

SUPREME COURT OF ILLINOIS

COURT CONVENEED AT 9:30 A.M., WEDNESDAY, NOVEMBER 17, 2004

THE FOLLOWING MOTIONS WERE PRESENTED AND ORDERS WERE ENTERED AS INDICATED:

ADVISEMENT DOCKET

No. 98704 - James Armstrong, petitioner, v. Charles Hinsley, etc., respondent.

Motion by petitioner, pro se, for leave to file a motion for reconsideration of the order denying petition for leave to appeal.

CIVIL DOCKET

No. 99536 - Georgia-Pacific Corporation, movant, v. Hon. Daniel J. Stack, Judge of the Third Judicial Circuit, et al., respondents.

Motion by movant for stay of proceedings in the Circuit Court of Madison County in Luke Lindau et al. v. Georgia-Pacific Corporation, et al., case No. 03-L-1913, pending disposition of movant's motion for a supervisory order. Motion denied as moot.

Order entered by Justice Rarick.

LEAVE TO APPEAL DOCKET

No. 99301 - In re: the Marriage of (Sara J. Armstrong, respondent, v. David R. Armstrong, petitioner).

Motion by respondent for an extension of time of 14 days from the date of the Court's order to file an answer to petition for leave to appeal. Motion allowed.

Order entered by Justice Garman.

SUPREME COURT OF ILLINOIS

WEDNESDAY, NOVEMBER 17, 2004

THE FOLLOWING ANNOUNCEMENTS WERE MADE:

CIVIL DOCKET

No. 99536 - Georgia-Pacific Corporation, movant, v. Hon. Daniel J. Stack, Judge of the Third Judicial Circuit, et al., respondents.

Motion by movant for stay of proceedings in the Circuit Court of Madison County in Luke Lindau et al., v. Georgia-Pacific Corporation, et al., case No. 03-L-1913, pending disposition of movant's motion for a supervisory order.

Amended Order

Motion denied without prejudice to refile upon completion of appellate court proceedings on motion for stay.

Order entered by Justice Rarick.

MISCELLANEOUS RECORD

M.R. 1062 - In re: Judicial Assignment/Appointment

Pursuant to the authority of section 12, subsection (c) of article VI of the Constitution of this State, the following appointment is made:

Appellate Court of Illinois, Fifth Judicial District

Effective December 6, 2004, and terminating July 7, 2005, the Honorable Clyde L. Kuehn is reappointed to the Appellate Court of Illinois, Fifth Judicial District, to the position presently held by the Honorable Gordon E. Maag whose term expires on December 5, 2004.

Order entered by the Court.

M.R. 1403 - In re: Judicial Vacancy

Pursuant to the authority of section 12, subsection (c) of article VI of the Constitution of this State, the following appointment is made:

Circuit Judge of Cook County, at Large

Effective December 22, 2004, and terminating December 4, 2006, Pamela E. H. Veal is appointed Circuit Judge of Cook County, at Large, to the position currently held by the Honorable Stephen A. Schiller, whose term expires December 5, 2004.

Order entered by the Court.

SUPREME COURT OF ILLINOIS

WEDNESDAY, NOVEMBER 17, 2004

THE COURT MADE THE FOLLOWING ANNOUNCEMENTS:

MISCELLANEOUS RECORD

M.R.17441 - In re: Marc A. Quinlivan. Disciplinary
19653 Commission.

(17441) The rule to show cause issued to respondent Marc A. Quinlivan on April 3, 2001, pursuant to Supreme Court Rule 761 is discharged.

(19653) The petition by respondent Marc A. Quinlivan for leave to file exceptions to the report and recommendation of the Review Board is denied. Respondent is disbarred, as recommended by the Review Board.

Orders entered by the Court.

M.R.19613 - In re: Mitchell Wayne Zivin. Disciplinary
Commission.

The motion by the Administrator of the Attorney Registration and Disciplinary Commission to approve and confirm the report and recommendation of the Hearing Board is allowed, and respondent Mitchell Wayne Zivin is disbarred.

Order entered by the Court.

M.R.19630 - In re: Gerard Charles Heldrich, Jr. Disciplinary
Commission.

The petitions by the Administrator of the Attorney Registration and Disciplinary Commission and respondent Gerard Charles Heldrich, Jr. for leave to file exceptions to the report and recommendation of the Review Board are denied. Respondent is suspended from the practice of law for nine (9) months and until he completes the ethics course offered by the Illinois Institute of Professional Responsibility, as recommended by the Review Board.

Suspension effective December 8, 2004.

Respondent Gerard Charles Heldrich, Jr. shall reimburse the Disciplinary Fund for any Client Protection payments arising from his conduct prior to the termination of the period of suspension.

