

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL	:	No. 1183, Disciplinary Docket No. 3
Petitioner	:	
	:	Nos. 64 DB 2005 & 107 DB 2005
v.	:	
	:	Attorney Registration No. 58106
RICHARD J. McCAGUE	:	
Respondent	:	(Allegheny 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

On May 11, 2005, Office of Disciplinary Counsel filed a Petition for Discipline at No. 64 DB 2005 against Richard J. McCague, Respondent. The Petition charged Respondent with violation of Rules of Professional Conduct 1.16(d) and 8.4(d) arising out of allegations concerning Respondent's representation of a criminal client and his failure to

turn over the client's file to successor counsel. Respondent failed to file an Answer to Petition for Discipline.

A pre-hearing conference was held on July 14, 2005 before Chair Karen Y. Bonvalot, Esquire. Ms. Bonvalot ruled that the factual allegations in the Petition for Discipline were deemed admitted pursuant to Pa.R.D.E. 208(b)(3) due to Respondent's failure to file an Answer to Petition. Respondent was directed to provide Petitioner with copies of Respondent's exhibits and a witness list by July 22, 2005. Respondent filed a witness list but did not submit a list of exhibits.

On July 15, 2005, Office of Disciplinary Counsel filed a Petition for Discipline at No. 107 DB 2005 against Respondent. The Petition charged Respondent with violation of Rules of Professional Conduct 1.1, 1.3, 1.4(a), 1.16(d), and 8.4(d) arising out of allegations stemming from Respondent's representation of a criminal client. In a letter dated August 14, 2005, Respondent filed an untimely "Answer" to Petition for Discipline. Following the filing of a Motion to Consolidate Petitions for Discipline by Petitioner on July 15, 2005, consolidation was granted by Order of the Disciplinary Board dated August 24, 2005.

A pre-hearing conference was held on September 13, 2005 before Chair Bonvalot. Ms. Bonvalot ruled that the factual allegations contained in the Petition for Discipline at No. 107 DB 2005 were deemed admitted due to Respondent's failure to file a timely Answer. Respondent did not file a witness list or list of exhibits.

A disciplinary hearing was held on October 25, 2005 and November 3, 2005, before a District IV Hearing Committee comprised of Chair Karen Y. Bonvalot, Esquire, and Members James T. Marnen, Esquire, and Gary D. Veshecco, Esquire. Respondent was represented by Sumner Parker, Esquire. The Committee ruled that Respondent's failure to file a witness list and exhibit list at No. 107 DB 2005 resulted in prejudice to Petitioner. The Committee further ruled that Respondent was precluded from offering witness testimony and exhibits or documents as evidence in Petition for Discipline No. 107 DB 2005. Respondent was permitted to present witnesses in Petition for Discipline No. 64 DB 2005, but he did not do so. In the dispositional phase of the hearing, Petitioner offered the testimony of six witnesses and 13 evidentiary exhibits which were admitted into evidence. Respondent did not offer any evidence or testimony on his behalf.

The Hearing Committee filed a Report on March 2, 2006, finding that Respondent engaged in professional misconduct and recommending that he be suspended for one year and one day.

No Briefs on Exceptions were filed by the parties.

This matter was adjudicated by the Disciplinary Board at the meeting on May 10, 2006.

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 PA 17101, 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 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, Richard J. McCague, was born in 1954 and was admitted to practice law in the Commonwealth of Pennsylvania in 1990. Respondent's registered mailing address is Allegheny County Public Defender's Office, 542 Forbes Ave., Pittsburgh PA 15219-2904. Respondent is subject to the jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

No. 64 DB 2005

3. In August of 2002, Respondent was retained to represent Claude Bonner in a criminal case. Mr. Bonner was incarcerated in the Allegheny County Jail at the time Respondent was retained.

