

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL : No. 137 DB 2022  
Petitioner :  
v. : Attorney Registration No. 32356  
DEMETRIUS WILLIAM FANNICK :  
Respondent : (Luzerne County)

**ORDER**

AND NOW, this 11th day of October, 2022, in accordance with Rule 215(g), Pa.R.D.E., the three-member Panel of the Disciplinary Board having reviewed and approved the Joint Petition in Support of Discipline on Consent filed in the above captioned matter; it is

ORDERED that DEMETRIUS WILLIAM FANNICK be subjected to a **PUBLIC REPRIMAND** by the Disciplinary Board of the Supreme Court of Pennsylvania as provided in Rule 204(a) and Rule 205(c)(9) of the Pennsylvania Rules of Disciplinary Enforcement.

BY THE BOARD:



\_\_\_\_\_  
Board Chair

TRUE COPY FROM RECORD

Attest:



\_\_\_\_\_  
Marcee D. Sloan  
Board Prothonotary  
The Disciplinary Board of the  
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	No. DB 2022
Petitioner	:	
	:	<b>137 DB 2022</b>
v.	:	Attorney Reg. No. 32356
	:	
DEMETRIUS W. FANNICK, ESQUIRE,	:	
Respondent	:	(Luzerne County)

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

Petitioner, Office of Disciplinary Counsel (“ODC”) by Thomas J. Farrell, Chief Disciplinary Counsel, and Marie C. Dooley, Disciplinary Counsel and Respondent Demetrius W. Fannick, Esquire (“Respondent”), file this Joint Petition in Support of Discipline on Consent under Pennsylvania Rule of Disciplinary Enforcement (“Pa.R.D.E.”) 215(d), and in support thereof state:

1. ODC, whose principal office is situated at Office of Chief Disciplinary Counsel, Pennsylvania Judicial Center, Suite 2700, 601 Commonwealth Avenue, P.O. Box 62485, Harrisburg, Pennsylvania 17106, is invested, pursuant to 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 Pennsylvania and to prosecute all disciplinary proceedings brought in accordance with the various provisions of the aforesaid Enforcement Rules.

2. Respondent was born on August 16, 1955 and was admitted to practice law in the Commonwealth on November 26, 1980. Respondent is on active status with a last registered address of 297 Pierce Street, Kingston, PA 18704-5147.

**FILED**  
**09/28/2022**  
**The Disciplinary Board of the**  
**Supreme Court of Pennsylvania**

3. Respondent is subject to the disciplinary jurisdiction of the Pennsylvania Disciplinary Board.

**SPECIFIC FACTUAL ALLEGATIONS ADMITTED**

4. In 2016, Respondent represented defendant Jessica L. Alinsky in her criminal trial for third-degree murder and tampering with/fabricating physical evidence in a matter involving the death of her boyfriend from a single gunshot wound to the head.

5. During the trial, Respondent filed a motion for mistrial, which

- a. argued prosecutors knowingly and improperly withheld statements of a blood-spatter expert who found the state's crime scene analysis flawed; and
- b. alleged an accompanying *Brady* violation relating to the state's forensic expert.

6. After a hearing, the trial court:

- a. denied Respondent's motion for mistrial;
- b. indicated Respondent was free to impeach the state's forensic expert; and
- c. allowed the trial to continue.

7. Ultimately, on March 22, 2016, the trial court sentenced Ms. Alinsky to 20 to 40 years' incarceration.

8. Following appeal, on May 25, 2018, the Pennsylvania Superior Court, 676 MDA 2016:

- a. affirmed the trial court's conviction/sentence and mistrial denial;

- b. concluded that “while the evidence at issue was favorable to [Ms. Alinsky] in that it provided a basis to impeach the credibility of the Commonwealth’s expert witness, we cannot conclude that had the evidence been disclosed, there is a reasonable probability that ‘the result of the trial would have been different;’” and
- c. concluded that even if there had been a *Brady* violation, the trial court properly exercised its discretion in denying the mistrial motion because the trial court provided an opportunity to Respondent at trial to introduce the newly discovered impeachment evidence to the jury’s attention.

