Orphans' Court Division for Butler County. In that adoption matter, Respondent Houlihan

presented a false Acceptance of Service that was purportedly executed by the biological father; the Acceptance of Service acknowledged receipt of several documents that related to the adoption. D.Bd. Rpt. 10-11. At the adoption hearing at which Respondent Houlihan presented the false Acceptance of Service, he also misrepresented to Orphans' Court that he had located the biological father. *Id.* at 11-12. The Orphans' Court subsequently entered an Order terminating the parental rights of the biological father and mother. *Id.* at 13.

The Disciplinary Board, in recommending a four-year suspension, focused on Respondent Houlihan having presented false evidence and testimony to Orphans' Court, describing that misconduct as "dishonest and deceitful, and a fraud on the court that prejudiced the administration of justice." *Id.* at 24. In mitigation, Respondent Houlihan had no record of discipline, and in some, but not all of the matters, expressed remorse, accepted responsibility, and apologized to his clients. *Id.* at 25. After discussing several cases involving similar misconduct, and distinguishing those cases that involved the forging of court orders, the Disciplinary

Board recommended that Respondent Houlihan be suspended for four years. *Id.* at 25-26.

Like Respondent Houlihan, Respondent Hurda engaged in misconduct that consisted of: neglecting several client matters; and presenting false evidence and false testimony in a judicial proceeding. Respondent Hurda's mitigating factors are entitled to more weight than Respondent Houlihan's mitigating factors because Respondent Hurda's responsibility and remorse extends to all, not some of his misconduct, and Respondent Hurda has cooperated with ODC by admitting his misconduct and consenting to a four-year suspension.

The second disciplinary case that reinforces and supports the four-year suspension recommendation based on Respondent's other criminal convictions and the failure to report several of his convictions is *Office of Disciplinary Counsel v. Mark Eugene Johnston*, Nos. 160 DB 2002, 69 DB 2003 & 89 DB 2003 (D.Bd. Rpt. 12/15/04) (S.Ct. Order 5/13/05) (three-year suspension). Respondent Johnston had been convicted in five separate criminal cases; he was required to report two of those convictions to the Disciplinary Board and failed to do so. D.Bd. Rpt. 1-2.

Respondent Johnston also had submitted a false ARD application (in completing the application, he falsely stated that he had not previously been placed in ARD), had violated his probation in one matter and his parole in a second matter, and had been the subject of two bench warrants for failure to report to prison. *Id.* at 9. The only mitigating factor was a lack of a record of discipline; however, the Disciplinary Board also stated that Respondent Johnston had failed to show remorse and an understanding of the seriousness of his misconduct. *Id.* at 10. In addition, the Disciplinary Board noted that the Hearing Committee found as an aggravating factor that Respondent Johnston had not testified truthfully at the disciplinary hearing. *Id.* A majority of the Disciplinary Board recommended a two-year suspension, but three Board Members dissented and adopted the Hearing Committee's three-year suspension recommendation. *Id.* at 12-13. Our Court suspended Respondent Johnston for three years. Respondent Johnston had not been placed on temporary suspension, so retroactivity was not an issue.

Respondent Hurda's matter resembles Respondent Johnston's matter in that both involved convictions in five

separate criminal cases and failure to report several of those convictions as required by our Enforcement Rules. Their matters are dissimilar in that unlike Respondent Johnston, Respondent Hurda: was not found to have violated the terms of his probation/parole; was not the subject of bench warrants; and can claim that he is remorseful, accepts responsibility, and understands the gravity of his misconduct, as is evidenced by his consenting to a four-year suspension. Another difference, which casts Respondent Hurda's disciplinary matter in a more serious light than Respondent Johnston's matter, is that Respondent Hurda offered false testimony and a false letter in connection with the 2011 Northampton County case, misconduct that is qualitatively more severe than Respondent Johnston having submitted a false ARD application. The recommendation of a four-suspension accounts for the fact that overall, Respondent Hurda's misconduct is more serious than Respondent Johnston's misconduct.

Moreover, a suspension of four years is sufficiently lengthy to advance the goals of attorney discipline. Those goals are protecting the public, maintaining the integrity of

the courts and the legal profession, and specific and general deterrence. See *Office of Disciplinary Counsel v. Keller*, 506 A.2d 872, 875 (Pa. 1986); *In re Iulo*, 766 A.2d 335, 338-339 (Pa. 2001).