4. Respondent was paid \$800 by or on behalf of Mr. Bonner as payment in full for legal services.

5. On September 16, 2002, Respondent represented Mr. Bonner at his preliminary hearing.

6. Mr. Bonner's case was scheduled for trial on February 13, 2003, but Respondent requested a postponement due to "unavailability of defense counsel". The case was rescheduled for trial on June 25, 2003.

7. On June 25, 2003, Mr. Bonner's case was postponed to permit Respondent time to locate a witness. The case was rescheduled for trial on August 6, 2003.

8. On August 5, 2003, Respondent met with Karen Goldner, a friend of Mr. Bonner. At that meeting Ms. Goldner gave Respondent the medical records of Mr. Bonner that Respondent had requested.

9. At that meeting, Respondent asked Ms. Goldner to locate a witness to the incident which had given rise to Mr. Bonner's criminal charges.

10. On August 6, 2003, Respondent filed a Motion for Postponement requesting a jury trial. The trial was postponed until November 19, 2003.

11. At or about the end of August 2003, Mr. Bonner terminated Respondent's representation and retained new counsel, Martha Bailor, Esquire.

12. Mr. Bonner directed Respondent to turn over all documents to Ms. Bailor.

13. Respondent repeatedly told Ms. Bailor that he would turn over Mr. Bonner's file to her, but he failed to do so.

14. On November 19, 2003, Mr. Bonner's trial was postponed because Respondent failed to turn over Mr. Bonner's file to Ms. Bailor. Mr. Bonner's trial was rescheduled to January 7, 2004.

15. On November 19, 2003, Ms. Goldner spoke with Respondent and asked him to send Mr. Bonner's file to Ms. Bailor. Ms. Goldner advised Respondent that she and Ms. Bailor would be waiting outside the courtroom of Judge Donald E. Machen on the morning of November 20, 2003, to meet with Respondent to receive Mr. Bonner's file.

16. On the morning of November 20, 2003, Ms. Goldner and Ms. Bailor waited for Respondent but he failed to appear.

17. On January 7, 2004, Mr. Bonner's trial was postponed to March 1, 2004 due to Respondent's failure to provide Mr. Bonner's file to Ms. Bailor.

18. Respondent's file for Mr. Bonner contained documents useful to Mr. Bonner's defense.

19. Respondent's file for Mr. Bonner contained documents that could not be obtained or reproduced from any other source.

20. From November 2003 to January 2004, Ms. Bailor left messages for Respondent at the Allegheny County Public Defender's Office requesting that Respondent contact her and/or turn over Mr. Bonner's file.

21. From November 2003 to January 2004, Respondent did not return Ms. Bailor's telephone calls or otherwise make contact with her.

22. By Court Order dated February 24, 2004, Respondent was ordered to turn over, within 24 hours, all records he maintained on Mr. Bonner.

23. In February 2004, Judge Jeffrey Manning's minute clerk contacted the Public Defender's Office to notify Respondent that the Court wanted Respondent to turn over Mr. Bonner's file to Ms. Bailor.

24. Respondent failed to comply with the Court's directive.

25. On February 24, 2004, Judge Manning issued a Rule to Show Cause why Respondent "should not be found in direct and /or indirect criminal contempt of court". The Rule to Show Cause further stated that the Rule would be issued and returnable by Respondent appearing before Judge Manning on Friday, February 27, 2004.

26. On February 24, 2004, Judge Manning instructed the Sheriff of Allegheny County to serve the Rule to Show Cause on Respondent.

27. At the hearing on February 27, 2004, Judge Manning held Respondent "in contempt" for failing to comply with the Court's Order of February 24, 2004. Judge Manning stated he would reconvene the hearing on March 1, 2004 to determine whether Respondent should be jailed for contempt of the Court Order.

28. On the evening of February 27, 2004 Respondent delivered Mr. Bonner's file to Ms. Bailor.

29. At the reconvened hearing on March 1, 2004, Respondent, through counsel, represented to the Court that Respondent had turned over all file materials for Mr. Bonner to Ms. Bailor. Respondent, through counsel, represented to the Court that Respondent did not recall receiving Mr. Bonner's medical records.

