

## NOTICES

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### Notice of Attorney Discipline

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DOCKET NO. CV-17-6018827-S. CHIEF DISCIPLINARY COUNSEL v. PAUL D. BUHL. SUPERIOR COURT, JUDICIAL DISTRICT OF MIDDLESEX, APRIL 12, 2018.

### MEMORANDUM OF DECISION

Before the court is an attorney disciplinary action filed on October 11, 2017, by the plaintiff, Chief Disciplinary Counsel, pursuant to Practice Book § 2-40 against the defendant, Paul D. Buhl. On December 2, 2017, the defendant filed an answer and special defenses. A hearing was held on December 6, 2017, where the defendant appeared self-represented. At the December 6, 2017 hearing, the court ordered the parties to file written briefs on or before January 16, 2018. On January 5, 2018, the plaintiff filed a memorandum of law in support of the disciplinary action. On January 16, 2018, the defendant filed a motion to dismiss the presentment, together with a memorandum of law in opposition to the disciplinary action and in support of the motion to dismiss. On January 31, 2018, the court held a hearing on the defendant's motion to dismiss. The defendant did not proceed with his motion to dismiss.

### FACTS

The defendant, juris number 307121, was admitted to the bar of the state of Connecticut on November 25, 1987. He is currently under an administrative suspension in accordance with Practice Book § 2-70 for failure to pay the Client Security Fund fee. On September 17, 2014, the court, *Aurigemma, J.*, ordered a reprimand in the matter of *Chief Disciplinary Counsel v. Buhl*, Superior Court, judicial district of Middlesex, Docket No. CV-11-6005223\_S. On October 27, 2011 the court, *Holzberg, J.*, issued an interim suspension in that same matter.

On July 11, 2017, the defendant, in *State v. Buhl*, judicial district of Middlesex, geographical area number 9, Docket No. MV-15-0452266-S, was found guilty of operating a motor vehicle under the influence of liquor or drugs in violation of General Statutes § 14-227a and was sentenced to fifteen days in prison. On July 11, 2017, the defendant, in *State v. Buhl*, judicial district of Middlesex, geographical area number 9, Docket No. MV-16-0455158-S, was found guilty of operating a motor vehicle under the influence of liquor or drugs in violation of § 14-227a and was sentenced to thirty days in prison; and was also found guilty of operating a motor vehicle while registration or license is refused, suspended, or revoked, in violation of General Statutes § 14-215 (c) (1), and was sentenced to one year in prison, execution suspended after thirty days with two years of probation. The three separate sentences were to run concurrently for a total effective sentence of one year in prison, execution suspended after thirty days and two years of probation. The defendant did not give written notice of the finding of guilt to the plaintiff or the Statewide Grievance Committee as required under Practice Book § 2-40 (d). The defendant is currently on probation until September, 2019.

As special defenses to the present disciplinary action, the defendant alleges, *inter alia*, that he had valid defenses to the two driving under the influence charges and that he had a good faith belief that his driver's license was not suspended at the time he was arrested for operating a motor vehicle under suspension. He further

alleges as a special defense that he pleaded nolo contendere to the three counts. He fails to recognize, however, that he was found guilty by the court on the three counts.

### **Discussion**

“An attorney as an officer of the court in the administration of justice, is continually accountable to it for the manner in which he exercises the privilege which has been accorded him. His admission is upon the implied condition that his continued enjoyment of the right conferred is dependent upon him remaining a fit and safe person to exercise it, so that when he, by misconduct in any capacity, discloses that he has become or is an unfit or unsafe person to be entrusted with the responsibilities and obligations of an attorney, his right to continue in the enjoyment of this professional privilege may and ought to be declared forfeited. . . . Therefore, [i]f a court disciplines an attorney, it does so not to mete out punishment to an offender, but [so] that the administration of justice may be safeguarded and the courts and the public protected from the misconduct or unfitness of those who are licensed to perform the important functions of the legal profession.” (Citation omitted; internal quotation marks omitted.) *Massameno v. Statewide Grievance Committee*, 234 Conn 539, 554-55, 663 A.2d 317 (1995); *Burton v. Mottolose*, 267 Conn. 1, 54-55, 835 A.2d 998 (2003), cert. denied, 541 U.S. 1073, 124 S. Ct. 2422, 158 L. Ed. 2d 983 (2004).

Practice Book § 2-40 governs the discipline of attorneys found guilty of serious crimes in Connecticut. It provides in relevant part: “(a) The term ‘serious crime,’ as used [in § 2-40], shall mean any felony, any larceny, [or] any crime where the attorney was or will be sentenced to a term of incarceration . . . .

“(b) The terms ‘found guilty’ and ‘finding of guilt,’ as used [in § 2-40], refer to the disposition of any charge of a serious crime as . . . defined [in § 2-40] resulting from either a plea of guilty or nolo contendere, or from a verdict after trial, and regardless of the pendency of any appeal.

“(c) The clerk of the superior court in which an attorney is found guilty of any crime shall transmit a certified copy of the finding of guilt, docket sheet, or other proof of the finding of guilt to the disciplinary counsel and to the statewide grievance committee.

“(d) Notwithstanding any obligation imposed upon the clerk by subsection (c) of [§ 2-40], any attorney found guilty of any crime shall send written notice of the finding of guilt to the disciplinary counsel and the statewide grievance committee, by certified mail, return receipt requested, or with electronic delivery confirmation, within ten days of the date of the finding of guilt. The written notice shall include the name and address of the court where the finding of guilt was made, the date of the finding of guilt, and the specific section of the applicable criminal, penal, or statutory code upon which the finding of guilt was predicated. An attorney’s failure to send timely written notice of his or her finding of guilt required by [§ 2-40] shall constitute misconduct.

