

BEFORE THE PRESIDING DISCIPLINARY JUDGE

IN THE MATTER OF A MEMBER OF
THE STATE BAR OF ARIZONA,

JOHN PATRICK BRUNO,
Bar No. 013489

Respondent.

PDJ 2018-9054

**FINAL JUDGMENT AND
ORDER BY CONSENT**

[State Bar No. 17-3065]

FILED SEPTEMBER 5, 2018

The Presiding Disciplinary Judge having reviewed the Agreement for Discipline by Consent filed on August 23, 2018, pursuant to Rule 57(a), Ariz. R. Sup. Ct., accepted the parties' proposed Agreement. Accordingly:

IT IS ORDERED Respondent, **JOHN PATRICK BRUNO, Bar No. 013489**, is reprimanded for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective immediately.

IT IS FURTHER ORDERED Mr. Bruno is placed on probation for two (2) years. Mr. Bruno shall call and talk with the State Bar Compliance Monitor at (602) 340-7258 not later than September 12, 2018 to either schedule a full Member Assistance Program (MAP) assessment or inform the Monitor of his election to undergo and the date of his scheduled psychiatric assessment by a named licensed psychiatrist of his choice as provided in the Agreement for Discipline by Consent.

Regardless, the Compliance monitor shall develop terms and conditions of participation, including reporting requirement, which are incorporated by reference.

Mr. Bruno shall submit to an evaluation and sign terms and conditions of participation, including reporting requirements, which shall be incorporated herein.

Mr. Bruno shall be responsible for any costs associated with MAP.

IT IS FURTHER ORDERED as terms of probation that Mr. Bruno must: i. undergo a MAP assessment by its contract psychologist and follow-up on his recommendations or in lieu of that MAP assessment undergo a psychiatric assessment by a licensed psychiatrist of his choice and at his expense as provided in the agreement and in either case follow up on the recommendations.; ii. Submit to random drug testing bimonthly; iii. Continue with medical treatment for his chronic pain condition; iv. Comply with court orders regarding child support and health care; and v. report monthly on all efforts to obtain and maintain employment consistent with his professional and physical capabilities and vi. Comply with all terms and terms and conditions of MAP participation, including any reporting requirements.

NON-COMPLIANCE WITH PROBATION

If Mr. Bruno fails to comply with any of the foregoing probation terms, and the State Bar of Arizona receives information thereof, Bar Counsel shall file a notice of noncompliance with the Presiding Disciplinary Judge, pursuant to Rule 60(a)(5), Ariz. R. Sup. Ct. The Presiding Disciplinary Judge may conduct a hearing within 30

days to determine whether a term of probation has been breached and, if so, whether to impose an appropriate sanction. If there is an allegation that Mr. Bruno failed to comply with any of the foregoing terms, the burden of proof shall be on the State Bar of Arizona to prove noncompliance by a preponderance of the evidence.

IT IS FURTHER ORDERED Mr. Bruno shall pay the costs and expenses of the State Bar of Arizona in the amount of \$1,200.00, within thirty (30) days from service of this order. There are no costs associated with the Office of the Presiding Disciplinary Judge.

DATED this 5th day of September, 2018.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Copies of the foregoing were emailed this 5th day of September, 2018, and mailed September 6, 2018, to:

David L. Sandweiss
Senior Bar Counsel
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, AZ 85016-6266
Email: lro@staff.azbar.org

John Patrick Bruno
717 W. Marlboro Dr.
Chandler, AZ 85225-2176
Email: jackbruno@gmail.com
Respondent

by: AMcQueen

BEFORE THE PRESIDING DISCIPLINARY JUDGE

IN THE MATTER OF A MEMBER OF
THE STATE BAR OF ARIZONA,

JOHN PATRICK BRUNO,
Bar No. 013489

Respondent.

