

**BEFORE THE PRESIDING DISCIPLINARY  
JUDGE**

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

**MICHAEL P. THIEME,  
Bar No. 024124**

Respondent.

**No. PDJ-2016-9108**

**ORDER OF INTERIM SUSPENSION**

[State Bar Nos. 16-2470, 16-3761]

**FILED DECEMBER 14, 2016**

A Notice of Felony Conviction and certified copy of the conviction regarding Michael P. Thieme, Bar No. 024124, was filed by the State Bar of Arizona on October 21, 2016, pursuant to Rule 61(c)(1)(A) Ariz. R. Sup. Ct.<sup>1</sup> That rule mandates:

A lawyer shall be suspended after the disciplinary clerk's receipt of proof of the lawyer's conviction of a felony under either state or federal law, regardless of the pendency of post-conviction motions or an appeal, unless within ten (10) days of the clerk's receipt of proof of the conviction the member files with the presiding disciplinary judge a verified motion showing good cause why the suspension should not be entered.

On November 7, 2016, Mr. Thieme filed a verified Motion Not to Order Interim Suspension, stating interim probation is more appropriate and will protect the public. The presiding disciplinary judge ("PDJ"), permitted oral argument on the motion and the parties appeared telephonically on December 14, 2016. The State Bar was represented by Bar Counsel, Bradley F. Perry. Mr. Thieme represented himself. Rule 61(c)(1)(A) requires the PDJ "shall promptly grant or deny" the motion. "If the motion is denied, the lawyer shall be suspended as of the date the motion is denied."

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<sup>1</sup> Unless stated otherwise, all rule references are to the Arizona Rules of the Supreme Court.

After a jury trial, Mr. Thieme was found guilty of criminal damage to utility, in violation of A.R.S. §§ 13-1602, 13-1601, 13-701, 13-702, and 13-801 a Class 4 felony, DUI, in violation of A.R.S. §§ 28-1381(A)(1), 13-707, 13-802 a Class 1 misdemeanor. The court convicted Mr. Thieme of failure to report striking a highway fixture in violation of A.R.S. §§ 28-665, 13-707, and 13-802, a Class 3 misdemeanor. Mr. Thieme has appealed.

Mr. Thieme stated he has consulted with ethics counsel and that the parties have substantially negotiated an agreement for discipline by consent that would provide for a six month suspension. He said he is modifying some of the language of that agreement and will provide it to bar counsel.

Consistent with his motion, Mr. Thieme argued he is not a risk to the public because there has been no similar conduct by him since the event occurred on March 22, 2012. The jury trial did not occur for over four years with the verdict entered July 7, 2016. The conviction was not entered until October 17, 2016. He also submitted he is under "draconian" conditions of probation from the court due to the conviction and from DMV regarding his driver's license. He asserted he is not a threat to the public. He submitted in his argument this is exemplified by the fact his crime occurred one has had no other convictions for over 4.5 years. In his motion and in his argument he argued the only purpose for interim suspension is the protection of the public and he poses no threat to the public.

The State Bar argued a presumption exists under Rule 61 for the entry of an interim suspension and that while he has considered the positions of Mr. Thieme, he believes interim suspension is required under the rule and appropriate.

Interim suspension "shall be" entered under Rule 61 after the disciplinary clerk's receipt of proof of the lawyer conviction of a felony. In determining whether exercise discretion and not enter an interim suspension, the PDJ is guided by the American Bar Association *Standards for Imposing Lawyer Sanctions* ("Standards"). See Rule 58(k). *Standard* 5.0 addresses violations of duties owed by an attorney to the public. *Standard* 5.12 is applies. "Lawyers who engage in criminal conduct other than described in *Standard* 5.11 should be suspended in cases where their conduct seriously adversely reflects on their fitness to practice." The conduct of Mr. Thieme seriously adversely reflects on his fitness to practice.

Now therefore,

**IT IS ORDERED** suspending **Michael P. Thieme, Bar No. 024124** from the practice of law, effective immediately, on an interim basis pursuant to Rule 61(c)(1)(A).

**IT IS FURTHER ORDERED** as provided in Rule 61(d), unless vacated or modified, such suspension shall continue in force until final disposition of all pending disciplinary proceedings against Michael P. Thieme.

**IT IS FURTHER ORDERED** under Rule 72(a) **Michael P. Thieme** shall notify all clients of the terms of this order within ten days and shall timely file with the Disciplinary Clerk and the Supreme Court, notice of compliance with this Order as provided by Rule 72(e).

**IT IS FURTHER ORDERED** setting the underlying matters for telephonic status review on **January 24, 2017 at 10:30 a.m.** This status review shall automatically be vacated without further order upon the filing by the State Bar of a complaint regarding this matter or an agreement for discipline by consent. The State

Bar is directed to expeditiously proceed with any related disciplinary investigation and proceeding.

**DATED** this 14<sup>th</sup> day of December, 2016.

*William J. O'Neil*

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**William J. O'Neil, Presiding Disciplinary Judge**

COPY of the foregoing e-mailed this 14<sup>th</sup> day of December, 2016, and mailed December 15, 2016, to:

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