

**IN THE SUPREME COURT OF PENNSYLVANIA**

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 2898 Disciplinary Docket No. 3
	:	
Petitioner	:	No. 82 DB 2022
	:	
v.	:	Attorney Registration No. 71320
	:	
LEE ERIC OESTERLING,	:	(Cumberland County)
	:	
Respondent	:	

**ORDER**

**PER CURIAM**

**AND NOW**, this 24<sup>th</sup> day of August, 2022, 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 Lee Eric Oesterling is suspended on consent from the Bar of this Commonwealth for a period of five years, retroactive to May 19, 2015. Respondent shall comply with all the provisions of Pa.R.D.E. 217 and pay costs to the Disciplinary Board. See Pa.R.D.E. 208(g).

A True Copy Nicole Traini  
As Of 08/24/2022

Attest:   
Chief Clerk  
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	
Petitioner	:	
	:	No. 82 DB 2022
	:	
v.	:	
	:	
LEE ERIC OESTERLING,	:	Attorney Reg. No. 71320
Respondent	:	
	:	(Cumberland County)

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

Petitioner, Office of Disciplinary Counsel, by Thomas J. Farrell, Esquire, Chief Disciplinary Counsel, and by Jessica L. Chapman, Esquire, Disciplinary Counsel, and Respondent, Lee Eric Oesterling, file this Joint Petition in Support of Discipline on Consent under Rule 215(d) of the Pennsylvania Rules of Disciplinary Enforcement (hereinafter, "Pa.R.D.E.") and respectfully state and aver the following:

**PARTIES TO DISCIPLINE ON CONSENT**

1. Petitioner, whose principal office is located at the Pennsylvania Judicial Center, 601 Commonwealth Avenue, Suite 2700, P.O. Box 62485, Harrisburg, PA 17106, is invested, 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.

2. Respondent, Lee Eric Oesterling, born on October 12, 1962, was admitted to practice law in the Commonwealth of Pennsylvania on January 5, 1994 and has a registered address of 61 Titus Avenue, Richboro, Pennsylvania 18954.

**FILED**  
**06/08/2022**  
**The Disciplinary Board of the**  
**Supreme Court of Pennsylvania**

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

PRIOR DISCIPLINARY HISTORY

4. By Supreme Court Order dated May 23, 2014, Respondent was suspended on consent for one year and one day due to his pattern of neglect, abandonment of client matters, and incompetence in connection with 7 cases. *See Office of Disciplinary Counsel v. Lee Eric Oesterling*, No. 2051 Disciplinary Docket No. 3, No. 18 DB 2014 (2014).

5. Pursuant to that Order, Respondent was required to comply with all the provisions of Pa.R.D.E. 217. Pa.R.D.E. 217(e), specifically provides that “the formerly admitted attorney shall file with the Board a verified statement” within ten days after the effective date of his suspension.

6. Respondent did not file his verified statement until December 28, 2020.

7. Respondent has not sought reinstatement and remains suspended.

SPECIFIC FACTUAL ALLEGATIONS ADMITTED

8. On November 9, 2014, Respondent had an argument with his wife at their Haymarket Way townhome. She left to distance herself from him. In an attempt to locate her, Respondent went to a property where he thought he would find her and damaged the property. He returned to the Haymarket Way townhome. The police arrived at the scene and attempted to talk to him. Respondent went inside the house, got a rifle, pointed it at a police officer, and failed to drop the firearm when ordered to do so. Ultimately, he was arrested without incident. A search of the house revealed 5 bullet holes in the living room. The Affidavit of Probable Cause establishes that at the time Respondent engaged in the shootings, the neighbors of the adjacent townhomes were in their homes.

9. On May 19, 2015, Respondent pled guilty to one count of simple assault – 18 Pa.C.S. § 2701(a)(3) and one count of recklessly endangering another person – 18 Pa.C.S. § 2705, in the Cumberland County Court of Common Pleas.

10. Respondent received concurrent sentences of imprisonment in the Cumberland County Prison for a period of time served to 23 months; he was also required to pay the costs of prosecution and a \$100 fine. Respondent completed his probation/parole without incident and paid all fines and costs.