PDJ-2018-9054

**DECISION ACCEPTING
DISCIPLINE BY CONSENT**

[State Bar No. 17-3065]

FILED SEPTEMBER 5, 2018

Under Rule 57(a), Ariz. R. Sup. Ct.,¹ an Agreement for Discipline by Consent (“Agreement”), was filed August 23, 2018. A Probable cause order issued on June 1, 2018 and the formal complaint was filed June 27, 2018. The State Bar is represented by Senior Bar Counsel, David L. Sandweiss. Mr. Bruno is representing himself.

Rule 57 requires admissions be tendered solely “. . .in exchange for the stated form of discipline. . . .” Under that rule, the right to an adjudicatory hearing is waived only if the “. . .conditional admission and proposed form of discipline is approved. . . .” If the agreement is not accepted, those conditional admissions are automatically withdrawn and shall not be used against the parties in any subsequent proceeding. Mr. Bruno has voluntarily waived the right to an adjudicatory hearing,

¹ Unless otherwise stated all Rule references are to the Ariz. R. Sup. Ct.

and waived all motions, defenses, objections or requests that could be asserted upon approval of the proposed form of discipline. Notice of the Agreement and an opportunity to object as required by Rule 53(b)(3), was sent to the complainant by email and letter on August 21, 2018. Complainant was notified of the opportunity to file any written objection to the Agreement with the State Bar within five (5) business days of that notice. No objections have been filed.

The Agreement details a factual basis to support the conditional admissions and the imposition of a reprimand and two years of probation with the State Bar's member Assistance Program (MAP). Mr. Bruno also agrees to pay the costs and expenses of the disciplinary process of \$1,200.00. The Agreement and any attachments are incorporated by reference. Mr. Bruno conditionally admits he violated Rule 42, ERs 3.4(c) (knowingly disobey and obligation under rules of tribunal), 8.4(b) (commit criminal act), 8.4(d) (engage in conduct prejudicial to the administration of justice) and Rule 54(c) (knowing violation of any rule or court order).

After his divorce in 2013, Mr. Bruno was ordered to pay child support and to share in the cost of the children's medical expenses. Mr. Bruno tested positive for illegally using controlled substances during the divorce proceedings. His wife was awarded sole custody. He fell into arrears and in 2016, his ex-wife filed a post-decree petition. Mr. Bruno failed to appear for the May 2017 scheduled hearing and was

found in contempt of court for knowingly and willingly failing to make support payments. Sanctions, including jail time, were imposed. Mr. Bruno failed to appear for the review hearing that was set for August 7, 2017 and was again found in contempt. A Child Support Arrest Warrant was issued. Mr. Bruno surrendered to the warrant on November 13, 2017 and was incarcerated until November 27, 2018, when a family member paid the purge amount.

Mr. Bruno was again found in contempt on December 5, 2017 for willfully failing to pay court-ordered support. At a March 2018 review hearing, he was found in contempt for willfully failing to pay his February support payment and signed an Accountability Court contract promising to pay his child support obligations and to find a job or provide satisfactory proof for the absence of a job.

In his response to the State Bar, Mr. Bruno disputed the court's findings. That he disputes those findings is akin to a collateral appeal and given no weight. As set forth in the Agreement, Mr. Bruno has separately provided financial and medical records to the State Bar to substantiate his present mitigating circumstances. That is given weight as a mitigating factor.

Legal Grounds in Support of Sanction

Rule 57(a)(2)(E) requires the parties to include a discussion of the *American Bar Association Standards for Imposing Lawyer Sanctions*, (“Standards”) and an analysis of the proposed sanction, including a discussion why a greater or lesser

sanction would not be appropriate under the circumstances. The *Standards* promote consistency in imposing sanctions by identifying facts that courts should consider and then applying those facts to situations where lawyers have engaged in various types of misconduct. *Standards* 1.3, Commentary. See also *In re Peasley*, 208 Ariz., 27, 33, 35, (2004).

