

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 2236 Disciplinary Docket No. 3
: :
Petitioner : No. 217 DB 2015
: :
: Attorney Registration No. 93501
v. : :
: (Delaware County)
JOHN ANTHONY COSTALAS : :
: :
Respondent : :
: :

ORDER

PER CURIAM

AND NOW, this 17th day of November, 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. Respondent John Anthony Costalas is suspended on consent from the Bar of this Commonwealth for a period of two years. He shall comply with all the provisions of Pa.R.D.E. 217.

Respondent shall pay the costs incurred by the Disciplinary Board in the investigation and prosecution of this matter.

A True Copy Patricia Nicola
As Of 11/17/2016

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,
Petitioner

v.

JOHN ANTHONY COSTALAS ,
Respondent

: No. 2236 Disciplinary Docket 3
:
: No. 217 DB 2015
:
: Attorney Reg. No. 93501
:
: (Delaware County)

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

Petitioner, the Office of Disciplinary Counsel (“ODC”) by Paul J. Killion, Esquire, Chief Disciplinary Counsel, and Dana M. Pirone, Esquire, Disciplinary Counsel, and Respondent, John Anthony Costalas (“Respondent”), respectfully petition the Disciplinary Board in support of discipline on consent, pursuant to Pennsylvania Rule of Disciplinary Enforcement (“Pa.R.D.E.”) 215(d), and in support thereof state:

1. Petitioner, whose principal office is situated at the Pennsylvania Judicial Center, 601 Commonwealth Avenue, Suite 2700, 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 any attorney admitted to practice law in the Commonwealth of Pennsylvania and to prosecute all disciplinary proceedings brought in accordance with the various provisions of said Rules of Disciplinary Enforcement.

2. Respondent, John Anthony Costalas, was born on February 14, 1979, and was admitted to practice law in the Commonwealth of Pennsylvania on October 25, 2004.

3. By Order dated September 21, 2015, the Supreme Court of Pennsylvania

FILED

JUN 08 2016

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

administratively suspended Respondent.

4. Respondent's current registration address is 122 Stanley Court, Aston, PA 19043; however, he is presently incarcerated at G.W. Hill Correctional Facility, P.O. Box 23A, Thornton, PA 19373. When Respondent is released, he will reside at 60 Old State Road, Apt. A2, Media, PA 19063

5. On or about December 23, 2015, Petitioner and Respondent filed a Joint Petition to Temporarily Suspend an Attorney.

6. By Order dated January 7, 2016, the Supreme Court of Pennsylvania placed Respondent on Temporary Suspension pursuant to Rule 214(f)(1).

SPECIFIC FACTUAL ADMISSIONS

7. On August 26, 2015, Respondent entered a guilty plea before the Honorable James F. Nilon, Jr., in the matter captioned *Commonwealth v. John Anthony Costalas*, Criminal Action No. CR-0002063-2015 (DCCP). Respondent pled guilty to two counts of Knowingly or Intentionally Possessing a Controlled Substance by a Person Not Registered under the Controlled Substance, Drug and Cosmetic Act in violation of 35 Pa.C.S.A. §780-113 §A-16A.

8. Respondent was sentenced to 36 months of probation, substance abuse unit.

9. On October 2, 2015, Respondent was arrested for DUI and other motor vehicle offenses. This arrest resulted in Respondent's violation of probation and incarceration. The court resentenced Respondent to a new term of probation for 36 months.

10. On December 10, 2015, Respondent entered a guilty plea before the Honorable Kathryn W. Durham, in the DUI matter captioned *Commonwealth v. John Anthony Costalas*, Criminal Action No. CR-0007123-2015 (DCCP).

11. On April 12, 2016, Respondent was sentenced to 23 months of intermediate

punishment with 55 days of incarceration and the balance on electronic home monitoring, subsequent long-term in-patient treatment and successful completion of all recommended follow-up care.

VIOLATIONS OF THE RULES OF PROFESSIONAL CONDUCT AND RULES OF DISCIPLINARY ENFORCEMENT

12. By his conduct as set forth in paragraphs 6 through 10, Respondent violated the following Rules:

- a. RPC 8.4(b), which states that it is professional misconduct for an attorney 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 states that conviction of a crime is a ground for discipline.