Order entered by the Court.

M.R.19657 - In re: Patience Robinson Nelson. Disciplinary Commission.

The petition by the Administrator of the Attorney Registration and Disciplinary Commission for leave to file exceptions to the report and recommendation of the Review Board is denied. Respondent is suspended from the practice of law for ninety (90) days, as recommended by the Review Board.

Suspension effective December 8, 2004.

Respondent Patience Robinson Nelson shall reimburse the Disciplinary Fund for any Client Protection payments arising from her conduct prior to the termination of the period of suspension.

Order entered by the Court.

M.R.19660 - In re: Robert Alden Larsen. Disciplinary Commission.

The petition by the Administrator of the Attorney Registration and Disciplinary Commission to impose discipline on consent pursuant to Supreme Court Rule 762(b) is allowed, and respondent Robert Alden Larsen is suspended from the practice of law for two (2) years and until further order of the Court.

Order entered by the Court.

M.R.19671 - In re: James Edward Fluri. Disciplinary Commission.

The petition by the Administrator of the Attorney Registration and Disciplinary Commission to impose discipline on consent pursuant to Supreme Court Rule 762(b) is allowed, and respondent James Edward Fluri is censured.

Order entered by the Court.

M.R.19672 - In re: John Frederic Kuenstler & Beau Christopher Sefton. Disciplinary Commission.

The petition by the Administrator of the Attorney Registration and Disciplinary Commission to impose discipline on consent pursuant to Supreme Court Rule 762(b) is allowed, and respondent John Frederic Kuenstler and respondent Beau Christopher Sefton are censured.

Order entered by the Court.

M.R.19673 - In re: Elmer C.W. Haneberg III. Disciplinary Commission.

The motion by the Administrator of the Attorney Registration and Disciplinary Commission to approve and confirm the report and recommendation of the Hearing Board is allowed, and respondent Elmer C.W. Haneberg III is disbarred.

Order entered by the Court.

M.R.19679 - In re: Amiel Stephen Cueto. Disciplinary Commission.

The petition by respondent Amiel Stephen Cueto for leave to file exceptions to the report and recommendation of the Review Board is denied. Respondent is disbarred, as recommended by the Review Board. The disbarment is effective immediately and not retroactive to the date of respondent's interim suspension under Supreme Court Rule 761.

The motion by respondent Amiel Stephen Cueto for summary remand to a new Hearing Board panel is denied.

Orders entered by the Court.

McMorrow, C.J., took no part.

M.R.19680 - In re: Michael Patrick O'Shea, Jr. Disciplinary Commission.

The petitions by the Administrator of the Attorney Registration and Disciplinary Commission and respondent Michael Patrick O'Shea, Jr. for leave to file exceptions to the report and recommendation of the Review Board are allowed. Respondent is suspended from the practice of law for five (5) months.

Suspension effective December 8, 2004.

Respondent Michael Patrick O'Shea, Jr. shall reimburse the Disciplinary Fund for any Client Protection payments arising from his conduct prior to the termination of the period of suspension.

Order entered by the Court.

M.R.19681 - In re: Louis Eldon Olivero. Disciplinary Commission.

The petition by the Administrator of the Attorney Registration and Disciplinary Commission for leave to file exceptions to the report and recommendation of the Review Board is allowed. Respondent Louis Eldon Olivero is suspended from the practice of law for thirty (30) days and until he makes restitution in the amount of \$2,784 to Mary Coddington.

Suspension effective December 8, 2004.

Respondent Louis Eldon Olivero shall reimburse the Disciplinary Fund for any Client Protection payments arising from his conduct prior to the termination of the period of suspension.

Order entered by the Court.

M.R.19698 - In re: Jimmie L. Jones. Disciplinary Commission.

The motion by respondent Jimmie L. Jones to stay these proceedings and for certain other relief is denied.

The motion by the Administrator of the Attorney Registration and Disciplinary Commission for leave to file response instanter is allowed.

The motion by the Administrator of the Attorney Registration and Disciplinary Commission to approve and confirm the report and recommendation of the Hearing Board is allowed, and respondent Jimmie L. Jones is disbarred.

McMorrow, C.J. dissenting.

Orders entered by the Court.

M.R.19699 - In re: Richard Q. Holloway. Disciplinary Commission.