30. At the proceeding on March 1, 2004, Karen Goldner testified that she gave Respondent Mr. Bonner's medical records in August 2003.

31. Judge Manning found Karen Goldner's testimony credible and directed Respondent to pay for a second set of medical records.

32. Mr. Bonner was acquitted of all charges in a non-jury trial on April 13, 2004.

33. Respondent's failure to turn over Mr. Bonner's file to Ms. Bailor caused delays in Mr. Bonner's trial and resulted in Mr. Bonner remaining in jail from November 19, 2003 through April 13, 2004.

34. While Mr. Bonner was incarcerated his wife died.

No. 107 DB 2005

35. On March 17, 1997, in the Court of Common Pleas of Allegheny County, William J. Wright entered a plea of guilty to the criminal charges of statutory rape and corruption of minors before the Honorable Donna Jo McDaniel.

36. Judge McDaniel sentenced Mr. Wright to a term of two to four years incarceration, probation for a term of ten years, and imposed a "no contact" Order as a condition of that probation.

37. Mr. Wright was arrested on March 25, 2002 for violation of the terms of his probation, which included the commission of other crimes and technical probation violations.

38. Respondent and Sidney Sokolsky, Esquire, represented Mr. Wright at a probation violation and sentencing hearing on September 4, 2002.

39. By Order of Court dated September 4, 2002, Judge McDaniel found that Mr. Wright had violated the terms of probation originally imposed on him on March 17, 1997.

40. By Order dated September 4, 2002, Judge McDaniel revoked Mr. Wright's probation and imposed a term of imprisonment of seven and one half years to 15 years, with a credit of four years and five and one half months.

41. After the September 4, 2002 hearing, Barbara Rozzo, Mr. Wright's mother, retained Respondent to file a Petition to Reconsider Sentence on behalf of Mr. Wright and to file an appeal to the Superior Court.

42. Respondent charged Mrs. Rozzo \$4,000 for filing the Petition to Reconsider Sentence and filing an appeal with the Superior Court. Mrs. Rozzo paid the fee in full.

43. On September 12, 2002, Respondent filed a Petition to Reconsider Sentence on behalf of Mr. Wright.

44. Judge McDaniel denied the Petition to Reconsider by Order dated October 31, 2002.

45. On December 3, 2002, Respondent filed a Notice of Appeal to the Superior Court of Pennsylvania on behalf of Mr. Wright.

46. The Notice of Appeal was not timely filed.

47. By Order of Court dated March 10, 2003, Judge McDaniel directed Respondent to file with the Court of Common Pleas of Allegheny County a Concise Statement of Matters Complained of on Appeal with supporting brief by March 24, 2003.

48. On April 4, 2003, Respondent filed a Petition for Extension of Time with the Court of Common Pleas of Allegheny County, requesting an additional 30 days to file the Concise Statement of Matters Complained of on Appeal.

49. The Petition for Extension of Time filed by Respondent was filed after the deadline set by Judge McDaniel for filing the Statement of Matters Complained of on Appeal.

50. Respondent failed to notify Mr. Wright that he had not filed the Statement of Matters Complained of on Appeal as directed by Judge McDaniel.

51. On April 29, 2003, Judge McDaniel issued a Memorandum Opinion recommending that Mr. Wright's appeal be quashed because Respondent failed to timely file a Notice of Appeal. Judge McDaniel believed that Mr. Wright's appeal was "not properly before the Superior Court and should be quashed forthwith".

52. Respondent did not notify Mr. Wright of Judge McDaniel's Memorandum Opinion dated April 29, 2003.

53. Respondent filed a brief with the Superior Court of Pennsylvania on behalf of Mr. Wright on June 30, 2003.

54. The Superior Court of Pennsylvania issued a Memorandum on December 30, 2003, quashing Mr. Wright's appeal and stating "appellant's appeal is patently untimely".