JOINT RECOMMENDATION FOR DISCIPLINE

13. Petitioner and Respondent jointly recommend that the appropriate discipline for Respondent is a two-year suspension, which will not be made retroactive to the date he was placed on Temporary Suspension because Respondent did not file a verified statement of compliance with the Office of the Secretary as required by Pa.R.D.E. 217(e).

14. By letter to Respondent dated January 7, 2016, Elaine M. Bixler, Secretary of the Disciplinary Board, transmitted the Order dated January 7, 2016, placing Respondent on Temporary Suspension and requiring his prompt compliance with Pa.R.D.E. 217.

15. By letter dated February 24, 2016, Ms. Bixler wrote to Respondent at his registered address and explained that because of his failure to comply with the Order dated January 7, 2016, he "should not expect a final order to include a reference to retroactivity."

(citing Note to Pa.R.D.E. 217(e))

16. Respondent hereby consents to the discipline being imposed upon him by the Supreme Court of Pennsylvania. Attached to this Petition as Exhibit A is Respondent's executed Affidavit required by Pa.R.D.E. 215(d)(1) through (4).

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

- a. Respondent has abused oxycodone and other controlled substances for many years;
- b. At this time, Respondent is unable to remain addiction free; and
- c. In order to complete Prep I and Prep II while he is in a controlled environment, Respondent requested that he remain incarcerated for the amount of time it will take him to complete Prep I and Prep II in lieu of being released to a halfway house for six weeks after completing Prep I.

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

- a. Respondent has no record of discipline;
- b. Respondent requested that he be required to successfully complete Prep I and Prep II while incarcerated instead of being released to a halfway house after completing Prep I; and
- c. Respondent cooperated with the Office of Disciplinary Counsel, as evidenced by this Joint Petition.

19. The parties believe, and therefore aver, that their recommendation is consistent with disciplinary case law involving a respondent who abused controlled substances and was

convicted for drug offenses involving personal use or possession of the controlled substance. In a similar matter, *Office of Disciplinary Counsel v. Ashly Mae Wisher*, No. 118 DB 2005 (S.Ct. Order 9/28/06) the Supreme Court suspended the respondent for two years as a result of her conviction of one count of possession of a controlled substance (heroin) in violation of 35 Pa.C.S.A. §780-113 §A-16A. While the parties do not minimize the seriousness of Respondent's crimes, his misconduct did not involve clients or the commission of other crimes to support his addiction thus warranting a longer suspension. See *Office of Disciplinary Counsel v. John Mark Logue*, 52 DB 1997 (S.Ct. Order 8/17/98) (three-year suspension for conviction of (cocaine) possession with intent to deliver; *Braun* satisfied at hearing); and *Office of Disciplinary Counsel v. Franklin Scott Swaney*, Nos. 34 & 140 DB 2012 (S.Ct. 5/23/14) (three-year suspension for conviction of possession (heroin and cocaine) with intent to distribute, engaging in the unauthorized practice of law while administratively suspended and failing to answer DB-7; no history of discipline).

20. If a hearing on discipline is required, Respondent expects that he would present expert testimony as explained in *Office of Disciplinary Counsel v. Braun*, 520 Pa. 156, 553 A.2d 894 (1989) (respondent entitled to some mitigation when expert testimony shows psychiatric condition is a causal factor in the underlying misconduct) that his criminal convictions were directly related to his addiction to prescription drugs. Respondent also expects that he would introduce evidence about his past and present efforts at rehabilitation.

21. Respondent admits that he must demonstrate his fitness to resume the practice of law and that a two-year suspension would give him the time he needs to demonstrate his sobriety and other factors to consider if he petitions for reinstatement.

22. A two-year suspension requiring Respondent to prove his fitness at a

reinstatement hearing sufficiently protects the public and meets the goals of the disciplinary system.

WHEREFORE, Respondent and Petitioner jointly respectfully request that your Honorable Board:

- a. Approve this Petition; and
- b. File a recommendation for a two-year suspension and this Petition with the Supreme Court of Pennsylvania.