The petition by the Administrator of the Attorney Registration and Disciplinary Commission to impose discipline on consent pursuant to Supreme Court Rule 762(b) is allowed. Respondent Richard Q. Holloway is suspended from the practice of law for eighteen (18) months, with the suspension stayed by probation after five (5) months, provided that respondent has made restitution in the amount of \$250 to Karie Fulwiley, with the probation subject to the following conditions:

a. Respondent shall attend meetings scheduled by the Commission probation officer as requested by the Administrator. Respondent shall submit quarterly written reports to the Administrator concerning the status of his practice of law and the nature and extent of his compliance with the conditions of probation;

b. Respondent shall notify the Administrator within fourteen (14) days of any change of address;

c. Respondent shall comply with the Illinois Rules of Professional Conduct and shall timely cooperate with the Administrator in providing information regarding any investigation relating to his conduct;

d. Respondent shall reimburse the Commission for the costs of this proceeding as defined in Supreme Court Rule 773 and shall reimburse the Commission for any further costs incurred during the period of probation;

e. Respondent shall, within the first thirty (30) days of probation, enroll in a law office management program approved by the Administrator and shall notify the Administrator of the name of the attorney with whom he is assigned to work. Respondent shall successfully complete the law office management program at least thirty days prior to the end of the probation term. Through his participation in the law office management program, respondent shall establish and utilize the following:

(1) a system for maintaining records as required by Supreme Court Rule 769;

(2) a diary and docketing system in accordance with the requirements established by the law office management program, including a mechanism by which approaching statutes of limitations are noted;

(3) a system by which telephone messages are recorded and telephone calls are returned in a timely manner;

(4) a system by which written requests by clients for the status of their legal matters are responded to, whether orally or in writing, in a timely manner;

(5) for cases where the fee is to be calculated on an hourly basis, a system by which clients are provided with regular itemized billing statements provided at least quarterly, setting forth the services performed by respondent, the date upon which each service was performed, the time spent by respondent on each service and the amount to be charged to the client; and

(6) a system for authorizing the attorney assigned to work with him in the law office management program to:

(1) disclose to the Administrator on a quarterly basis, by way of signed reports, information pertaining to the nature of respondent's compliance with the law office management program and the above described conditions;

(2) promptly report to the Administrator respondent's failure to comply with any part of the above described conditions; and

(3) respond to any inquiries by the Administrator regarding respondent's compliance with the above described conditions.

g. Respondent shall complete the course of the Illinois Professional Responsibility Institute; and

h. Probation shall be revoked if respondent is found to have violated any of the terms of probation, and the remaining thirteen (13) months of suspension shall commence from the date of the determination that any term of probation has been violated.

Suspension effective December 8, 2004.

Respondent Richard Q. Holloway shall reimburse the Disciplinary Fund for any Client Protection payments arising from his conduct prior to the termination of the period of suspension/probation.

Order entered by the Court.

M.R.19700 - In re: Daniel Martin Moulton. Disciplinary Commission.

The petition by the Administrator of the Attorney Registration and Disciplinary Commission to impose discipline on consent pursuant to Supreme Court Rule 762(b) is allowed, and respondent Daniel Martin Moulton is suspended from the practice of law for thirty (30) days.

Suspension effective December 8, 2004.

Respondent Daniel Martin Moulton shall reimburse the Disciplinary Fund for any Client Protection payments arising from his conduct prior to the termination of the period of suspension.

Order entered by the Court.

M.R.19701 - In re: Edward Timothy McAuliffe. Disciplinary Commission.

The motion by the Administrator of the Attorney Registration and Disciplinary Commission to approve and confirm the report and recommendation of the Hearing Board is allowed, and respondent Edward Timothy McAuliffe is disbarred.

Order entered by the Court.

M.R.19710 - In re: John N. Zdon. Disciplinary Commission.

The motion by the Administrator of the Attorney Registration and Disciplinary Commission to approve and confirm the report and recommendation of the Hearing Board is allowed, and respondent John N. Zdon is disbarred.

Order entered by the Court.

M.R.19711 - In re: Eric Phillip Ferleger. Disciplinary Commission.

The petition by the Administrator of the Attorney Registration and Disciplinary Commission to impose discipline on consent pursuant to Supreme Court Rule 762(b) is allowed. Respondent Eric Phillip Ferleger is suspended from the practice of law for nine (9) months, with the suspension stayed after sixty (60) days by a two (2)-year period of probation, commencing on the effective date of the order of discipline, subject to the following conditions:

a. Respondent shall attend meetings scheduled by the Commission probation officer as requested by the Administrator. Respondent shall submit quarterly written reports to the Administrator concerning the status of his practice of law and the nature and extent of his compliance with the conditions of probation;

b. Respondent shall notify the Administrator within fourteen (14) days of any change of address;

c. Respondent shall comply with the Illinois Rules of Professional Conduct and shall cooperate with the Administrator in providing information regarding any investigation relating to his conduct;

d. Respondent shall reimburse the Commission for the costs of this proceeding as defined in Supreme Court Rule 773 and shall reimburse the Commission for any further costs incurred during the period of probation;

e. Respondent shall abstain from the use of alcohol and any unprescribed controlled substance;

f. Respondent shall report to the Administrator any lapse in his sobriety or use of any unprescribed controlled substances within 72 hours of that usage;

g. Respondent shall continue with his course of medical treatment for depression and personality disorder with Doctor Busch, or another qualified medical professional;

h. Respondent shall follow the treatment recommendations made by Dr. Henry in regard to respondent's cannabis dependence;

