**IN THE SUPREME COURT OF PENNSYLVANIA**

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| OFFICE OF DISCIPLINARY COUNSEL, | : | No. 2192 Disciplinary Docket No. 3 |
| | : | |
| Petitioner | : | No. 215 DB 2015 |
| | : | |
| | : | Attorney Registration No. 64987 |
| v. | : | |
| | : | (Philadelphia) |
| ADAM J. RODGERS, | : | |
| | : | |
| Respondent | : | |

**ORDER**

**PER CURIAM**

**AND NOW**, this 1st day of June, 2016, 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 Respondent Adam J. Rodgers is suspended from the Bar of this Commonwealth for a period of two years, with three months to be served. The remaining suspension of twenty-one months is stayed, and he is placed on probation for a period of two years, subject to the following conditions:

1. Respondent shall abstain from using alcohol, drugs, or other mood-altering or mind altering chemicals;
2. Respondent shall attend Narcotics or Alcoholics Anonymous meetings on a weekly basis;
3. Respondent shall obtain a sponsor in Narcotics or Alcoholics Anonymous and maintain weekly contact with that sponsor;

4. A sobriety monitor shall be appointed to monitor Respondent in accordance with Disciplinary Board Rule §89.293(c);
5. Respondent shall furnish his sobriety monitor with his Narcotics or Alcoholics Anonymous sponsor's name, address and telephone number;
6. Respondent shall establish his weekly attendance at Narcotics or Alcoholics Anonymous meetings by providing written verification to the Board on a Board-approved form;
7. Respondent shall undergo any counseling, out-patient or in-patient treatment, prescribed by a physician or alcohol counselor;
8. Respondent shall file with the Secretary of the Board quarterly written reports;
9. With the sobriety monitor, Respondent shall:
    a) meet at least twice monthly;
    b) maintain weekly telephone contact;
    c) provide the necessary properly executed written authorizations to verify his compliance with the required substance abuse treatment; and
    d) cooperate fully.
10. The appointed sobriety monitor shall:
    a) monitor Respondent's compliance with the terms and conditions of the order imposing probation;
    b) assist Respondent in arranging any necessary professional or substance abuse treatment;
    c) meet with Respondent at least twice monthly, and maintain weekly telephone contact with Respondent;

d) maintain direct monthly contact with the Narcotics or Alcoholics Anonymous chapter attended by the Respondent;

e) file quarterly written reports with the Secretary of the Board; and

f) immediately report any violations of the terms and conditions of the probation to the Secretary of the Board.

Respondent shall comply with all the provisions of Pa.R.D.E. 217.

Justice Baer dissents, and would deny the joint petition for discipline on consent.

A True Copy Patricia Nicola
As Of 6/1/2016

Attest: Patricia Nicola
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

| | | |
|---|---|---|
| OFFICE OF DISCIPLINARY COUNSEL, Petitioner | : | No. 215 DB 2015 |
| v. | : | Atty. Reg. No. 64987 |
| ADAM J. RODGERS, 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 Paul J. Killion, Chief Disciplinary Counsel, and Robert P. Fulton, Esquire, Disciplinary Counsel, and Respondent, Adam J. Rodgers, file this Joint Petition In Support of Discipline On Consent Under Rule 215(d) of the Pennsylvania Rules of Disciplinary Enforcement ("Pa.R.D.E.") and respectfully represent that:

1. ODC, whose principal office is located at the Pennsylvania Judicial Center, Suite 2700, 601 Commonwealth Avenue, Harrisburg, Pennsylvania 17106, is vested, pursuant to Pa.R.D.E. 207, 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.

