

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 1022 Disciplinary Docket No. 3
Petitioner :
 : No. 32 DB 2004
v. :
 : Attorney Registration No. 54032
STEPHEN K. URBANSKI, :
Respondent : (Luzerne County)

ORDER

PER CURIAM:

AND NOW, this 31st day of July, 2007, a Rule having been entered by this Court on July 2, 2007, pursuant to Rule 208(h), Pa.R.D.E., directing respondent to show cause why the Order of this Court entered on June 24, 2005, should not be modified so as to impose a one year and one day suspension as recommended by the Designated Disciplinary Board Member and, no response having been filed, it is hereby

ORDERED that the Rule is made absolute; respondent is suspended from the Bar of this Commonwealth for a period of one year; and he shall comply with all the provisions of Rule 217, Pa.R.D.E.

It is further ORDERED that respondent shall pay the additional expenses incurred as a result of the revocation proceedings pursuant to Rule 208(g), Pa.R.D.E.

A True Copy Patricia Nicola

As of: July 31, 2007

Attest: 
Chief Clerk

Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL	:	No. 1022 Disciplinary Docket No. 3
Petitioner	:	
	:	No. 32 DB 2004
v.	:	
	:	Attorney Registration No. 54032
STEPHEN K. URBANSKI	:	
Respondent	:	(Luzerne County)

REPORT AND RECOMMENDATION OF
DESIGNATED MEMBER 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(h)(1) of the Pennsylvania Rules of Disciplinary Enforcement, this designated member of The Disciplinary Board of the Supreme Court of Pennsylvania herewith submits a recommendation to your Honorable Court with respect to the Petition to Schedule a Probation Violation Hearing filed by Petitioner, Office of Disciplinary Counsel.

I. HISTORY OF PROCEEDINGS

By Order of June 24, 2005, the Supreme Court of Pennsylvania directed that Respondent, Stephen K. Urbanski, be suspended from the practice of law in the Commonwealth of Pennsylvania for a period of one year, the suspension stayed in its

entirety, and Respondent be placed on probation for a period of one year subject to certain conditions, which included meeting with a practice monitor on a monthly basis.

On May 17, 2007, Petitioner, Office of Disciplinary Counsel, filed a Petition to Schedule a Probation Violation Hearing, pursuant to Rule 208(h), Pa.R.D.E. The Petition alleged that Respondent failed to fulfill the terms and conditions of his probation and requested that a probation revocation hearing be held pursuant to the Rules. Petitioner further requested that the designated Board Member conduct a hearing and make a recommendation to the Supreme Court of Pennsylvania that Respondent receive a suspension of one year and one day, or in the alternative, that Respondent's probation be extended for an additional one year period of time or as the designated Member deemed appropriate. Respondent did not file an Answer to Petition to Schedule a Probation Violation Hearing.

On May 18, 2007, by Order of the Board Chair, Smith Barton Gephart, Esquire, was designated as the Member of the Disciplinary Board before whom a probation violation hearing would be held.

A hearing on the Petition to Schedule a Probation Violation Hearing was held on May 22, 2007, before Disciplinary Board Member and Vice-Chair Smith Barton Gephart, Esquire. Petitioner offered 15 exhibits and the testimony of Frank J. Bolock, Jr., Esquire. Respondent appeared pro se. He offered one exhibit and testified on his own behalf.

II. FINDINGS OF FACT

1. Petitioner is Office of Disciplinary Counsel, whose principal office is situated at Suite 1400, 200 North Third Street, Harrisburg, Pennsylvania 17101. Petitioner is invested, pursuant to Rule 207 of the Pennsylvania Rules of Disciplinary Enforcement, 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.

2. Respondent, Stephen K. Urbanski, was born in 1964 and was admitted to the practice of law in Pennsylvania in 1988.

3. By Order of June 24, 2005, the Supreme Court ordered that Respondent be suspended from the Bar of this Commonwealth for a period of one year, that the suspension be stayed in its entirety and that he be placed on probation for a period of one year, subject to the following conditions:

a. Respondent shall select a practice monitor subject to the approval of the Office of Disciplinary Counsel.

b. The practice monitor shall do the following during the period of the Respondent's probation:

i. Periodically examine the Respondent's law office organization and procedures to ensure that the Respondent is maintaining an acceptable tickler system, filing system, and other administrative aspects of the Respondent's practice;

ii. Meet with the Respondent at least monthly to examine the Respondent's progress toward satisfactory and timely completion of clients' legal matters and regular client contact;

iii. File quarterly written reports on Board-approved forms with the Secretary of the Board; and

iv. Immediately report to the Secretary any violations by the Respondent of the terms and conditions of probation.