RULES OF PROFESSIONAL CONDUCT AND  
DISCIPLINARY ENFORCEMENT VIOLATED

11. Respondent admits to violating the following Rules of Professional Conduct and Disciplinary Enforcement:

- a. RPC 8.4(b) provides 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.”
- b. Pa.R.D.E. 203(b)(1) provides that conviction of a crime shall be grounds for discipline.
- c. Pa.R.D.E. 214(a), which states that “[a]n attorney convicted of a crime shall report the fact of such conviction within 20 days to the Office of Disciplinary Counsel.”

SPECIFIC JOINT RECOMMENDATION FOR DISCIPLINE

12. Petitioner and Respondent jointly recommend that the appropriate discipline for Respondent’s admitted misconduct is a five-year suspension, retroactive to May 19, 2015, the date of his guilty plea. Attached to this Petition is Respondent’s executed Affidavit required by

Pa.R.D.E. 215(d), stating that Respondent consents to the requested discipline and including the mandatory acknowledgments contained in Pa.R.D.E. 215(d)(1) through (4).

13. In support of Petitioner and Respondent's Joint Recommendation, it is respectfully submitted that the following mitigating circumstances are present:

- a. Respondent has expressed sincere remorse for his actions and violations of the Rules of Professional Conduct and Disciplinary Enforcement;
- b. Respondent has cooperated with ODC in connection with this Petition, as evidenced by Respondent's admissions herein and his consent to receive the recommended discipline; and
- c. Respondent has accepted responsibility for his actions as evidenced by the guilty plea.

14. In support of Petitioner and Respondent's Joint Recommendation, it is respectfully submitted that the following aggravating circumstance is present:

- a. Respondent has a history of discipline consisting of a 1 year and 1 day suspension. Respondent's suspension resulted from his neglect, abandonment, and incompetence in 7 cases. He did not file his verified statement, as required by Pa.R.D.E. 217(e), until December 2020.

15. Discipline for misconduct arising from the discharge of a firearm supports a period of suspension. *See In re Kunkle*, 101 DB 2001 (D.Bd. Rpt. 4/1/2002) (S. Ct. Order 4/19/2002) (Kunkle was suspended for six months following his conviction of recklessly endangering another person. The conviction arose from Kunkle smoking marijuana in his residence when he decided to rearrange his gun collection. One of his guns went off, the bullet went through the wall of the adjoining residence and came within five feet of a six-year-old girl. The plaster from the wall hit

the girl's mother. In the criminal matter, Kunkle was sentenced to 2 years' probation. He had no prior record of discipline and cooperated with ODC.); *Office of Disciplinary Counsel v. Ivan S. DeVoren*, No. 103 DB 2019 (D.Bd. Rpt. 1/21/2021) (S. Ct. Order 4/1/2021) (DeVoren was suspended for 2 years retroactive to the date of his temporary suspension following his guilty plea to disorderly conduct, discharging a firearm or air gun within the City of Pittsburgh, possession of controlled substances and possession of drug paraphernalia. Following a neighbor's complaint, search warrants revealed cocaine, heroin, marijuana, and drug paraphernalia inside Respondent's residence. While out on bond, DeVoren was again arrested for firing shots inside his residence in the City of Pittsburgh.)

16. Similarly, misconduct arising out of threatened use of a firearm has also resulted in suspension. In *Office of Disciplinary Counsel v. Vatche Kaloustian*, No. 76 DB 94, 26 Pa. D & C. 4th 350 (1995), Kaloustian was suspended for one year following his conviction for terroristic threats after he stood outside of his house and shouted that he was going to kill someone. The police arrived and Kaloustian advised them that he was going to his basement to get a gun and kill them. He then appeared in his foyer with a four-foot spear and again stated that he would do harm to the officers. Kaloustian did not have a prior record of discipline. Conversely, in *Office of Disciplinary Counsel v. Todd Joseph Leta*, No. 153 DB 2021 (D.Bd. Order 12/27/2021), Leta received a public reprimand with conditions following his guilty plea to terroristic threats, simple assault, loitering and prowling at nighttime, disorderly conduct, and public drunkenness. After becoming severely intoxicated, Leta mistakenly entered the property of another. Upon realizing he entered the wrong residence, he attempted to leave and was confronted by the owner. Leta became confrontational, displayed a handgun, and threatened the homeowner.