FILED
APR 04 2016
Office of the Secretary
The Disciplinary Board of the
Supreme Court of Pennsylvania

2. Respondent, Adam J. Rodgers, was born in 1965 and was admitted to practice law in the Commonwealth on July 6, 1992. At all times relevant hereto, Respondent's registered office address was 1816 West Girard Avenue, Philadelphia, Pennsylvania 19130. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

## SPECIFIC FACTUAL ADMISSIONS AND RULES OF PROFESSIONAL CONDUCT VIOLATED

3. Respondent stipulates that the following factual allegations are true and correct and that he violated the Rules of Professional Conduct set forth in paragraph 28, *infra*.

4. By Order dated May 4, 2012, the Pennsylvania Supreme Court, *inter alia*, suspended Respondent for a period of one year retroactive to January 15, 2010 and placed Respondent on probation for three years commencing on the date that Respondent was reinstated to active status. ***Office of Disciplinary Counsel v. Adam J. Rodgers***, 126 DB 2009, No. 1555 DD No. 3 (S.Ct.). A condition of the probation was that Respondent "not commit any violations of the Rules and must submit quarterly sworn certifications to the Board, with copies to Disciplinary Counsel, that he is in compliance with this condition."

5. At the time of the issuance of the May 4, 2012 Order, Respondent was on administrative suspension.

6. Respondent was reinstated to active status on September 12, 2012, at which time Respondent's period of probation commenced.

7. From August 14, 2015, to at least the date of the execution of this joint petition for consent discipline, Respondent was on C.L.E. administrative suspension and was ineligible for reinstatement as Respondent currently has an outstanding debt to the Lawyers Fund for Client Security.

**CHARGE**

8. Respondent failed to file the required quarterly probation reports with either the Board or ODC, which is a "technical" violation of probation, in that Respondent broke one of the rules that the Court had set for his probation.

9. On or about October 2, 2013, Respondent entered his appearance to represent a defendant, Quenton Holley ("Holley"), in a criminal matter in the Philadelphia Court of Common Pleas under caption of ***Commonwealth v. Holley***, CP-51-CR-0010198-2013 ("Holley Matter").

10. On August 4, 2014, the Honorable Daniel J. Anders ("Judge Anders") of the Philadelphia Court of Common Pleas entered a rule to show cause on Respondent why Respondent

should not be held in contempt of court for failing to appear for a jury trial in the Holley Matter.

11. By Order dated August 11, 2014, entered in a case captioned ***Commonwealth v. Adam J. Rodgers,*** MC-51-MD-0001116-2014 (Phila. Municipal Court), Judge Anders adjudged Respondent guilty of one Count of Indirect Criminal Contempt, 42 Pa.C.S. § 4132, based upon Respondent's failure to appear on August 4, 2014, for the jury trial in the Holley Matter.

12. Judge Anders sentenced Respondent to a fine of $1,000.

13. On or about August 22, 2014, Respondent filed a Motion for Reconsideration of Sentence ("Petition") with Judge Anders.

14. On September 9, 2014, Judge Anders denied in part and granted in part Respondent's Petition by modifying and reducing the fine to "No Further Penalty."

a. Respondent's contempt conviction was not vacated.

15. Conviction of a crime is a *per se* basis for discipline under Pa.R.D.E. 203(b)(1) and Pa.R.D.E. 214(e).

16. Respondent failed to report the criminal conviction to the Office of Disciplinary Counsel ("ODC"), as required by Pa.R.D.E. 214(a).

17. Respondent's failure to make a report was wilful.

18. Respondent's criminal conviction is a "direct" violation of probation, in that Respondent committed a new offense.

***Failure to Respond to DB-7 Letter***

19. By DB-7 Request for Statement of Respondent's Position ("DB-7") dated August 19, 2015 and addressed to Respondent's registered address, ODC put Respondent on notice of the foregoing allegations.

20. At page 3 of the DB-7, Respondent was notified that failure to answer the DB-7 within 30 days without good cause may result in ODC seeking discipline pursuant to Pa.R.D.E. 203(b)(7).

21. By letter dated September 18, 2015 to ODC, Respondent acknowledged receipt of the DB-7 and requested "additional time allowed to file a Statement of Respondent's Position."