9. In June 2018, Respondent accepted a \$7,500 fee from Ms. Alinsky’s mother to prepare and file with the Pennsylvania Supreme Court a Petition for Allocatur (“Allocatur Petition”), seeking review of the Superior Court’s May 25, 2018 decision.

10. If the matter were to proceed to hearing, Respondent would testify that he prepared the Allocatur Petition; however, Respondent does not dispute he failed to properly and timely file the Allocatur Petition with the Pennsylvania Supreme Court as promised.

11. Throughout 2019, Ms. Alinsky and her mother made multiple attempts to contact Respondent by telephone, to obtain an update on Ms. Alinsky’s appeal.

12. Respondent failed to communicate with Ms. Alinsky until October 2019, at which time Respondent informed Ms. Alinsky that the Allocatur Petition had been filed and he would send her a copy.

13. Respondent failed to, *inter alia*:
  - a. review his records for the filed Allocatur Petition;
  - b. monitor the docket, which would have alerted him to his error;
  - c. communicate with Ms. Alinsky regarding the status of her appeal;  
and
  - d. send Ms. Alinsky a copy the Allocatur Petition as he promised.

14. In February 2020, just prior to the COVID shutdown, Respondent learned of his error in failing to actually file Ms. Alinsky's Allocator Petition.

15. Despite knowledge of his error, Respondent failed to take any action to correct his error and seek reinstatement of Ms. Alinsky's appellate rights.

16. Respondent again stopped communicating with Ms. Alinsky and her mother, who sought periodic status updates.

17. Respondent's failure to take any action or respond to Ms. Alinsky's requests for information prompted her to hire replacement counsel in May 2021.

18. Ultimately, Respondent assisted replacement counsel in restoring Ms. Alinsky's appellate rights and personally contacted the prosecutor's office to explain his failures.

19. In December 2021:
  - a. Ms. Alinsky appellate rights were reinstated; and
  - b. Respondent provided a full refund to Ms. Alinsky in the amount of \$7,500.

20. On June 24, 2022, the Pennsylvania Supreme Court denied Ms. Alinsky's Allocatur Petition on the merits.

**SPECIFIC RULES OF PROFESSIONAL CONDUCT VIOLATED**

21. By his conduct as alleged above, Respondent violated the following Rules of Professional Conduct:

- a. RPC 1.1 – “A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation;”
- b. RPC 1.3 – “A lawyer shall act with reasonable diligence and promptness in representing a client;”
- c. RPC 1.4(a)(3) – “A lawyer shall ... keep the client reasonably informed about the status of the matter;”
- d. RPC 1.4(a)(4) – “A lawyer shall ... promptly comply with reasonable requests for information;” and
- e. RPC 3.2 – “A lawyer shall ... make reasonable efforts to expedite litigation consistent with the interests of the client.”

**SPECIFIC JOINT RECOMMENDATION FOR DISCIPLINE**

22. ODC and Respondent jointly recommend that the appropriate discipline for Respondent’s misconduct is a public reprimand. This recommendation is supported by precedent.

23. Respondent hereby consents to imposition of a public reprimand for his misconduct. Attached to this Joint Petition is Respondent’s executed affidavit required by Pa.R.D.E. 215(d), stating that he consents to the recommended discipline including the mandatory acknowledgements contained in Pa.R.D.E. 215(d)(1) through (4).

24. In support of the Joint Recommendation, it is respectfully submitted that the following mitigating circumstances are present:

- a. Respondent admits engaging in misconduct and violating the charged Rules of Professional Conduct;
- b. Respondent ultimately facilitated reinstatement of Ms. Alinsky's appellate rights and fully refunded the \$7,500 legal fee;
- c. Respondent cooperated with ODC in connection with this Joint Petition, as evidenced by Respondent's admissions herein and his consent to receive a public reprimand; and
- d. Respondent is remorseful for his misconduct and consents to receive a public reprimand.

25. In further mitigation, Respondent explained that he suffered personal and familial health issues, which contributed to his delays and failures.

26. Notably, Ms. Alinsky did not ultimately suffer any prejudice because her appellate rights were reinstated in December 2021, and the Pennsylvania Supreme Court issued a denial on the merits in June 2022.