“(e) Upon receipt of proof of the finding of guilt, the disciplinary counsel shall determine whether the crime for which the attorney was found guilty is a serious crime, as defined [in § 2-40]. If so, disciplinary counsel shall, pursuant to [Practice Book §] 2-47, file a presentment against the attorney predicated upon the finding of guilt. A certified copy of the finding of guilt shall be conclusive evidence of the commission of that crime in any disciplinary proceeding based upon the finding of guilt. No entry fee shall be required for proceedings [under § 2-40].

“(f) A presentment filed pursuant to [§ 2-40] shall be heard, where practical, by the judge who presided at the proceeding in which the attorney was found guilty. A hearing on the presentment complaint shall address the issue of the nature and extent of the final discipline to be imposed and shall be held within sixty days of the filing of the presentment.

“(g) Immediately upon receipt of proof of the finding of guilt of an attorney of a serious crime, as defined [in § 2-40], the disciplinary counsel may also apply to the court for an order of interim suspension. If the attorney was or will be sentenced to a term of incarceration, disciplinary counsel shall seek a suspension during the term of incarceration. The court may, in its discretion, enter an order immediately placing the attorney on interim suspension pending final disposition of a presentment filed pursuant to [§ 2-40]. Thereafter, for good cause shown, the court may, in the interests of justice, set aside or modify the interim suspension.

“(h) At the presentment hearing, the attorney shall have the right to counsel, to be heard in his or her own defense and to present evidence and witnesses in his or her behalf. After the hearing, the court shall enter an order dismissing the presentment complaint, or imposing discipline upon such attorney in the form of suspension for a period of time, disbarment or such other discipline as the court deems appropriate. If the finding of guilt was based upon the lawyer’s misappropriation of client’s funds or other property held in trust, the court shall enter an order disbarring the attorney for a minimum of twelve years pursuant to [Practice Book §§] 2-47A and 2-53 (g).”

Practice Book § 2-53 governs the reinstatement of an attorney after suspension. It states in relevant part: “An attorney who has been suspended from the practice of law in this state for a period of one year or more shall be required to apply for reinstatement in accordance with [§ 2-53], unless the court that imposed the discipline expressly provided in its order that such application is not required.” Practice Book § 2-53 (a). Subsection (d) of § 2-53 further states that, “[u]nless otherwise ordered by the court, an application for reinstatement shall not be filed until . . . (4) [t]he applicant has successfully completed any criminal sentence including, but not limited to, a sentence of incarceration, probation, parole, supervised release, or period of sex offender registration and has fully complied with any orders regarding condition, restitution, criminal penalties or fines . . . .”

When determining the appropriate sanction to impose in an attorney discipline matter, the court is guided by the American Bar Association’s Standards for Imposing Lawyer Sanctions (standards), which “provide that, after a finding of misconduct, a court should consider: (1) the nature of the duty violated; (2) the attorney’s mental state; (3) the potential or actual injury stemming from the attorney’s misconduct; and (4) the existence of aggravating or mitigating factors. . . . The [s]tandards list the following as aggravating factors: (a) prior disciplinary offenses; (b) dishonest or selfish motive; (c) a pattern of misconduct; (d) multiple offenses; (e) bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency; (f) submission of false evidence, false statements, or other deceptive practices during the disciplinary process; (g) refusal to acknowledge wrongful nature of conduct; (h) vulnerability of victim; (i) substantial experience in the practice of law; [and] (j) indifference to making restitution. . . . The [s]tandards list the following as mitigating factors: (a) absence of a prior disciplinary record; (b) absence of a dishonest or selfish motive; (c) personal or emotional problems; (d) timely good faith effort to make restitution or to rectify consequences of misconduct; (e) full and free disclosure to disciplinary board or cooperative attitude toward proceedings; (f) inexperience in the practice of law; (g) character or reputation; (h) physical or mental disability or impairment; (i) delay in disciplinary proceedings; (j) interim rehabilitation; (k) imposition of other penalties or sanctions; (l) remorse; [and] (m) remoteness of prior offenses.” (Internal quotation marks omitted.) *Chief Disciplinary Counsel v. Rozbicki*, 326 Conn. 686, 706-707, 167 A.3d 351 (2017); see also American Bar Association, Standards for Imposing Lawyer Sanctions (1986) Standards 3.0, 9.22, and 9.32.

Turning to the present case, the defendant's three convictions, his sentence of incarceration, and his current supervision by probation constitute misconduct, as well as a serious crime. Therefore, a period of suspension is warranted. The court has carefully considered all the aggravating factors. The factors that weigh heavily on the court are the defendant's two separate convictions for operating a motor vehicle under the influence of alcohol, the conviction for operating a motor vehicle under suspension, the defendant's refusal to acknowledge the wrongful nature of his conduct, and the defendant's lack of remorse. The court is also mindful of the defendant's extensive disciplinary history.

For the foregoing reasons, the court enters the following attorney discipline:

(1) In accordance with Practice book § 2-40, the court enters an order of a retroactive suspension, from the date of the defendant's convictions, July 11, 2017, until the defendant successfully completes the imposed period of probation.

(2) The defendant is required to apply for reinstatement pursuant to Practice Book § 2-53.

(3) Because the defendant does not currently have any active clients, the court need not appoint a trustee as provided for in Practice Book §§ 2-40 and 2-64.

So ordered,

*Suarez, J.*

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#### **Notice of Reinstatement of Attorneys**

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As Andrew G. Tolan has paid the Client Security Fund Fee, notice is hereby given that on April 6, 2018 he has been reinstated to the bar pursuant to Connecticut Practice Book Section 2-70(b).

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