22. By letter dated September 18, 2015 addressed to Respondent at his registered address, which was the address on Respondent's September 18, 2015 letter, ODC advised Respondent that pursuant to his request, the answer to the DB-7 would be due on or before October 22, 2015.

23. Respondent failed to file a Statement of Respondent's Position by October 22, 2015.

24. By letter dated October 28, 2015 and addressed to Respondent's registered address, ODC notified Respondent of: a) Respondent's failure to file within the prescribed time period; and b) Respondent's violation of Pa.R.D.E. 203(b)(7) for failure to timely file a response to the DB-7.

***Prior Discipline***

25. In addition to the suspension ordered by the Supreme Court on May 4, 2012, Respondent has received prior discipline in the form of four informal admonitions, as follows:

a. On June 15, 1999 for violations of RPC 1.4(a), RPC 1.4(b), RPC 1.16(a)(3), and RPC 1.16(d);

b. On September 29, 2005, for violations of RPC 1.3, RPC 1.4(a)(3), RPC 1.4(a)(4), RPC 1.4(b), RPC 5.3(b), and Pa.R.D.E 203(b)(3) via 219(d)(3);

c. On March 20, 2007, for violation of RPC 1.15(a); and

d. On September 12, 2013, for violations of RPC 1.3, RPC 1.16(d), RPC 5.5(a), RPC 8.4(c), RPC 8.4(d), and Pa.R.D.E. 203(b)(3) *via* 217(c)(2), 217(j)(1), 217(j)(3),

217(j)(4)(iv), 217(j)(4)(v), 217(j)(4)(vi), and 217(j)(4)(x).

26. Respondent has contacted Lawyers Concerned for Lawyers ("L.C.L.") and obtained a referral to Rehab After Work ("R.A.W."). A copy of the report of R.A.W. obtained by Respondent is attached.

27. R.A.W. has diagnosed Respondent and established a treatment program for Respondent, in which Respondent shall: 1) attend out-patient therapy at R.A.W., which is a two-hour professional rehabilitation program on a weekly basis, until such time as R.A.W. certifies Respondent for release; 2) attend one-hour of "Lawyers-only" recovery meetings on a weekly basis; 3) attend two-hour recovery ministry meetings on a bi-weekly basis; and 4) make reports to his sobriety monitor.

***Rule Violations***

28. By his conduct as alleged in Paragraphs 8 through 24 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 8.4(d), which states that it is professional misconduct for a lawyer to

engage in conduct that is prejudicial to the administration of justice;

c. Pa.R.D.E. 203(b)(1), which states that conviction of a crime shall be grounds for discipline;

d. Pa.R.D.E. 203(b)(3), which states that wilful violation of any other provision of the Enforcement Rules, shall be grounds for discipline, *via* 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; and

e. Pa.R.D.E. 203(b)(7), which states that failure by a respondent-attorney without good cause to respond to Disciplinary Counsel's request or supplemental request under Disciplinary Board Rules, § 87.7(b) for a statement of the respondent-attorney's position, shall be grounds for discipline.

## SPECIFIC JOINT RECOMMENDATION FOR DISCIPLINE

Petitioner and Respondent jointly recommend that the appropriate discipline for Respondent's admitted misconduct is a two-year suspension, three months to be served and twenty-one months to be stayed, and that Respondent be placed on probation for two years subject to the following conditions:

a. Respondent shall abstain from using alcohol, drugs, or any other mood-altering chemicals;

b. Respondent shall regularly attend Narcotics or Alcoholics Anonymous meetings on a weekly basis;

c. Respondent shall maintain weekly contact with his sponsor;

d. A sobriety monitor shall be appointed to monitor Respondent in accordance with Disciplinary Board Rule §89.293(c). Respondent has been assigned a sobriety monitor through the Lawyers Assistance Committee of the Pennsylvania Bar Association;

e. Respondent shall furnish his sobriety monitor with his sponsor's name, address, and telephone number;

f. Respondent shall establish his weekly attendance at Narcotics or Alcoholics Anonymous meetings by providing written verification to the Board on a Board-approved form;

g. Respondent shall undergo any counseling, out-patient or in-patient treatment, prescribed by a physician or alcohol counselor;

h. Respondent shall file with the Secretary of the Board quarterly written reports;

i. With the sobriety monitor, Respondent shall:

1) meet at least twice a month;

2) maintain weekly telephone contact;

3) provide the necessary properly executed written authorizations to verify his compliance with the required substance abuse treatment; and

4) cooperate fully;

j. The sobriety monitor shall:

1) monitor Respondent's compliance with the terms and conditions of the order imposing probation;

2) assist Respondent in arranging any necessary professional or substance abuse treatment;

3) meet with Respondent at least twice a month, and maintain weekly telephone contact with him;

4) maintain direct monthly contact with the Narcotics or Alcoholics Anonymous chapter attended by Respondent;

5) file with the Secretary of the Board quarterly written reports; and

6) immediately report to the Secretary of the Board any violations by Respondent of the terms and conditions of the probation.

Respondent hereby consents to the discipline being imposed upon him. 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 including the mandatory acknowledgements contained in Pa.R.D.E. 215(d)(1) through (4).

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

a. Respondent has expressed remorse;

b. Respondent has cooperated with ODC by executing Joint Stipulations of Fact and Law prior to the prehearing conference in this matter; and

c. Respondent has accepted responsibility for his misconduct.

Respondent is subject to discipline on five grounds: 1) technical violations of probation (failure to file quarterly reports); 2) a direct violation of probation, in that Respondent engaged in professional neglect and contemptuous behavior by failing to appear in court for a scheduled proceeding; 3) the professional neglect itself, apart from the probation violation; 4) his conviction of a crime (contempt), which is an independent basis for discipline under Pa.R.D.E. 203(b)(1); and 5) his failure to answer the DB-7.

With respect to the probation violations, the Board may recommend any type of discipline permitted by Pa.R.D.E. 204(a) consistent with the nature and gravity of the violations after giving due consideration to: the fact that the Respondent has already had an opportunity to continue the privilege of practicing law under a term of probation; and the primary function of disciplinary matters, which is to protect the public and maintain the

integrity of the courts and the legal profession. These objectives would be served by an enhanced term of suspension, partly served and the balance stayed. Respondent will be on notice that if he engages in another violation of probation, he will be facing a revocation of the stayed suspension and an actual, lengthy term of suspension.

With respect to Respondent's neglect and resulting contempt conviction, the discipline for an isolated incident can range from private discipline to public discipline, including a short suspension. Here, however, any discipline is aggravated by Respondent's record of discipline.

In ***In re Anonymous No. 41 DB 88***, 9 Pa. D. & C.4th 271 (1988), a respondent who failed to appear in court at the call of the trial list was found to have violated former D.R. 6-101(A)(3), which prohibited neglect of a legal matter. The Board approved the parties' and the hearing committee's recommendation for an informal admonition.

In ***Office of Disciplinary Counsel v. Marc Alan Weinberg***, 30 DB 2011 (S.Ct. Order 7/12/2011), the respondent was subjected to a Public Censure for his multiple failures to appear for court-directed depositions and for failing to timely comply with a court-ordered rule

to show cause. The respondent's failures to appear were the result of his appearance in courts of other counties. These appearances were verified but the respondent did not notify the courts or opposing parties in a timely fashion as to the conflicts with the respondent's calendar.