27. In aggravation, Respondent has one prior incidence of discipline in over 41 years of practice. In 1994, Respondent received a public censure for delays and failures in a divorce matter.

28. When addressing matters involving client neglect and failure to timely appeal, the Disciplinary Board has frequently imposed a public reprimand when there is mitigation and cooperation with ODC's investigation.

29. Respondent's misconduct is similar to three recent disciplinary matters involving incompetence, negligence, lack of diligence and failure to communicate, which imposed a public reprimand:

- a. In *ODC v. Shawn K. Page, Sr.*, 37 DB 2021 (D.Bd. Order, 04/15/2021), Page received a public reprimand due to his failure to timely file an appellate brief on behalf of his criminal defendant client, which resulted in dismissal of his client's appeal. Unlike Respondent, Page attempted to take prompt corrective action to address his failures but compounded his violations by making additional errors including filing a PCRA Petition seeking reinstatement of the client's direct appellate rights that was denied as premature. Unlike Respondent, Page failed to refund the client fee until ODC began investigating. In aggravation, Page had a previous informal admonition in 2019.
- b. In *ODC v. Penelope A. Boyd*, 147 DB 2020 (D.Bd. Order, 10/09/2020), Boyd failed to timely file a notice of appeal with the Superior Court in a custody proceeding and failed to file the required concise statement of errors. Like Page, Boyd attempted to take corrective action to address her failures but made additional errors. Ultimately, Boyd's client engaged new counsel for the custody representation. In aggravation, Boyd had a prior history of discipline, which included two separate informal admonitions in 2016 and a private reprimand in 2018.
- c. In *ODC v. William E. Vinsko, Jr.*, 4 DB 2022 (D.Bd. Order, 01/18/2022), despite promises to commence litigation, Vinsko failed to promptly address his client's contract matter and communicate

regarding litigation progress, which caused undue delay in resolution and stress and anxiety for his client. In aggravation, Vinsko had a prior disciplinary history including a public reprimand on consent for making disparaging remarks about the court in a pleading, and a prior informal admonition.

30. The parties agree that a suspension is not warranted. Ms. Alinsky did not suffer long term prejudice by the late filing of her Allocatur Petition because the Pennsylvania Supreme Court recently denied the Petition on the merits. In addition, Respondent's prior misconduct occurred more than 27 years ago.

31. Respondent's lack of diligence and failure to communicate, together with the foregoing recent precedent and his prior disciplinary history, support a public reprimand.

32. In light of the professional misconduct and ethical violations, Respondent hereby consents to the proposed public reprimand.

WHEREFORE, ODC and Respondent respectfully request that your Honorable Board:

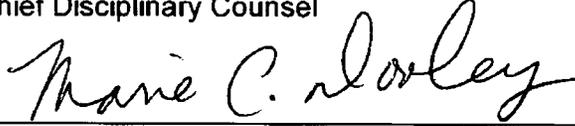
- a. review and approve this Joint Petition and impose a public reprimand; and
- b. pursuant to Pa.R.D.E. 215(i), enter an order for Respondent to pay the necessary expenses incurred in the investigation and prosecution of this matter.

Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL

Thomas J. Farrell,  
Chief Disciplinary Counsel

09-27-22  
DATE



MARIE C. DOOLEY, ESQUIRE  
Disciplinary Counsel  
Attorney Registration Number 203681  
Office of Disciplinary Counsel  
601 Commonwealth Ave., Suite 5800  
P.O. Box 62675  
Harrisburg, PA 17106-2675

DATE

DEMETRIUS W. FANNICK, ESQUIRE  
Attorney Registration Number 32356  
Respondent

OFFICE OF DISCIPLINARY COUNSEL

Thomas J. Farrell,  
Chief Disciplinary Counsel

\_\_\_\_\_  
DATE

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Attorney Registration Number 32356  
Respondent

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, Petitioner	:	No. DB 2022
	:	
v.	:	Attorney Reg. No. 32356
	:	
DEMETRIUS W. FANNICK, ESQUIRE, Respondent	:	(Luzerne County)