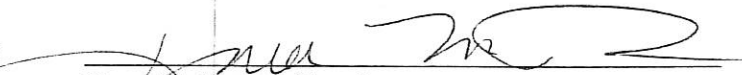
Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL

Paul J. Killion
Chief Disciplinary Counsel
Attorney Reg. No. 20955

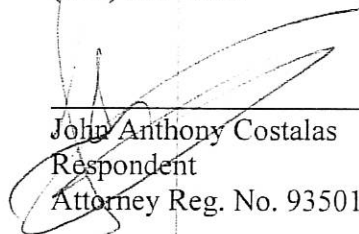
6/8/14
Date

By:


Dana M. Pirone, Esquire
Disciplinary Counsel
Attorney Reg. No. 57221
District II Office
820 Adams Avenue
Suite 170
Trooper, PA 19403
(610) 650-8210

6/2/16
Date

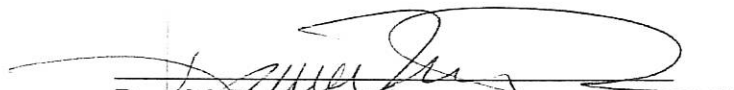
By:


John Anthony Costalas
Respondent
Attorney Reg. No. 93501


VERIFICATION

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

6/8/16
Date


Dana M. Pirone, Esquire
Disciplinary Counsel
District II Office
Attorney Reg. No. 57221

6/2/16
Date


John Anthony Costalas
Respondent
Attorney Reg. No. 93501

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,
Petitioner

v.

JOHN ANTHONY COSTALAS,
Respondent

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:
: No. 217 DB 2015
:
: Attorney Reg. No. 93501
:
: (Delaware County)

ORDER

PER CURIAM:

AND NOW, this _____ day of _____, 2016, upon consideration of the Recommendation of the Three-Member Panel of the Disciplinary Board dated _____, 2016, the Joint Petition in Support of Discipline on Consent is hereby granted pursuant to Rule 215(g), and it is

ORDERED that John Anthony Costalas is suspended on consent from the Bar of this Commonwealth for a period of two years and he shall comply with all the provisions of Pa.R.D.E. 217.

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 2236 Disciplinary Docket 3
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JOHN ANTHONY COSTALAS, :
Respondent : (Delaware County)

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving the foregoing documents upon the persons and in the manner indicated below which service satisfied the requirements of Pa.R.A.P. 121 as follows:

Service by First-Class Mail

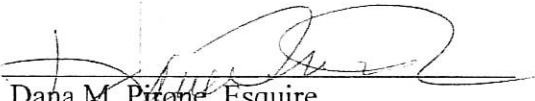
LEGAL MAIL

John Anthony Costalas
Inmate Number 16001826
G.W. Hill Correctional Facility
P.O. Box 23A,
Thornton, PA 19373

and

John Anthony Costalas
122 Stanley Court
Aston, PA 19043

June 8, 2016


Dana M. Pirone, Esquire
Disciplinary Counsel
District II Office
Attorney Reg. No. 57221
820 Adams Avenue, Suite 170
Trooper, PA 19403
(610) 650-8210

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, Petitioner	:	No. 2236 Disciplinary Docket 3
	:	
v.	:	No. 217 DB 2015
	:	
JOHN ANTHONY COSTALAS , Respondent	:	Attorney Reg. No. 93501
	:	
	:	(Delaware County)

**RESPONDENT'S AFFIDAVIT UNDER RULE 215(d) OF THE
PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT**

I, John Anthony Costalas, Respondent in the above-captioned matter, hereby consent to the imposition of a Suspension of two years, as jointly recommended by the Petitioner, Office of Disciplinary Counsel, and myself, in a Joint Petition in Support of Discipline on Consent and further state:

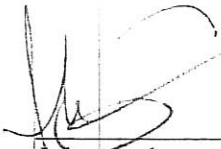
1. My consent is freely and voluntarily rendered; I am not being subjected to coercion or duress; I am fully aware of the implications of submitting the consent;

2. I am aware there is presently an investigation into allegations that I have been guilty of misconduct as set forth in the Joint Petition;

3. I acknowledge that the material facts set forth in the Joint Petition are true;

4. I consent because I know that if the charges against me were prosecuted I could not successfully defend against them; and

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



John Anthony Costalas
Respondent
Attorney Reg. No. 93501

Sworn to and Subscribed
before me this day
of , 2016.

Notary Public