In ***Office of Disciplinary Counsel v. Michael D. Rentschler,*** 33 and 127 DB 2009 (S.Ct. Order 8/27/2010), the Supreme Court of Pennsylvania imposed on the respondent a suspension of one year and one day, stayed in its entirety, and two years of probation with a sobriety monitor. The respondent neglected to take action on three different client matters: one immigration matter, one harassment suit, and one criminal matter. The respondent had two instances of prior discipline (informal admonition, private reprimand) for similar conduct. The respondent met his burden of establishing mitigation under ***Office of Disciplinary Counsel v. Braun,*** 520 Pa. 127, 553 A.2d 894 (1989), as the respondent suffered from depression and alcohol abuse.

In ***Office of Disciplinary Counsel v. Jarett Rand Smith,*** 4 DB 2011 (S.Ct. Order 5/4/2011), the Supreme Court imposed a suspension of one year and one day, stayed in its entirety and a three year period of probation subject to the conditions set forth in the joint petition for consent

discipline that was approved by a Board panel. Smith committed two direct criminal contempts, was twice found to have committed civil contempt, and made a misrepresentation to a trial court. During the period of time that the misconduct was occurring, the respondent was involved in the break-up of his law partnership and his marriage.

In ***Office of Disciplinary Counsel v. Stephen R. Greenberg, 146 DB 2007*** (S.Ct. Order 2/25/2009), the respondent allowed the statute of limitations to run in a client matter and then engaged in a course of deceptive practices with regard to the clients, who were husband and wife, including, but not limited to: 1) having the clients drive 95 miles to "meet with a judge"; 2) falsely telling the clients that they had prevailed on their claim because no witnesses appeared for the defense; 3) filing a complaint but never serving it; 4) having the clients come to a "settlement conference" with a "judge" and an "insurance adjuster" and conveying settlement values, all of which was a hoax; and 5) communicating with the clients that they would have a "green" Christmas. One client sued the respondent for malpractice and obtained a $240,000 judgment. The Court imposed a two-year suspension, stayed in its entirety, and four years of probation with the condition that the respondent continue to remit monthly

payments of $5,000 under a restitution agreement with one of his clients.

In ***Office of Disciplinary Counsel v. Joseph D'Alba,*** 17 DB 1996 (S.Ct. Order 4/29/2002), the respondent was held in indirect criminal contempt of a Protection from Abuse Order and was convicted of simple assault and defiant trespass. The respondent was suspended for three months. Although the respondent contended that he was undergoing treatment for depression, the respondent failed to meet the standards for ***Braun*** mitigation. At the time of this suspension, the respondent had previously received a private reprimand. Subsequent to the three-month suspension order, the respondent was convicted of indirect criminal contempt in 2008 for failing to comply with court-ordered domestic violence and anger management classes. In ***Office of Disciplinary Counsel v. Joseph D'Alba,*** 158 DB 2009 (S.Ct Order 10/3/2011), the respondent was suspended for one year.

In ***Office of Disciplinary Counsel v. Gary Scott Silver,*** 56 and 178 DB 2003 (S.Ct. Order 4/6/2005), the respondent was suspended for six months followed by twelve months of probation with a practice monitor for three separate acts of criminal contempt for failing to comply with three court orders. Additionally, the respondent was

found to have negligently misused client funds and had been the subject of prior discipline in the form of two informal admonitions and one private reprimand.

WHEREFORE, Petitioner and Respondent respectfully request that:

a. Pursuant to Rule 215(e) and 215(g), Pa.R.D.E., a three-member panel of the Disciplinary Board review and approve the above Joint Petition In Support of Discipline On Consent for the imposition of a two-year suspension, three months to be served and twenty-one months to be stayed, and probation for a term of two years, concurrent to the stayed suspension, to be monitored by the Secretary of the Board through quarterly reports from Respondent's sobriety monitor.

b. Pursuant to Rule 215(i), the three-member panel of the Disciplinary Board order Respondent to pay the necessary expenses incurred in the investigation 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 Rule 215(g), Pa.R.D.E.