17. Respondent admits that the underlying facts in his matter are more severe than those in *Leta* and that a term of suspension is more appropriate, as was imposed in *In re Kunkle*, *Kaloustian*, and *DeVoren*. Respondent acknowledges that a significant distinction in the aforementioned cases is the lack of prior disciplinary history and that his prior disciplinary history is serious.

18. It is well-established that retroactivity is discretionary. It generally has been granted in situations where there has been a previously imposed suspension. *See Office of Disciplinary Counsel v. John Andrew Klamo*, 90 DB 2015 (D.Bd. Rpt. 12/23/2016) (S. Ct. Order 3/13/2017) (Klamo received a six-month suspension retroactive to the effective date of a previously imposed suspension on October 12, 2013. The Report and Recommendations of the Disciplinary Board stated that the misconduct occurred around the time of the previously imposed three-month suspension and was based on actions taken by the attorney regarding that suspension. In its Order, the Supreme Court noted that an Order of suspension had been in effect for more than three years and that any reinstatement would require the filing of a petition with the Board.); *see also Office of Disciplinary Counsel v. Glenn Randall*, No. 129 DB 2010 (S. Ct. Order 10/4/2010) (Randall received a three-year suspension retroactive to the effective date of a previously imposed suspension on March 28, 2008. The Joint Petition in Support of Discipline on Consent noted that the underlying facts occurred nearly five years before the imposition of discipline, the attorney acknowledged his misconduct, and cooperated with the Office of Disciplinary Counsel.).

19. While Respondent's criminal conviction was unrelated to the facts leading to his 2014 suspension, the criminal misconduct leading to his 2015 conviction took place on November 9, 2014, over 7 years ago. *See Randall*, No. 129 DB 2010. During the years preceding 2014, Respondent experienced serious health and financial issues. These issues worsened his depression

and alcoholism and contributed to the 2015 conviction. Nevertheless, Respondent does not excuse his misconduct and concurs with the discipline recommended in this Petition.<sup>1</sup>

20. A 5-year suspension with retroactivity to the date of Respondent's guilty plea retains the requirement that he petition for reinstatement and prove to the Supreme Court by clear and convincing evidence that he is fit to practice law. It will, therefore, protect the public. *See Office of Disciplinary Counsel v. Cappuccio*, 48 A.3d 1231 (Pa. 2012). Proceeding via consent will conserve the limited resources of the attorney disciplinary system while efficiently addressing the criminal conduct that Respondent engaged in more than 7 years ago. In the event that

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<sup>1</sup> It is important to note that Pa.R.D.E. 217(e) was amended by Order dated December 30, 2014, effective within 60 days after publication in the PA Bulletin. The amendment, in part, added the following language:

- (3) After the entry of an order of disbarment or suspension for a period exceeding one year, the waiting period for eligibility to apply for reinstatement to the practice of law shall not begin until the formerly admitted attorney files the verified statement required by subdivision (e)(1) of this Rule. If the order of disbarment or suspension contains a provision that makes the discipline retroactive to an earlier date, the waiting period will be deemed to have begun on that earlier date.

Note: This subdivision (e)(3) and the corresponding provisions in subdivision (b) of Enforcement Rule 218 apply only to orders entered on or after February 28, 2015, the effective date of this subdivision and the corresponding Enforcement Rule 218 provisions.

Pa.R.D.E. 217(e)(3). The Note makes clear that this provision applies only to orders entered on or after February 28, 2015. Because Respondent's 2014 suspension pre-dates the effective date of Rule 217(e)(3), his failure to file the verified statement until 2020 does not affect his ability to petition for reinstatement.



Respondent seeks reinstatement, he will have to adequately address how he has rehabilitated himself from both the professional misconduct that led to his 2014 suspension and his criminal misconduct.

WHEREFORE, Petitioner and Respondent respectfully request that:

- (a) Pursuant to Rule 215(e) and 215(g), Pa.R.D.E., 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 in which it is recommended that the Supreme Court enter an Order that Respondent receive a suspension of five years, retroactive to May 19, 2015, and that Respondent comply with all of the provisions of Rule 217, Pa.R.D.E.; 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, and that under Pa.R.D.E. 208(g)(1) all expenses be paid by Respondent within 30 days after notice of the taxed expenses is sent to Respondent.