1) Respondent shall complete a moderate intensity outpatient program for the treatment of the chemically dependent;

2) Respondent shall participate in the Caduceus 12-step program designed for chemically dependent professionals and shall complete a one-year Caduceus agreement;

3) Respondent shall, upon request by the Administrator, submit to random substance testing by a mental health professional or facility approved by the Administrator, within eight hours of receiving notice by the Administrator that he shall submit to the testing. The results of the tests shall be reported to the Administrator. Respondent shall pay any and all costs of such testing;

i. Respondent shall sign the necessary releases to allow his treating physicians to: (1) disclose to the Administrator on at least a quarterly basis information pertaining to the nature of respondent's compliance with his treatment plan; (2) report on respondent's condition in regard to the status of his cannabis dependency; (3) promptly report to the Administrator respondent's failure to follow his treatment plan; and (4) respond to any inquiries from the Administrator regarding respondent's prognosis in relation to his treatment through Dr. Busch or his cannabis dependence;

j. Respondent shall notify the Administrator within seven days of any change in treatment professionals;

k. Probation shall be revoked if respondent is found to have violated any of the terms of probation. The remainder of the nine (9)-month period of suspension shall commence on the date of the determination that any term of probation has been violated.

Suspension effective December 8, 2004.

Respondent Eric Phillip Ferleger shall reimburse the Disciplinary Fund for any Client Protection payments arising from his conduct prior to the termination of the period of suspension/probation.

Order entered by the Court.

M.R.19718 - In re: Todd Warren Syverson. Disciplinary Commission.

The motion by the Administrator of the Attorney Registration and Disciplinary Commission to approve and confirm the report and recommendation of the Hearing Board is allowed, and respondent Todd Warren Syverson is disbarred.

Order entered by the Court.

M.R.19720 - In re: Paul M. Goldman. Disciplinary Commission.

The motion by the Administrator of the Attorney Registration and Disciplinary Commission to approve and confirm the report and recommendation of the Hearing Board is denied. Respondent Paul M. Goldman is disbarred.

Order entered by the Court.

M.R.19734 - In re: Thomas William Byrnes. Disciplinary Commission.

The petition by the Administrator of the Attorney Registration and Disciplinary Commission to impose discipline on consent pursuant to Supreme Court Rule 762(b) is allowed. Respondent Thomas William Byrnes is suspended from the practice of law for one (1) year and until further order of the Court, stayed after sixty (60) days by a two (2)-year period of probation, commencing on the effective date of the order of discipline, subject to the following conditions:

a. Respondent shall attend meetings scheduled by the Commission probation officer as requested by the Administrator. Respondent shall submit quarterly written reports to the Administrator concerning the status of his practice of law and the nature and extent of his compliance with the conditions of probation;

b. Respondent shall notify the Administrator within fourteen (14) days of any change of address;

c. Respondent shall comply with the Illinois Rules of Professional Conduct and shall timely cooperate with the Administrator in providing information regarding any investigation relating to his conduct;

d. Respondent shall reimburse the Commission for the costs of this proceeding as defined in Supreme Court Rule 773 and shall reimburse the Commission for any further costs incurred during the period of probation;

e. Respondent shall abstain from the usage of alcohol and any unprescribed controlled substances;

f. Respondent shall report to the Administrator any lapse in his sobriety or usage of any unprescribed controlled substances within 72 hours of that usage;

g. Respondent shall continue with his course of medical treatment with Doctor Nadiu, or other such qualified medical professional;

h. Respondent shall continue to follow the treatment recommendations made by Dr. Henry in regard to respondent's alcohol dependence:

1) Respondent shall continue in the aftercare recommendations of his intensive outpatient program;

2) Respondent shall participate in the Caduceus 12-step program designed for chemically dependent professionals;