Respectfully submitted,
OFFICE OF DISCIPLINARY COUNSEL

PAUL J. KILLION
CHIEF DISCIPLINARY COUNSEL

4 APRIL 2016
Date

By: _____
Robert P. Fulton, Esquire
Disciplinary Counsel
Attorney Regis. No. 37935
Seven Penn Center, 16th Floor
1635 Market Street
Philadelphia, PA 19103
(215) 560-6296

and

4-4-16
Date

By: _____
Adam J. Rodgers
Attorney Regis. No. 64987
Respondent

Rehab After Work® & Rehab After School®

1-800-238-HELP

RECEIVED

APR - 1 2016

DISTRICT I OFFICE OF
DISCIPLINARY COUNSEL

SUMMARY OF TREATMENT

DATE OF ADMISSION: 3-15-16

PARTICIPANT: ADAM RODGERS

TODAYS DATE: APRIL 1, 2016

Mr. Rodgers was referred by Lawyers Concerned for Lawyers to the Outpatient Program at Rehab After Work (RAW), which is located at 1420 Walnut Street in Center City Philadelphia. RAW has several treatment facilities throughout the Pennsylvania and New Jersey areas. Our referral sources come from a variety of interest, such as: Managed Companies, Employee Assistance Programs, The Philadelphia Court System and our partnerships with other treating facilities throughout the region. Mr. Rodgers was evaluated and given an Axis One Diagnosis of Alcohol Abuse Uncomplicated (F10.10) and Cocaine Abuse Uncomplicated (F14.10). His treatment schedule is as follows: Group Therapy Mondays 6pm-8pm. He also attends The Lawyers 12 step Support Group as a supportive measure to guard against recovery mismanagement.

Mr. Rodgers treatment includes education regarding: the disease concept of addiction, recovery support systems, attendance at twelve step programs, strategies to cope with stress and conflict, relapse prevention/ recovery management strategies and other areas of self-improvement. He will also be provided with information on the medical, and social problems associated with the use of substances/alcohol. Mr. Rodgers is an active participant in group and is receptive to both peers and therapist motivational support; which has resulted thus far in his making behavioral and attitudinal changes. He's very aware of the seriousness of his substance related issues and is motivated to make recovery from substances a way of life. If I can be of any further assistance, please feel free to contact me @ 215-546-2200x1514.

RODNEY ISAACS, MHS, CADC

SPECIALIZING IN SUBSTANCE USE DISORDERS

REHAB AFTER WORK

1420 WALNUT STREET, PHILADELPHIA, PA. 19102

Rodney Isaacs, MHS, CADC

4/1/16

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

| | | |
|---|---|---|
| OFFICE OF DISCIPLINARY COUNSEL, Petitioner | : | |
| | : | No. 215 DB 2015 |
| v. | : | |
| | : | Atty. Reg. No. 64987 |
| ADAM J. RODGERS, Respondent | : | (Philadelphia) |

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

Respondent, Adam J. Rodgers, hereby states that he consents to the imposition of a two-year suspension, three months to be served and twenty-one months to be stayed, and two years of probation with conditions to be monitored by the Secretary of the Board, 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; and he is fully aware of the implications of submitting the consent;

2. He acknowledges that he is fully aware of his right to consult and employ counsel to represent him in the instant proceeding. He has knowingly and voluntarily chosen not to consult with or retain counsel in connection with his decision to consent to discipline;

3. He is aware that there is presently pending a proceeding at No. 215 DB 2015 involving allegations that he has been guilty of misconduct as set forth in the Joint Petition;

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

5. He consents because he knows that if charges predicated upon the matter under investigation continued to be prosecuted in the pending proceeding, he could not successfully defend against them.

Adam J. Rodgers
Respondent

Sworn to and subscribed
before me this 4th day
of April, 2016.

Rosemary B. Cullen
Notary Public

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
ROSEMARY B. CULLEN, Notary Public
City of Philadelphia, Phila. County
My Commission Expires July 22, 2018