Standard 3.0 requires that consideration be given to the duty violated, the lawyer's mental state, the actual or potential injury caused by the misconduct and the existence of aggravating or mitigating factors. The parties agree the duty violated was to the legal system and to the public, Mr. Bruno's mental state was knowing, and his misconduct caused actual harm to the legal system and the public.

The parties agree *Standard 5.12, Failure to Maintain Personal Integrity* applies to Mr. Bruno's violation of ER 8.4(b) and provides that suspension is generally appropriate when a lawyer knowingly engages in criminal conduct which does not contain the elements in *Standard 5.11* and that seriously adversely reflects on the lawyer's fitness to practice.

Standard 6.22, Abuse of the Legal Process applies to Mr. Bruno's violations of ER 3.4(c) and provides that suspension is appropriate when a lawyer knowingly violates a court order or rule, and there is injury or potential injury to a client or a party, or interference or potential interference with a legal proceeding. Mr. Bruno

knowingly violated his court order child support orders and obligations. He also knowingly failed to appear for scheduled hearings.

The parties agree the presumptive sanction is suspension. *Standard 9.1* directs that “After misconduct has been established, aggravating and mitigating circumstances may be considered in deciding what sanction to impose.”

Aggravating and Mitigating Circumstances.

Under *Standard 9.22* the parties stipulate to the following aggravating factors:

- 9.22(c) pattern of misconduct;
- 9.22(d) multiple offenses;
- 9.22(i) substantial experience in the practice of law. Mr. Bruno has been admitted as a lawyer in Arizona since 1991; and
- 9.22(k) illegal conduct, including the use of controlled substances

Under *Standard 9.32* the parties stipulate to the following mitigating factors:

- 9.32(a) absence of prior disciplinary offenses;
- 9.32(b) absence of dishonest or selfish motive;
- 9.32(c) personal or emotional problems;
- 9.32 (e) full and free disclosure/cooperative attitude toward proceedings; and
- 9.32(h) physical disability.

The parties agree that the aggravating factor of illegal use of a controlled substance was an isolated event. It is given little weight.

The parties state as mitigation that despite his lack of responsibility to his family and the legal system, that there was no lack of responsibility on his part towards his clients and thereby, the public is less at risk. The parties have stipulated he injured the public. It is at risk. The argument that he had the ability and remained

responsible to his clients, also argues he likewise could have been and yet also chose not to be responsible to his family and the legal system. It is given no weight.

When a physical disability is offered as a mitigating factor, “Direct causation between the disability and the offense must be established.” As little causation is offered “it should be given little weight.” [Comment to *Standards* 9.3 Mitigation.]

In Arizona, cooperation in Disciplinary Proceedings is a strong mitigating factor. *In re Abrams*, 257 P.3d 167 (Ariz. 2011)

The parties stipulate and the PDJ agrees that upon application of the aggravating and mitigating factors, a reduction in the presumptive sanction of suspension to reprimand is justified.

Sanction

Based on application of the *Standards*, the PDJ finds the sanction of reprimand and two years of probation with the specified terms is appropriate and will serve the purposes of lawyer discipline.

The parties agree that Mr. Bruno may either undergo a MAP assessment by the State Bar “contract psychologist and follow up on his recommendation” or in lieu of a MAP assessment he may undergo a psychiatric assessment by a licensed psychiatrist of his choice at his expense and furnish the State Bar’s compliance monitor with a copy of the resulting report. Under either evaluation, the Compliance

Monitor shall develop the terms and conditions of participation the observance of which shall be a term of probation.

Accordingly,

IT IS ORDERED accepting and incorporating the Agreement and any supporting documents by this reference. The agreed upon sanction of reprimand and two (2) years of probation (MAP) is imposed and Mr. Bruno shall pay the costs of \$1,200.00 within thirty (30) days. A final judgment and order is signed this date.

DATED this 5th day of September, 2018.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Copies of the foregoing were emailed this 5th day of September, 2018, and mailed September 6, 2018, to:

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