4. Respondent agreed with the required conditions, and timely selected a practice monitor on July 25, 2005.

5. The practice monitor proposed by Respondent subsequently declined to serve and Respondent was directed to select a replacement.

6. Because Respondent did not select a replacement, the Office of Disciplinary Counsel contacted Frank J. Bolock, Esquire, an attorney in Scranton, who agreed to serve. Mr. Bolock met with Respondent in April, 2006, at a preliminary meeting prior to the start of the probation period.

7. Respondent and Mr. Bolock were advised that the probation would take effect on May 8, 2006. The First Quarterly Report would be due on or before August 8, 2006, and the Final Report would be due on May 8, 2007.

8. Respondent met with Mr. Bolock in May, July and August of 2006, in conformance with the monthly meeting requirement specified by the Order of the Supreme Court. The scheduled June meeting was cancelled due to weather issues related to

flooding in the Wilkes-Barre/Scranton area; however; Respondent and Mr. Bolock conferred by telephone.

9. Mr. Bolock filed his First Quarterly Report on July 26, 2006, and indicated that Respondent had been cooperative and there were no problems or matters of concern.

10. On August 23, 2006, at the conclusion of the meeting, Respondent was advised to contact Mr. Bolock's secretary and schedule the date and time of the September meeting.

11. Respondent did not attempt to schedule any meetings in September, October, November, or December of 2006, and did not have any contact with his practice monitor during this period.

12. Mr. Bolock left messages on Respondent's office answering machine for Respondent to call him and set up a meeting, but received only one return telephone message and no meetings were scheduled.

13. On November 27, 2006, Mr. Bolock wrote Respondent and repeated his request that Respondent contact Mr. Bolock's secretary to schedule a meeting. He received no reply to his letter.

14. On January 15, 2007, Mr. Bolock wrote the Secretary of the Board and advised her that he had not had any contact with Respondent since August 23, 2006, despite repeated attempts to have him call to schedule a meeting. Respondent was copied on this letter.

15. Respondent called Mr. Bolock, and they met on January 30, 2007 at Mr. Bolock's office. During this meeting, when asked why he hadn't contacted Mr. Bolock or his secretary to schedule a meeting during the past five (5) months, Respondent stated that he had been busy moving his office, and with meetings, and the requirement for monthly meetings had slipped his mind. Respondent did not appear concerned and offered no apology to Mr. Bolock.

16. At the January 30 meeting, it was agreed that in order to avoid future problems, future meeting dates would be scheduled before each monthly meeting was terminated. The next meeting was scheduled for February 28, 2007 at Respondent's office.

17. Mr. Bolock met with Respondent in Respondent's new office on February 28, 2007, at which time the March meeting was scheduled.

18. Mr. Bolock and Respondent met on March 20, 2007 and the next meeting was scheduled for April 17, 2007 at 9:00 a.m.

19. On April 16, 2007, Mr. Bolock's secretary telephoned Respondent's office and left a message to confirm the next morning's meeting. The message was left on Respondent's office telephone and on his cell phone. The message advised that if Respondent was unable to keep the appointment on April 17, he should call Mr. Bolock.

20. Early on April 17, 2007, Mr. Bolock retrieved his messages by calling his office, and having received no reply from Respondent to the message left the day before, left home for the twenty (20) mile trip to Respondent's office.

21. Upon arrival at Respondent's office at 9:00 a.m., Mr. Bolock was informed by Respondent's secretary that he (Respondent) was in Connecticut, and was asked if Mr. Bolock would like to reschedule the meeting.

22. Mr. Bolock declined to reschedule, and asked that Respondent call him.

23. On April 26, 2007, not having heard from Respondent, Mr. Bolock wrote the Board Secretary and informed her of the situation, copying Respondent with the letter.