55. The Memorandum issued by the Superior Court was mailed to Respondent on or about December 30, 2003.

56. Respondent failed to notify Mr. Wright that his appeal to the Superior Court had been quashed.

57. In January 2004, Mrs. Rozzo learned that Mr. Wright's Superior Court appeal had been quashed; contacted Respondent about the appeal, and requested Respondent refund the money she paid him to appeal Mr. Wright's sentence.

58. Respondent advised Mrs. Rozzo that he had not been informed by the Superior Court that Mr. Wright's appeal had been quashed and that he would file a Post Conviction Relief Act (PCRA) Petition on behalf of Mr. Wright.

59. In January of 2004, Mrs. Rozzo retained Robert E. Mielnicki, Esquire, to represent Mr. Wright.

60. Mr. Mielnicki telephoned Respondent to advise Respondent that Mr. Mielnicki was now representing Mr. Wright in his criminal case.

61. Mr. Wright informed Respondent by letter dated January 22, 2004 that he was now being represented by Mr. Mielnicki.

62. Mr. Wright's January 22, 2004 letter to Respondent requested a refund of the \$4,000 in fees that was paid to Respondent, and further stated that the refund should be issued immediately.

63. Mr. Wright advised Respondent by letter dated January 24, 2004 that he was dissatisfied with Respondent's representation of him and demanded a refund of the fees paid to him.

64. Respondent did not respond to Mr. Wright's letters, nor did Respondent voluntarily return any portion of the unearned fee.

65. On February 5, 2004, Mr. Mielnicki filed a Motion for Post Conviction Collateral Relief on behalf of Mr. Wright. In the Motion, Mr. Mielnicki alleged Respondent was ineffective in his representation of Mr. Wright.

66. Mr. Mielnicki filed an Amended Motion for Post Conviction Collateral Relief on behalf of Mr. Wright on February 20, 2004. In the Amended Motion it was alleged that Respondent was ineffective in his representation of Mr. Wright.

67. Respondent filed a PCRA Petition representing that he was Mr. Wright's counsel. At this point in time Respondent had been discharged by Mr. Wright.

68. Mr. Mielnicki filed Supplemental Reasons in Support of Defendant's Motion for Post Conviction Collateral Relief on behalf of Mr. Wright on March 4, 2004. Further allegations that Respondent was ineffective were contained therein.

69. Mr. Mielnicki filed a Motion for Hearing with Regard to Defendant's Motion for Post Conviction Collateral Relief on June 17, 2004.

70. The Commonwealth of Pennsylvania filed an Answer to Post Conviction Relief Act Petition on June 22, 2004. In its Answer the Commonwealth stated: "After a thorough examination of the record, the plea transcript, and the probation violation transcript, the Commonwealth concedes the Petitioner is entitled to a new sentencing hearing. The Commonwealth believes the Petitioner's sentence is in fact illegal and Petitioner needs to be re-sentenced."

71. A re-sentencing hearing for Mr. Wright was held on July 29, 2004 before Judge McDaniel.

72. By Order of Court dated July 29, 2004, Judge McDaniel vacated the judgment of sentence imposed on September 4, 2002. Mr. Wright was sentenced to a term of imprisonment of three and one half to seven years. Mr. Wright was given credit for the four years and five and one half months for time served prior to September 4, 2002. Mr. Wright was given credit for time served from September 4, 2002 to July 29, 2004.

73. During Mr. Wright's incarceration he was unable to attend the funerals of his two sisters; his son had to live with his brother and sister-in-law; he lost the opportunity to seek custody of his son; he lost his job as a manager of Midas Muffler; he lost his townhouse and two cars.

74. Respondent received an informal admonition in 2002. He was retained in a divorce matter and failed to provide a written fee agreement. He failed to file the divorce complaint for one year and failed to correct errors contained in the pleading he

filed. Thereafter Respondent failed to return telephone calls from his client regarding the status of the divorce.

