

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 1406 Disciplinary Docket No. 3
Petitioner :
 : No. 83 DB 2008
v. :
 : Attorney Registration No. 12022
THOMAS E. BUTLER, JR., :
Respondent : (Philadelphia)

ORDER

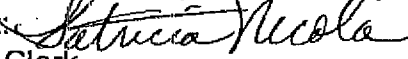
PER CURIAM:

AND NOW, this 16th of October, 2008, upon consideration of the Recommendation of the Three-Member Panel of the Disciplinary Board dated July 2, 2008, the Joint Petition in Support of Discipline on Consent is hereby granted pursuant to Rule 215(g), Pa.R.D.E., and it is

ORDERED that Thomas E. Butler, Jr., is suspended from the Bar of this Commonwealth for a period of one year retroactive to May 27, 2008, and he shall comply with all the provisions of Rule 217, Pa.R.D.E.

A True Copy Patricia Nicola

As of: October 16, 2008

Attest: 
Chief Clerk

Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

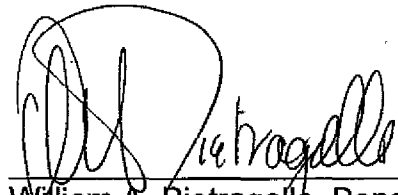
OFFICE OF DISCIPLINARY COUNSEL : No. 83 DB 2008
Petitioner :
v. : Attorney Registration No. 12022
THOMAS E. BUTLER, JR. :
Respondent : (Philadelphia)

RECOMMENDATION OF THREE-MEMBER PANEL
OF THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

The Three-Member Panel of the Disciplinary Board of the Supreme Court of Pennsylvania, consisting of Board Members William A. Pietragallo, Francis X. O'Connor and Mark S. Baer, has reviewed the Joint Petition in Support of Discipline on Consent filed in the above-captioned matter on June 5, 2008.

The Panel approves the Petition consenting to one year suspension retroactive to May 27, 2008 and recommends to the Supreme Court of Pennsylvania that the attached Joint Petition be Granted.

The Panel further recommends that any necessary expenses incurred in the investigation and prosecution of this matter shall be paid by the respondent-attorney as a condition to the grant of the Petition.



William A. Pietragallo, Panel Chair
The Disciplinary Board of the
Supreme Court of Pennsylvania

Date: July 2, 2008

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : *83 DB 2008*
Petitioner : No. ~~52-INV2008~~
: :
: No. C1-07-1219
v. : :
: Atty. Reg. No. 12022
THOMAS E. BUTLER, Jr. :
Respondent: (Philadelphia)

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

Petitioner, Office of Disciplinary Counsel ("ODC"), by Paul J. Killion, Chief Disciplinary Counsel, and Harriet R. Brumberg, Disciplinary Counsel, and by Respondent, Thomas E. Butler, Jr., and Respondent's counsel, Alan A. Turner, Esquire, file this Joint Petition In Support of Discipline on Consent under Pennsylvania Rule of Disciplinary Enforcement (Pa.R.D.E.) 215(d), and respectfully represent:

I. BACKGROUND

1. Petitioner, whose principal office is situated at Suite 1400, 200 North Third Street, Harrisburg, Pennsylvania, is invested, pursuant to Pa.R.D.E. 207, 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

FILED

JUN 05 2008

Office of the Secretary
The Disciplinary Board of the
Supreme Court of Pennsylvania

disciplinary proceedings brought in accordance with the various provisions of said Rules of Disciplinary Enforcement.

2. Respondent, Thomas E. Butler, Jr., was born on August 16, 1946, and was admitted to practice law in this Commonwealth on January 10, 1972.

3. Respondent's attorney registration address is 1811 Bethlehem Pike, Suite 350, Flourtown, PA 19031.

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

II. FACTUAL ADMISSIONS AND VIOLATIONS OF DISCIPLINARY RULES

5. Respondent specifically admits to the truth of the factual allegations and conclusions of law contained in paragraphs 1 through 20.

6. For the tax years 2001 through 2005, Respondent received income as an attorney of more than \$100,000 annually.

7. Respondent willfully failed to file tax returns for the years 2001 through 2005, resulting in federal tax losses of at least \$152,040.

8. Respondent's willful failure to file tax returns violated 26 U.S.C. § 7203, which is punishable by

imprisonment of not more than one year. Consequently, Respondent's conviction is for a "serious crime," as defined by Pa.R.D.E. 214(i).

9. On January 4, 2008, Respondent pled guilty to five counts of the offense of willful failure to file tax returns, in violation of 26 U.S.C. §7203. **United States v. Thomas E. Butler, Jr.**, Case No. 2:07-CR-00696-GP-1 (E.D. Pa.).

10. On April 7, 2008, the Honorable Gene E.K. Pratter sentenced Respondent to:

- a. 30 days of imprisonment, to commence no later than 2:00 p.m. on July 31, 2008;
- b. home confinement for a period of five months commencing at the direction of the U.S. Probation Office;
- c. supervised release for a term of one year upon release from imprisonment; and
- d. completion of 100 hours of community service while Respondent is on supervised release.

11. Judge Pratter ordered Respondent to pay \$152,040 in restitution, a \$3,000 fine, and a \$125 special assessment.

12. Respondent has paid in full the restitution, fine, and special assessment.

13. Respondent's conviction of a "serious crime" is a *per se* basis for discipline under Pa.R.D.E. 203(b)(1).

14. On May 27, 2008, Respondent voluntarily assumed inactive attorney status.

15. By his conduct, Respondent violated the following Rules of Professional Conduct:

- a. RPC 8.4(b), 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; and
- b. Pa.R.D.E. 203(b)(1), which provides that conviction of a crime, which under Enforcement Rule 214 (relating to attorneys convicted of crimes) may result in suspension, shall be grounds for discipline.

