

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL	:	No. 1027 Disciplinary Docket No. 3
Petitioner	:	Supreme Court
	:	
v.	:	No. 118 DB 2005 – Disciplinary Board
	:	
	:	Attorney Registration No. 87053
ASHLY MAE WISHER	:	
Respondent	:	(Out of State)

REPORT AND RECOMMENDATIONS OF
THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

TO THE HONORABLE CHIEF JUSTICE AND JUSTICES
OF THE SUPREME COURT OF PENNSYLVANIA:

Pursuant to Rule 208(d)(2)(iii) of the Pennsylvania Rules of Disciplinary Enforcement, the Disciplinary Board of the Supreme Court of Pennsylvania (“Board”) herewith submits its findings and recommendations to your Honorable Court with respect to the above-captioned Petition for Discipline.

I. HISTORY OF PROCEEDINGS

On August 3, 2005, Ashly Mae Wisher was placed on temporary suspension from the practice of law by Order of the Supreme Court of Pennsylvania, following her conviction of one count of possession of controlled substance, drug, device or cosmetic - 2nd or subsequent offense. A Petition for Discipline was filed against Ms. Wisher by Office

of Disciplinary Counsel on August 16, 2005. Respondent filed an Answer to Petition for Discipline on September 16, 2005.

A disciplinary hearing was held on November 22, 2005, before a District IV Hearing Committee comprised of Chair Gary Philip Nelson, Esquire, and Members David Ridge, Esquire, and Robert Jaeger Behling, Esquire. Respondent was represented by Frederick P. Lester, Esquire.

Following the submission of briefs by the parties, the Hearing Committee filed a Report on March 14, 2006 and recommended that Respondent be suspended for two years retroactive to the temporary suspension on August 3, 2005.

No Briefs on Exceptions were filed by the parties.

This matter was adjudicated by the Disciplinary Board at the meeting on May 10, 2006.

II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner, whose principal office is located at Suite 1400, 200 North Third Street, Harrisburg, Pennsylvania 17101, is invested, pursuant to Rule 207 of the Pennsylvania Rules of Disciplinary Enforcement, 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, Ashly Mae Wisher, was born in 1975. She was admitted to practice law in the Commonwealth of Pennsylvania in 2001. Her attorney registration mailing address is 262 Gaffey Road, Watsonville CA 95076. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

3. On September 11, 2004, a criminal complaint was filed against Respondent, alleging that she had unlawfully possessed a controlled substance, heroin.

4. A Criminal Information was filed against Respondent alleging one count of Possession of Controlled Substance, Drug, Device or Cosmetic - 2nd or Subsequent Offense, in violation of 35 P.S. §780-113(a)(16), and 35 P.S. §780-113(b).

5. On March 11, 2005, Respondent entered a plea of guilty to the Criminal Information.

6. On March 11, 2005, Respondent was sentenced to a period of probation of six months, and to participate in such treatment and /or therapy as deemed appropriate.

7. Respondent did not appeal from her conviction or her sentence.

8. In a prior matter, on June 4, 2004, Respondent entered a plea of guilty to a charge of possession of a controlled substance, heroin, for which she received a sentence of three months probation without verdict.

9. Prior to that time, by Order of the Supreme Court dated December 11, 2003, Respondent was transferred to inactive status, effective January 10, 2004.

10. Despite her transfer to inactive status, on March 17, 2004, Respondent entered her appearance in the Court of Common Pleas of Allegheny County on behalf of George Cornell Scott, who had been charged with aggravated assault, possession of a controlled substance, and possession with intent to deliver.

11. Respondent accepted payment for her services from Mr. Scott in the form of heroin.

12. On September 16, 2004, Respondent filed Motion to Withdraw as Counsel on behalf of Mr. Scott.

13. Respondent has a history of discipline consisting of an informal admonition administered on May 18, 2004. The informal admonition concerned her failure to communicate her fee in writing to her client, false statements to her client, and a failure after discharge to refund an unearned fee.

14. Respondent began using heroin after her admission to the bar and continued to use the drug for several years prior to her arrest and conviction.

15. Respondent received drug treatment, is currently sober and is employed by Narconon of Northern California, in Watsonville, California. She is the Director of Validity with the responsibility of ensuring that clients successfully complete each step of the drug treatment program.

16. Three character letters were submitted on behalf of Respondent.

17. Nathan Tuddenham is the Senior Director for Administration at Narconon of Northern California. He describes Respondent as a dedicated, hardworking professional person.

18. Matthew Guernacinni is the Senior Executive at Narconon of Northern California. He fully trusts Respondent to handle her job responsibilities and he describes her as a hardworking, reliable employee.

19. Reverend Jori L. Sullivan is Respondent's minister. She relates that Respondent has worked very hard to address and resolve her drug related issues. Reverend Sullivan has also witnessed Respondent's works at Narconon and is impressed by her contribution to that organization.

20. Respondent expressed remorse for her misconduct.

III. CONCLUSIONS OF LAW

By her conduct as set forth above, Respondent violated the following Rules of Professional Conduct:

Respondent's conviction constitutes a per se ground for discipline pursuant to Pa.R.D.E. 203(b)(1).

IV. DISCUSSION

Respondent stands convicted of the crime of possession of heroin, a second or subsequent offense, for which she was sentenced to probation of six months. Respondent's misconduct places her squarely before the Disciplinary Board for the imposition of sanction. The evidence of record demonstrates that Respondent started using heroin after her admission to the bar and used that drug for several years before the instant conviction. Prior to the instant conviction, Respondent was convicted in 2004 of possession of heroin and was sentenced to three months of probation without verdict. Since her latter conviction she has rehabilitated herself and is sober. Respondent received drug treatment and rehabilitation at Narconon of Northern California. She is currently employed at that same facility and is one year into a five year employment contract. Respondent initially started out in the trainee program and progressed to the position of Director of Validity, with the responsibility of ensuring that clients are successfully completing each step of the drug program.

By Respondent's account she has recognized the wrongfulness of her past actions and is making a strong effort to rehabilitate her life from drug use. Evidence consisting of letters from her employers and her minister support her good character, her abstention from drug use and the completion of her rehabilitative efforts.

Criminal convictions for drug offenses are not to be treated lightly. Aggravating the underlying criminal conviction is Respondent's prior informal admonition and her entry of appearance in two criminal matters while she was on inactive status. Her

client at that time was her heroin supplier, and Respondent accepted heroin from the client as her fee for legal services. A period of suspension is warranted which is sufficient to require Respondent to petition for reinstatement in the future. The Board is persuaded that a two year period of suspension, retroactive to August 3, 2005, the date of temporary suspension, is appropriate discipline for this matter.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that the Respondent, Ashly Mae Wisher, be suspended from the practice of law for a period of two years retroactive to August 3, 2005.

It is further recommended that the expenses incurred in the investigation and prosecution of this matter are to be paid by the Respondent.

Respectfully submitted,

THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

By: _____
Min S. Suh, Board Member

Date: June 14, 2006

O R D E R

PER CURIAM:

AND NOW, this 28th day of September, 2006, upon consideration of the Report and Recommendations of the Disciplinary Board dated June 14, 2006, it is hereby

ORDERED that Ashly Mae Wisher be and she is suspended from the Bar of this Commonwealth for a period of two years retroactive to August 3, 2005, and she shall comply with all the provisions of Rule 217 Pa.R.D.E.

It is further ORDERED that respondent shall pay costs to the Disciplinary Board pursuant to Rule 208(g), Pa.R.D.E.