75. Respondent was ordered by the Supreme Court on December 1, 2005 to receive a public censure. The discipline arose from Respondent's criminal conviction of a summary offense of disorderly conduct after he brought contraband into the Allegheny County Jail.

76. Professor John A. Burkoff testified as an expert witness for Petitioner in the areas of criminal law, legal ethics and criminal defense ethics.

77. Professor Burkoff offered his opinion that Respondent failed to protect Mr. Bonner's interests by refusing to turn over Mr. Bonner's file to successor counsel; Respondent's failure to turn over Mr. Bonner's file to Ms. Bailor had a prejudicial effect on the overall administration of justice by resulting in Mr. Bonner being incarcerated even though he ultimately was found not guilty of the offense charged.

78. Professor Burkoff offered his opinion that Respondent's ineffective representation of Mr. Wright had an adverse impact on Mr. Wright.

79. Professor Burkoff's testimony is credible.

80. Martha Bailor, Esquire, offered credible testimony on behalf of Petitioner. She would not recommend Respondent to someone in need of a criminal defense attorney.

81. The Honorable Jeffrey A. Manning, Judge of the Court of Common Pleas of Allegheny County, testified that Respondent should not be appointed to represent indigent criminal defendants without first showing a “better demonstration of competence.”

82. Judge Manning’s testimony is credible.

83. The Honorable Donna Jo McDaniel, Judge of the Court of Common Pleas of Allegheny County, testified that a probation violation hearing is not a complicated matter for an experienced criminal defense attorney to handle; Respondent was ineffective in his representation of Mr. Wright; and, Respondent should not be appointed to represent indigent criminal defendants because of the less than satisfactory nature of his work.

84. Judge McDaniel’s testimony is credible.

85. Respondent offered no expression of remorse.

III. CONCLUSIONS OF LAW

By his conduct as set forth above, Respondent violated the following Rules of Professional Conduct in the matter at No. 64 DB 2005:

1. RPC 1.16 (d) - Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client’s interest, 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 that has not been earned. The lawyer may retain papers relating to the client or to the extent permitted by other law.

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

By his conduct as set forth above, Respondent violated the following Rules of Professional Conduct in the matter at No. 107 DB 2005:

1. RPC 1.1 - A lawyer shall provide competent representation to a client.

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

3. RPC 1.4(a) - A lawyer shall keep a client informed about the status of a matter and promptly comply with reasonable requests for information.

4. RPC 1.16(d) - Upon termination of representation, a lawyer shall take steps to the extent reasonable 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 that has not been earned. The lawyer may retain papers relating to the client to the extent permitted by other law.

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

Additional Conclusions

1. Petitioner offered and the Hearing Committee admitted evidence relating to Respondent's representation of a client in a divorce matter. (PE57) This evidence is outside the record and not relevant to the instant proceeding.

IV. DISCUSSION

This matter is before the Board for consideration of consolidated Petitions for Discipline filed against Respondent alleging his neglect and mishandling of client matters. By his own actions, or lack thereof, Respondent severely limited his ability to present a defense to the charges against him. Respondent failed to file an Answer to the Petition at No. 64 DB 2005, and he failed to timely file an Answer to Petition at No. 107 DB 2005, resulting in all of the allegations being deemed admitted. Thereafter, Respondent failed to abide by deadlines established at the pre-hearing conferences regarding exhibits and witness lists, resulting in his inability to present testimony and documentary evidence on his own behalf. Where he did have the opportunity to present testimony and witnesses, Respondent failed to take advantage of that opportunity. Respondent did not testify on his own behalf.