Respectfully and jointly submitted,

OFFICE OF DISCIPLINARY COUNSEL

THOMAS J. FARRELL  
CHIEF DISCIPLINARY COUNSEL

Date: 7/13/2022

By: Jessica L. Chapman  
Jessica L. Chapman  
Disciplinary Counsel  
Attorney Registration No. 323038  
601 Commonwealth Avenue, Suite 5800  
P.O. Box 62675

Harrisburg, PA 17106-2675  
Telephone (717) 772-8572

Date: 7/13/22

By: 

Lee Eric Oesterling  
Respondent  
Attorney Registration No. 71320  
61 Titus Avenue  
Richboro, PA 18954  
Telephone (215) 208-1700

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :  
Petitioner :  
 : No. 82 DB 2022  
v. :  
 :  
LEE ERIC OESTERLING, :  
Respondent : Attorney Reg. No. 71320  
 : (Cumberland County)

VERIFICATION

The statements made 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. This statement is made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: 7/13/2022

By: Jessica L. Chapman  
Jessica L. Chapman  
Disciplinary Counsel  
Attorney Registration No. 323038  
601 Commonwealth Avenue, Suite 5800  
P.O. Box 62675  
Harrisburg, PA 17106-2675  
Telephone (717) 772-8572

Date: 7/13/22

By: Lee Eric Oesterling  
Lee Eric Oesterling  
Respondent  
Attorney Registration No. 71320  
61 Titus Avenue  
Richboro, PA 18954  
Telephone (215) 208-1700

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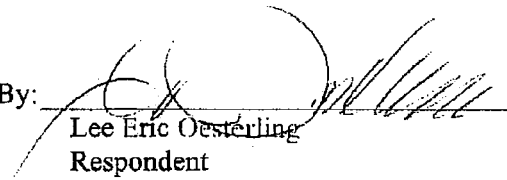
RESPONDENT'S AFFIDAVIT UNDER RULE 215(d) OF THE  
PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT

I, Lee Eric Oesterling, Respondent in the above-captioned matter, hereby consent to the imposition of a five-year suspension, retroactive to May 19, 2015, 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:

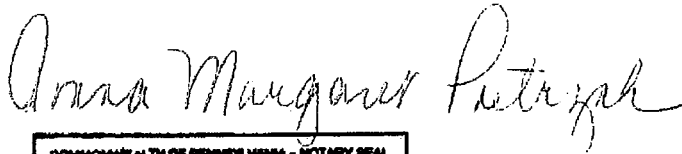
1. My consent is freely and voluntarily rendered; I am not being subjected to coercion or duress; I am fully aware of the implications of submitting the consent;
2. I am aware there is presently pending a proceeding involving allegations that I have been guilty of misconduct as set forth in the Joint 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 continued to be prosecuted in the pending proceeding, I could not successfully defend against them; and

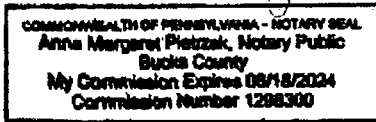
5. I acknowledge that I am fully aware of my right to consult and employ counsel to represent me in the instant proceeding.

Date: 7/15/22

By: 

Lee Eric Oesterling  
Respondent  
Attorney Registration No. 71320  
61 Titus Avenue  
Richboro, PA 18954  
Telephone (215) 208-1700





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Petitioner :  
 : No. 82 DB 2022  
v. :  
 :  
LEE ERIC OESTERLING, : Attorney Reg. No. 71320  
Respondent :  
 : (Cumberland 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 Pa.R.A.P. 121.

First Class Mail as follows:

Lee Eric Oesterling  
61 Titus Avenue  
Richboro, PA 18954

Date: 7/13/2022

By: Jessica L. Chapman  
Jessica L. Chapman  
Disciplinary Counsel  
Attorney Registration No. 323038  
601 Commonwealth Avenue, Suite 5800  
P.O. Box 62675  
Harrisburg, PA 17106-2675  
Telephone (717) 772-8572

**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 Disciplinary Counsel

Signature: Jessica L. Chapman

Name: Jessica L. Chapman, Disciplinary Counsel

Attorney No.: 323038