3) Respondent shall maintain regular contact with his sponsor and regularly attend 12-step meetings;

i. Respondent shall upon request by the Administrator submit to random substance testing by a mental health professional or facility approved by the Administrator, within eight hours of receiving notice by the Administrator that he shall submit to the testing. The results of the test shall be reported to the Administrator. Respondent shall pay any and all costs of such testing;

j. Respondent shall sign the necessary releases to allow his treating physicians and substance abuse therapists to: (1) disclose to the Administrator on at least a quarterly basis information pertaining to the nature of respondent's compliance with his treatment plan; (2) report on respondent's condition in regard to the status of his cannabis dependency; (3) promptly report to the Administrator, respondent's failure to follow his treatment plan; and (4) respond to any inquiries from the Administrator regarding respondent's prognosis in relation to his treatment through Dr. Naidu or his alcohol dependence;

k. Respondent shall refund the \$800 he received from Carl Neilsen to file the second bankruptcy petition and provide proof of that refund to the Administrator within 60 days of being placed on probation;

l. Respondent shall notify the Administrator within seven days of any change in treatment professionals;

m. Probation shall be revoked if respondent is found to have violated any of the terms of probation. The suspension for one (1) year and until further order of the Court shall commence from the date of the determination that any term of probation has been violated.

Suspension effective December 8, 2004.

Respondent Thomas William Byrnes shall reimburse the Disciplinary Fund for any Client Protection payments arising from his conduct prior to the termination of the period of suspension/probation.

Order entered by the Court.

M.R.19735 - In re: Warren John West. Disciplinary Commission.

The petition by the Administrator of the Attorney Registration and Disciplinary Commission to impose reciprocal discipline pursuant to Supreme Court Rule 763 is allowed, and respondent Warren John West, who has been disciplined in the State of Oregon, is reprimanded in the State of Illinois.

Order entered by the Court.

M.R.19736 - In re: William Eugene Elston, Jr. Disciplinary Commission.

The motion by William Eugene Elston, Jr. to strike his name from the roll of attorneys licensed to practice law in Illinois pursuant to Supreme Court Rule 762(a) is allowed, effective immediately.

Order entered by the Court.

M.R.19750 - In re: Peter John Faraci. Disciplinary Commission.

The petition by the Administrator of the Attorney Registration and Disciplinary Commission to impose discipline on consent pursuant to Supreme Court Rule 762(b) is allowed, and respondent Peter John Faraci is suspended from the practice of law for three (3) months.

Suspension effective December 8, 2004.

Respondent Peter John Faraci shall reimburse the Disciplinary Fund for any Client Protection payments arising from his conduct prior to the termination of the period of suspension.

Order entered by the Court.

M.R.19751 - In re: Benjamin E. Williams, Jr. Disciplinary Commission.

The petition by the Administrator of the Attorney Registration and Disciplinary Commission to impose reciprocal discipline pursuant to Supreme Court Rule 763 is allowed, and respondent Benjamin E. Williams, Jr., who has been disciplined in the State of Missouri, is suspended from the practice of law in the State of Illinois for three (3) years and until he is reinstated in Missouri.

Suspension effective December 8, 2004.

Respondent Benjamin E. Williams, Jr. shall reimburse the Disciplinary Fund for any Client Protection payments arising from his conduct prior to the termination of the period of suspension.

Order entered by the Court.

SUPREME COURT OF ILLINOIS

CALL OF THE DOCKET, WEDNESDAY, NOVEMBER 17, 2004

Nos. 97920 - Joyce Arthur, appellee, v. Laurie Catour et al.,
97946 appellants. Appeal, Appellate Court, Third
cons. District.

Oral argument by Michael T. Reagan for appellants
and by LeRoy A. Compton for appellee. Submitted.
Agenda 17.

No. 97926 - The City of Champaign, etc., appellee, v.
Christian Torres, appellant. Appeal, Appellate
Court, Fourth District.

Oral argument by Jeremy D. Grose for appellant and
by Rhonda R. Olds for appellee. Submitted.
Agenda 18.

No. 97986 - People ex rel. James E. Ryan, appellant, v. Agpro,
Inc., et al., etc., appellees. Appeal, Appellate
Court, Second District.

Oral argument by Erik G. Light for appellant and
by Donald Q. Manning for appellees. Submitted.
Agenda 19.

No. 98034 - Glen Blue, appellee, v. Environmental Engineering,
Inc., etc., appellant. Appeal, Appellate Court,
First District.

Oral argument by John M. Coleman for appellant and
by Robert F. Lisco for appellee. Submitted.
Agenda 20.

No. 98073 - BHI Corporation et al., etc., appellants, v.
Litgen Concrete Cutting and Coring Company,
appellee. Appeal, Appellate Court, First
District.

Oral argument by Robert Marc Chemers for
appellants and by Michael T. Reagan for appellee.
Submitted. Agenda 21.