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

COMMONWEALTH OF PENNSYLVANIA:

COUNTY OF LUZERNE:

I, Demetrius W. Fannick, Esquire, being duly sworn according to law, deposes and hereby submits this affidavit consenting to the imposition a public reprimand in conformity with Pa.R.D.E. 215(d) and further states as follows:

1. I am an attorney admitted in the Commonwealth of Pennsylvania, having been admitted to the bar on or about November 26, 1980.
2. I desire to submit a Joint Petition in Support of Discipline on Consent pursuant to Pa.R.D.E. 215(d).
3. My consent is freely and voluntarily rendered; I am not being subjected to coercion or duress; I am fully aware of the implications of submitting this affidavit.
4. I am aware that there is presently pending a proceeding involving allegations I have been guilty of misconduct as set forth in the Joint Petition in Support of Discipline on Consent pursuant to Pa.R.D.E. 215(d) to which this affidavit is attached.
5. I acknowledge that the material facts set forth in the Joint Petition are true.

6. I consent because I know that if charges continued to be prosecuted in the pending proceeding, I could not successfully defend against them.

7. I am aware of my right to consult and employ counsel to represent me in the instant proceeding. I have not retained, consulted or acted upon the advice of counsel in connection with my decision to execute the Joint Petition.

It is understood that the statements made herein are subject to the penalties of 18 Pa.C.S.A. §4904 (relating to unsworn falsification to authorities).

Signed this 27 day of Sept., 2022.

*Demetrius W. Fannick*  
DEMETRIUS W. FANNICK, ESQUIRE  
Attorney Registration Number 32356  
Respondent

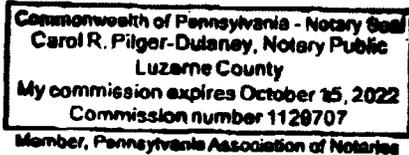
Respondent

Sworn to and subscribed

before me this 27<sup>th</sup> day

of September 2022.

*Carol R. Pilger-Dulaney*  
Notary Public



**VERIFICATION**

The statements contained in the foregoing *Joint Petition in Support of Discipline on Consent Discipline* are true and correct to the best of my knowledge or information and belief and are made subject to the penalties of 18 Pa.C.S.A. §4904, relating to unsworn falsification to authorities.

09-27-22  
DATE

Marie C. Dooley  
MARIE C. DOOLEY, ESQUIRE  
Disciplinary Counsel

\_\_\_\_\_  
DATE

\_\_\_\_\_  
DEMETRIUS W. FANNICK, ESQUIRE  
Attorney Registration Number 32356  
Respondent

**VERIFICATION**

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\_\_\_\_\_  
DATE

9/27/22  
DATE

\_\_\_\_\_  
MARIE C. DOOLEY, ESQUIRE  
Disciplinary Counsel

  
\_\_\_\_\_  
DEMETRIUS W. FANNICK, ESQUIRE  
Attorney Registration Number 32356  
Respondent

BEFORE THE DISCIPLINARY BOARD OF THE  
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OFFICE OF DISCIPLINARY COUNSEL, Petitioner	:	No. DB 2022
	:	
v.	:	Attorney Reg. No. 32356
	:	
DEMETRIUS W. FANNICK, ESQUIRE, Respondent	:	(Luzerne County)

**CERTIFICATE OF SERVICE**

I hereby certify that I am this day serving the foregoing document upon all parties of record in this proceeding in accordance with the requirements of 204 Pa. Code §89.22 (relating to service by a participant).

**First Class, Overnight Mail and Email, as follows:**

Demetrius William Fannick, Esquire  
297 Pierce Street  
Kingston, PA 18704-5147  
dwfesq@aol.com

Dated: 09-27-22



MARIE C. DOOLEY, ESQUIRE  
Disciplinary Counsel  
Attorney Registration Number 203681  
Office of Disciplinary Counsel  
601 Commonwealth Ave., Suite 5800  
P.O. Box 62675  
Harrisburg, PA 17106-2675

**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 Discipline Counsel  
Signature: Marie C. Doolay  
Name: Marie C. Doolay  
Attorney No. (if applicable): 203681