

STATE OF MICHIGAN

Attorney Discipline Board

GRIEVANCE ADMINISTRATOR,
Attorney Grievance Commission,

Petitioner,

v

Case No. 14-1-JC

JOHN C. LANGE, P 39302,

Respondent.

ORDER AFFIRMING 30-DAY SUSPENSION AND VACATING CONDITION

Issued by the Attorney Discipline Board
211 W. Fort St., Ste. 1410, Detroit, MI

On September 29, 2014, Tri-County Hearing Panel #68 issued an order suspending respondent's license to practice law for 30 days, effective October 21, 2014, based on respondent's conviction of attempted surveillance of an unclothed person, (his 18-year old step-niece), in violation of MCL § 750.539j(2)(a)(1), a misdemeanor. The hearing panel's order also imposed conditions which included remaining in full compliance with all of his probation requirements from the criminal case; continuing his psychotherapy and participating in weekly cognitive behavioral therapy for the duration of his probation; taking his prescription medication as directed by his physician; and, to provide monthly reports of his progress to the Grievance Commission and the Board.

The Grievance Administrator filed a timely petition for review arguing that the hearing panel imposed insufficient discipline given the nature of the conduct involved. Respondent did not request a stay of the discipline imposed and thus had served and completed the 30-day suspension by the time these review proceedings commenced. The Grievance Administrator requests on review that the suspension imposed by the hearing panel be increased to a 180-day suspension.

Review proceedings were conducted on January 21, 2015. The Board has considered the record below, together with the arguments of the parties both in writing and at the review hearing. For the reasons discussed below, we affirm the 30-day suspension imposed by the hearing panel.

The hearing panel's report on discipline reflects a thoughtful weighing of the facts, circumstances, and evidence presented by the parties:

The panel heard testimony from respondent, his therapist and several character witnesses. While the panel considered all of the mitigating factors, including the respondent's commitment to receive treatment from his therapist; his continuing efforts for treatment; his clear remorse for the act he committed; his involvement in community activities; and the glowing testimony of character

witnesses, the panel believes that even if probation were a choice the panel could make, that it would not be appropriate in this matter. The panel finds that the conduct of respondent was clearly dishonest, intentional, and fraudulent. Having reviewed the various cases involving discipline for a criminal conviction, even if the crime committed by respondent does not call into question respondent's ability to practice law, it still calls into question his fitness to practice law. Clearly membership in the State Bar of Michigan is a privilege which is burdened by conditions which this respondent clearly violated.

The panel does not agree that if probation under MCR 9.121(C)(1)(a) does not apply, a reprimand would be appropriate, as argued by respondent's counsel. Nor does the panel agree that respondent's conduct warrants the lengthy suspension requested by the Grievance Administrator. Instead, the panel believes that a short suspension with the imposition of a number of conditions relevant to the established misconduct is appropriate and will serve to protect the public, the courts, and the legal profession. [HP Report 9/29/14, p 5.]

Certain types of misconduct may reflect adversely on a lawyer's fitness to practice such that significant discipline is warranted even if the conduct takes place outside of the practice of law. However, as we have previously indicated:

Any rule which would simplistically characterize conduct by labels (e.g. "assault"), and then allow that characterization to dictate the level of discipline to be imposed irrespective of factual distinctions, will promote barren records and decisions on discipline without all of the relevant facts. This is ultimately harmful to the public, the courts, and the bar. For only when a panel, this Board, and/or the Court have a full and true picture of the nature of the misconduct can the appropriate level of discipline be assigned. [*Grievance Administrator v Arnold M. Fink*, 96-181-JC (ADB 2001).]

Among the relevant facts and circumstances involved in this case are respondent's unblemished record and his aberrant behavior accompanying his sudden, medically unsupervised cessation of an anti-depressant respondent had been taking. Respondent's guilty plea was to a one-year misdemeanor offense. In the criminal case, he was sentenced to two years of probation with conditions related to the charges. The hearing panel also imposed conditions which, in part, included the requirement that respondent continue his outpatient psychotherapy during the period of his circuit court probation and weekly cognitive behavioral therapy through its entirety. Respondent has since provided proof that his probation in the criminal case and his cognitive behavioral therapy program have now both been successfully completed. In light of the foregoing and the fact that respondent continues to voluntarily obtain treatment, as needed, we **VACATE** the condition regarding continuation of prescription medication.

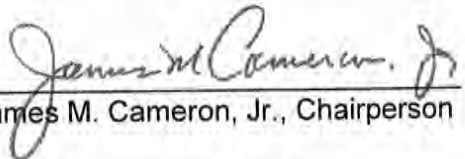
Respondent's 30-day suspension became effective on October 21, 2014. On October 30, 2014, respondent was suspended from the practice of law before the US District Court and US Bankruptcy Court for the Eastern District of Michigan, pursuant to E.D. Mich C.R. 83.22. His

license to practice law in state courts was automatically reinstated effective November 24, 2014, the date on which he filed his affidavit of compliance pursuant to MCR 9.123. The next day, respondent filed an affidavit of compliance and a petition for reinstatement with the US District Court. Despite the Grievance Administrator's objection and request to hold the proceedings in abeyance until these review proceedings were concluded, an order of reinstatement to the US District Court and US Bankruptcy Court was entered on January 23, 2015, and effective immediately.

While a suspension greater than 30 days may be appropriate for this conduct, in light of all of the circumstances here, including respondent's counsel's representations at the review hearing that respondent practices exclusively in bankruptcy court, and the fact that respondent's license was suspended in federal court from October 30, 2014 through January 23, 2015, we conclude that a 30-day suspension is appropriate in this case and, therefore, the suspension is **AFFIRMED**.

ATTORNEY DISCIPLINE BOARD

By:


James M. Cameron, Jr., Chairperson

DATED: March 24, 2015

Board members James M. Cameron, Jr., Dulce M. Fuller, Louann Van Der Wiele, Michael Murray, James A. Fink and John W. Inhulsen concur in this decision.

Board members Lawrence G. Campbell and Sylvia P. Whitmer, Ph.D. were absent and did not participate.

Board member Rosalind E. Griffin, M.D. dissents from this decision, and states:

I dissent from the majority decision to affirm the 30-day suspension imposed by the hearing panel. Respondent made a conscious decision to attempt to videotape his step-niece while she was changing clothes. I would increase the suspension imposed by the hearing panel to 90 days, with credit for the 30-day suspension respondent has already served. In addition, I would also affirm the imposition of the condition requiring respondent to continue his medication as recommended by Dr. Taylor.