III. JOINT RECOMMENDATION FOR DISCIPLINE

16. Petitioner and Respondent jointly recommend that the appropriate discipline for Respondent's admitted misconduct is a one-year suspension. If the Court were to grant the pending Joint Petition to Temporarily Suspend an Attorney, Respondent and ODC jointly recommend that the one-year suspension be made retroactive to May 27, 2008,

the date Respondent voluntarily assumed inactive attorney status.

17. Respondent hereby consents to the recommended discipline being imposed by the Supreme Court of Pennsylvania. Attached to this Petition is Respondent's executed Affidavit required by Pa.R.D.E. 215(d), stating that he consents to the recommended discipline and the mandatory acknowledgements contained in Pa.R.D.E. 215(d)(1) through (4).

18. Petitioner and Respondent respectfully submit that there are the following aggravating circumstances:

- a. On December 15, 2005, Respondent received an Informal Admonition in one client matter (C1-05-56) for failing to act with reasonable diligence and to communicate; and
- b. Respondent's criminal conviction received negative newspaper coverage.

19. Petitioner and Respondent respectfully submit that there are the following mitigating circumstances:

- a. Respondent showed remorse for his crime by pleading guilty to five counts of willful failure to file tax returns and by paying restitution;

- b. Respondent has cooperated in the disciplinary proceeding;
- c. After Respondent's sentencing, Respondent acted promptly to wind-up his law practice and requested that he assume voluntary inactive status; and
- d. Respondent has serious family problems; he is the sole caregiver for his wife, who suffered a stroke and suffers from depression.

20. A suspension of one year is within the range of discipline imposed on attorneys who have engaged in misconduct similar to Respondent's misconduct. Discipline imposed for willful failure to file tax returns ranges from a Public Censure to a five-year suspension, with progressively greater discipline imposed on attorneys who have a record of discipline or whose willful failure to file tax returns spanned many years. See, e.g., ***In re Anonymous No. 11 DB 2001 (George Stenhach)*** and ***In re Anonymous No. 12 DB 2001 (Walter Stenhach)***, D.Bd. Rpt. 9/26/2002 (S.Ct. Order 11/25/2002) (attorneys received Public Censure for one count of willful failure to file tax returns and later received a nine-month suspension for repeat of same offense involving two counts of willful failure to file); ***In re Anonymous No. 95 DB 2001 (Marvin***

Abrams), (S.Ct. Order 7/25/2002) (attorney with history of private discipline, who willfully failed to file tax returns for two years, received a one-year suspension); **In re Anonymous No. 15 DB 1983, (John McCrea, III)**, 28 Pa. D.&C.3rd 609 (1983) (attorney who willfully failed to file tax returns for three years was suspended for one year and twelve days); **In re Anonymous No. 122 DB 2000 (Frank J. Marcone)**, D.Bd. Rpt. 1/26/2004 (S.Ct. Order 9/10/2004) (attorney with record of discipline who failed to file tax returns for three years received a five-year suspension). Precedent establishes that Respondent's history of discipline and five years of willful failure to file tax returns warrants a suspension of one year.

WHEREFORE, Petitioner and Respondent respectfully request that:

- a. Pursuant to Pa.R.D.E. 215(e) and 215(g), 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 recommending that the Supreme Court enter an Order that Respondent receive a one-year suspension; 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 as a condition to the grant of the Petition, and that all expenses be paid by Respondent before the imposition of discipline under Pa.R.D.E. 215(g).

Respectfully and jointly submitted,

OFFICE OF DISCIPLINARY COUNSEL

PAUL J. KILLION
CHIEF DISCIPLINARY COUNSEL

June 4, 2008
Date

By

Harriet R. Brumberg
Harriet R. Brumberg, Esquire
Disciplinary Counsel

3 June 2008
Date

By

Thomas E. Butler, Jr.
Thomas E. Butler, Jr.
Respondent

June 3, 2008
Date

By

Alan A. Turner
Alan A. Turner, Esquire
Attorney for Respondent

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :

Petitioner : No. 52-INV2008

:

: No. C1-07-1219

v. :

: Atty. Reg. No. 12022

THOMAS E. BUTLER, Jr. :

Respondent : (Philadelphia)

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

Respondent, Thomas E. Butler, Jr., hereby states that he consents to the imposition of a one-year suspension, 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 consulted with counsel in connection with the decision to consent to discipline;

2. He is aware that there is presently pending an investigation involving 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

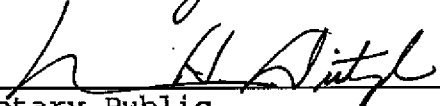
4. He knows that if charges predicated upon the matter under investigation were filed, he could not successfully defend against them.

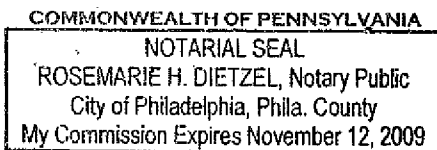

Thomas E. Butler, Jr.

Sworn to and subscribed

before me this 4th

day of June, 2008


Notary Public



BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :

Petitioner : No. 52-INV2008

:

: No. C1-07-1219

v. :

: Atty. Reg. No. 12022

THOMAS E. BUTLER, Jr. :

Respondent : (Philadelphia)

VERIFICATION

The statements contained in the foregoing Joint Petition In Support of Discipline on Consent Under Rule 215(d), Pa.R.D.E., 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.

5/2/08

Date

HR Brumberg

Harriet R. Brumberg, Esquire
Disciplinary Counsel

3 June 2008

Date

TE Butler Jr

Thomas E. Butler, Jr. Esquire
Respondent

June 3, 2008

Date

Alan A. Turner

Alan A. Turner, Esquire
Counsel for Respondent