In addition to the admitted allegations contained in the Petitions, Petitioner presented documentary evidence establishing, by clear and convincing evidence, that Respondent's actions constitute professional misconduct. Respondent violated Rules of

Professional Conduct 1.16(d) and 8.4(d) in the Bonner matter. He failed to turn over Mr. Bonner's file to new counsel and that failure caused delays in Mr. Bonner's trial. Respondent failed to comply with an order of court. He violated Rules of Professional Conduct 1.1, 1.3, 1.4(a), 1.16(d) and 8.4(d) in the Wright matter. Respondent did not provide effective assistance of counsel to Mr. Wright by failing to timely file Notice of Appeal and a Concise Statement of Matters Complained of on Appeal. He did not keep Mr. Wright informed of the status of his matter. Respondent did not refund the unearned portion of his fee to Mr. Wright's mother. The Board's responsibility is to determine the appropriate sanction to address the misconduct.

Petitioner presented six witnesses and 13 exhibits in the dispositional phase of the proceeding. Respondent offered no witnesses or exhibits and did not testify on his own behalf to mitigate or explain his actions. Although the Board determined that some of Petitioner's evidence concerning Respondent's actions is outside the record, as it pertained to Respondent's actions in client matters not put forth in the Petitions for Discipline, the cumulative evidence of Respondent's past misconduct is striking. In 2002 he received an informal admonition resulting from his actions in a divorce matter. He failed to file a divorce complaint for one year and failed to correct errors contained in the pleadings, despite receiving notification from the Prothonotary of those errors. After advising his client that he would file the necessary paperwork to obtain the divorce, he failed to return telephone calls from the client for six months. In 2005 the Supreme Court ordered that Respondent be subjected to a public censure resulting from his conviction of a summary

offense of disorderly conduct. At the time the discipline arose Respondent was an assistant public defender in Allegheny County. He attempted to smuggle contraband, including tobacco and marijuana, into the Allegheny County Jail while on a visit to a private client. This incident was widely publicized in the Pittsburgh area.

Respondent has a prior history of engaging in conduct that is detrimental to his clients and to the legal profession. His actions reveal a lack of lucid judgment. The incidents before the Board in the instant matter are consistent with Respondent's disregard for his client and the profession. Respondent is an attorney with 16 years of practical experience, yet his misconduct belies any finding of competence in regard to his handling of the Bonner and Wright matters. Respondent has not shown positive improvement from his past encounters with the disciplinary system. Most strikingly, Respondent has not offered evidence acknowledging his misconduct or apologizing for it. Respondent has failed to understand his role as an attorney and advocate.

The Hearing Committee recommended a suspension of one year and one day. The Board is persuaded by the totality of the circumstances of record that a two year suspension is appropriate. The case law also supports a recommendation of a two year suspension. In other cases of client neglect and failure to communicate, suspensions of one year and one day have been imposed; however, expressions of remorse were clearly made. Office of Disciplinary Counsel v. Charles Sieger, 142 DB 1999, 667 Disciplinary Docket No. 3 (Pa. May 8, 2001), Office of Disciplinary Counsel v. Howard Goldman, 151 DB 2003, 1040 Disciplinary Docket No. 3 (Pa. Aug. 30, 2005). A one year and one day

suspension was imposed in a recent case involving multiple acts of client neglect. Office of Disciplinary Counsel v. Jonah Daniel Levin, 124 DB 2004, 1128 Disciplinary Docket No. 3 (Pa. May 5, 2006). While no expression of remorse was made by the attorney in this case, he did not have a prior record of discipline.

For the reasons as set forth above, the Board recommends that Respondent be suspended for a period of two years.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania recommends that the Respondent, Richard J. MaCague, be suspended from the practice of law for a period of two years.

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: _____
William A. Pietragallo, Board Member

Date: July 17, 2006

Board Member Gephart dissented and would recommend a three year suspension.

ORDER

PER CURIAM:

AND NOW, this 30th day of November, 2006, upon consideration of the Report and Recommendations of the Disciplinary Board dated July 17, 2006, the Petition for Review, the Application to File Supplemental Petition and responses thereto, the Application to File Supplemental Petition is denied, and it is hereby

ORDERED that Richard J. McCague be and he is suspended from the Bar of this Commonwealth for a period of two years, 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.