24. In early May, Respondent called Mr. Bolock's secretary and scheduled a meeting for May 7, 2007 at Mr. Bolock's office.

25. The May 7, 2007 meeting was cordial, but Mr. Bolock informed Respondent that he was not sure of his status at that point as a practice monitor. Respondent tendered no explanation for his absence at the aborted April meeting.

26. Mr. Bolock stated that if Respondent's probation were to be extended, he could no longer serve as his monitor, as he believed he could no longer be effective.

27. Respondent testified that he had gone to the Boston Marathon on April 16, 2007, stayed overnight in Connecticut, and planned to depart at 5:00 a.m. on April 17, 2008 to make the 9:00 a.m. meeting.

28. Respondent stated that he left Connecticut about 7:30 a.m. because of inclement weather conditions and his fear of icy roads.

29. Respondent had his cell phone with him on his trip but does not recall receiving any messages from Mr. Bolock's office.

30. Respondent did not have access to Mr. Bolock's home telephone or cell phone number. He did have access to Mr. Bolock's office number.

31. Respondent was informed by his secretary on April 17, 2007 at approximately 9:30 a.m. of Mr. Bolock's visit to his office. He does not recall why he did not call Mr. Bolock immediately to explain his absence.

32. Respondent's position is that it is the practice monitor's duty to meet monthly with Respondent, and thus Mr. Bolock had the obligation to schedule the meetings.

33. Respondent believed that since no meetings were scheduled for the months of September, October, November or December 2006, he was not in violation of the probation conditions since he did not miss any scheduled meetings.

34. Respondent claims that even if he were in violation for the months of September, October, November or December, the matter was straightened out at the January 30, meeting, and he was in compliance by attending all scheduled meetings thereafter until April 2007.

35. Respondent stated that the Office of Disciplinary Counsel has waived any claims of violations during the four (4) month period at the end of 2006 by not taking any action until May 2007, when he was in compliance until the missed meeting in April.

III. CONCLUSIONS OF LAW

By his conduct as set forth above, Respondent violated the terms and conditions of his probation.

IV. DISCUSSION

Respondent failed to meet with his practice monitor on a monthly basis as required by the Order of the Supreme Court dated June 24, 2005. Respondent has violated the terms and conditions of his probation. It is my recommendation that the stay on the suspension be lifted and Respondent be suspended for a period of one year and one day.

Respondent failed to meet with his practice monitor in accordance with the specific provisions of his probation. Frank J. Bolock, Esquire, offered credible testimony as to the circumstances of his meetings with Respondent. There were meetings in May, July and August of 2006. There was a telephone conference in June of 2006 due to weather issues. There were no meetings in September, October, November or December of 2006. The meetings resumed in January, February and March of 2007. Respondent failed to keep his appointment to meet with Mr. Bolock on April 17, 2007. Respondent claims that bad weather kept him from meeting with Mr. Bolock that morning, yet he made no immediate effort to advise Mr. Bolock of this circumstance. Respondent finally contacted Mr. Bolock's office in early May 2007 and scheduled a meeting on May 7. Respondent's actions demonstrate his lack of concern regarding complying with his probation conditions.

Respondent believes that the responsibility for scheduling the meetings rested with Mr. Bolock, and therefore the lack of meetings for four months was not Respondent's fault. According to Mr. Bolock, Respondent did not apologize for missing the meetings and did not appear concerned about any potential consequences for missing the meetings. Respondent's testimony at the hearing was equally revealing in that he

expressed no remorse for his actions. It is apparent to the undersigned Member that Respondent does not grasp the concept that Respondent, not the practice monitor, was put on probation by the Supreme Court. The responsibility to comply with the terms set forth by the Court rested with Respondent. He bore the obligation to ensure that he abided by the terms and conditions of the probation, whatever effort it took. Respondent's attitude is troubling and underscores this Member's opinion that further probation would not be productive for Respondent or good for the public.

V. RECOMMENDATION

This member respectfully recommends that the stay be lifted and Respondent, Stephen K. Urbanski, be suspended from the practice of law in the Commonwealth of Pennsylvania for a period of one year and one day.

It is further recommended that the additional expenses incurred in connection with the violation of probation proceeding should be paid by Respondent.

THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA



Smith Barton Gephardt
Board Vice-Chair

Date: May 25, 2007