WHEREFORE, Petitioner and Respondent respectfully request that:

- a. Pursuant to Rule 215(e) and 215(g), Pa.R.D.E., the Three-Member Panel of the Disciplinary Board review and approve the Joint Petition In Support Of Discipline On Consent and file its recommendation with the Supreme Court of Pennsylvania in which it is recommended that the Supreme Court enter an Order that Respondent receive a suspension of four years, to be made retroactive to June 11, 2020, the date of the temporary suspension Order, and that Respondent comply with all of the provisions of Rule 217, Pa.R.D.E.; and
- b. Pursuant to Pa.R.D.E. 215(i), the Three-Member Panel of the Disciplinary Board enter an order for Respondent to pay the necessary expenses

incurred in the investigation and prosecution of this matter, and that under Pa.R.D.E. 208(g) (1) all expenses be paid by Respondent within 30 days after the notice of the taxed expenses is sent to Respondent.

Respectfully and jointly submitted,

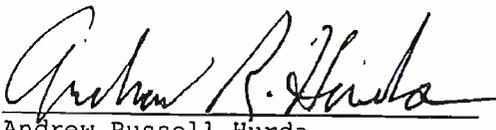
OFFICE OF DISCIPLINARY COUNSEL

THOMAS J. FARRELL
CHIEF DISCIPLINARY COUNSEL

JANUARY 7, 2021
Date

By 
Richard Hernandez
Disciplinary Counsel

12-30-20
Date

By 
Andrew Russell Hurda
Respondent

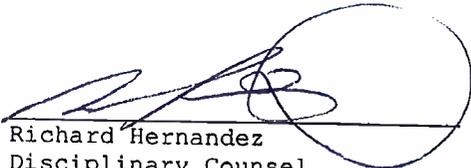
BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 2715 Disc. Dkt. No. 3
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v. : No. 56 DB 2020 &
: ODC File No. C1-20-164
: Atty. Reg. No. 87410
ANDREW RUSSELL HURDA, :
Respondent : (Philadelphia)

VERIFICATION

The statements contained in the foregoing Joint Petition
In Support Of Discipline On Consent Under Pa.R.D.E. 215(d)
are true and correct to the best of our knowledge or
information and belief and are made subject to the penalties
of 18 Pa.C.S. § 4904, relating to unsworn falsification to
authorities.

January 7, 2021
Date


Richard Hernandez
Disciplinary Counsel

12-30-20
Date


Andrew Russell Hurda
Respondent

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 2715 Disc. Dkt. No. 3
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: Atty. Reg. No. 87410
ANDREW RUSSELL HURDA, :
Respondent : (Philadelphia)

AFFIDAVIT UNDER RULE 215(d), Pa.R.D.E.

Respondent, Andrew Russell Hurda, hereby states that he consents to the imposition of a suspension of four years retroactive to June 11, 2020, as jointly recommended by Petitioner, Office of Disciplinary Counsel, and Respondent in the Joint Petition in Support of Discipline on Consent and further states that:

1. His consent is freely and voluntarily rendered; he is not being subjected to coercion or duress; he is fully aware of the implications of submitting the consent; and he has not consulted with counsel in connection with the decision to consent to discipline;

2. He is aware that there is presently pending an investigation into allegations that he has been guilty of misconduct as set forth in the Joint Petition;

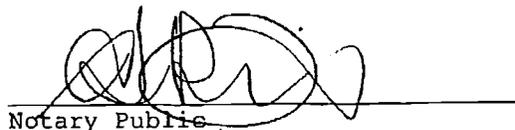
3. He acknowledges that the material facts set forth in the Joint Petition are true; and

4. He consents because he knows that if charges predicated upon the matter under investigation were filed, he could not successfully defend against them.

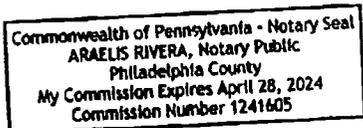


Andrew Russell Hurda
Respondent

Sworn to and subscribed
before me this 30th
day of December, 2020.



Notary Public



CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: Office of Disciplinary Counsel

Signature:  _____

Name: Richard Hernandez, Disciplinary Counsel

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