

STATE OF MICHIGAN
Attorney Discipline Board

FILED
ATTORNEY DISCIPLINE BOARD

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GRIEVANCE ADMINISTRATOR,
Attorney Grievance Commission,

Petitioner,

v

WILLIAM C. ROUSH, P 23444,

Case No. 13-130-JC

Respondent.
_____ /

**ORDER INCREASING HEARING PANEL ORDER OF
SUSPENSION OF 133 DAYS WITH CONDITIONS
TO A SUSPENSION OF 180 DAYS AND VACATING CONDITIONS**

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

On September 15, 2014, Tri-County Hearing Panel #79 of the Attorney Discipline Board issued an order suspending William C. Roush's license to practice law in Michigan for a period of 133 days, coupled with a three year probationary period subject to a number of conditions. The Grievance Administrator filed a petition for review and respondent's subsequent request to file a delayed cross-petition for review was granted by the Board Chairperson on December 3, 2014. The Attorney Discipline Board has conducted review proceedings in accordance with MCR 9.118 which included a review of the whole record before the panel and consideration of the briefs and arguments presented at a review hearing conducted January 21, 2015. For the reasons discussed below, we increase the suspension to 180 days and vacate the three-year probationary period with conditions imposed by the hearing panel.

On November 21, 2013, the Grievance Administrator filed a certified copy of a judgment of conviction against William C. Roush pursuant to MCR 9.120(B)(3), showing that he was convicted in the Oakland County Circuit Court, in the matter titled *People of the State of Michigan v William Clark Roush*, Case No. 2012-240182-FH, of aggravated indecent exposure, a misdemeanor, in violation of MCL § 750.335(a)(2)(b). A hearing was held before the panel on May 13, 2014. In its subsequent report on misconduct and discipline, the hearing panel found that, based on respondent's conviction, respondent had committed professional misconduct in violation of MCR 9.104(5) and that a suspension was appropriate under Standard 5.12 of the ABA Standards for Imposing Lawyer Sanctions (ABA Standards). Without a specific explanation, the panel imposed a 133-day suspension and a three year probationary term with conditions.

At hearing, and on review, the Grievance Administrator has consistently argued for the imposition of a 180-day suspension under ABA Standard 5.12 because respondent's conduct seriously adversely reflects on his fitness to practice law, warranting a significant suspension. The Grievance Administrator made no request for the imposition of conditions and we note that at the time this matter was initially filed, respondent had very recently and successfully completed a two-year monitoring contract with the State Bar of Michigan's Lawyers and Judges Assistance Program (LJAP). Respondent was also undergoing counseling, and participating in peer monitoring and a twelve-step program, in addition to the conditions imposed upon him in the criminal case.

Respondent has also consistently argued at hearing and on review, for the imposition of probation which would be immediately dissolved and considered completed as his impairment (impulse control disorder) has been removed.

Although the panel's report references its consideration of the ABA Standards, the applicable aggravating and mitigating factors, and case law cited by the parties, the report gives no indication how the panel came to the conclusion that a suspension for the specific time frame of 133 days was appropriate. In addition, the panel noted that the material respondent provided at the hearing was "indicative of a good faith effort to move forward . . ." (HP Report 9/15/14, p 5) but determined that it was necessary to impose conditions, in addition to those imposed in the criminal case, which included: meeting with a licensed sex addiction therapist; continuing to attend and participate in a 12-step program; being subject to polygraph tests to verify the sex addiction issue; and participating in a three year monitoring agreement with LJAP.

In reviewing the hearing panel's decision to impose a suspension of 133 days, coupled with a probationary period with conditions, the Board has applied the standard of review to be followed when the level of discipline is the focus of the proceeding:

In exercising its overview function to determine the appropriate sanction, this Board's review is not limited to the question of whether there is proper evidentiary support for the panel's findings, rather, it possesses "a greater degree of discretion with regard to the ultimate result." [*Grievance Administrator v Benson*, 06-52-GA (ADB 2009), citing *Grievance Administrator v Handy*, 95-51-GA (ADB 1996). See also *Grievance Administrator v August*, 438 Mich 296, 304; 304 NW2d 256 (1991).]

As the Board has more recently observed:

This Board's responsibility to ensure consistency and continuity in discipline imposed under the ABA Standards and caselaw necessarily means that we may not always afford deference to a hearing panel's sanction decision, and that we may be required to independently determine the appropriate weight to be assigned to various aggravating and mitigating factors depending on the nature of the violation and other circumstances considered in similar cases. [*Grievance Administrator v Saunders V. Dorsey*, 02-118-AI; 02-121-JC (ADB 2005).]

In this matter, the Board agrees with the Grievance Administrator that respondent's conduct does reflect adversely on his fitness to practice law such that significant discipline is warranted. The Board has carefully considered the panel's reliance on ABA Standard 5.12 and the aggravating and mitigating factors cited by the hearing panel. Nevertheless, the underlying facts and circumstances of the criminal conduct that occurred in this matter warrants a suspension greater than the 133-day suspension imposed by the hearing panel. In regard to the probationary period and conditions imposed by the panel, it appears to the Board that despite respondent's claims that his impulse control disorder has now been successfully treated, the panel did not agree. In fact, the hearing panel appears to have given little weight to respondent's exhibit booklet and testimony about his diagnosis, treatment, and future prognosis of his impairment. Regardless, given

respondent's admission that he has not practiced law since August 22, 2013, and that he has no intention of practicing law, the Board is not convinced that the probationary period and conditions imposed by the panel are necessary given the probationary conditions already imposed on respondent in the criminal case. As a result, the probationary period and conditions imposed by the panel are vacated and the suspension imposed by the hearing panel is increased to a 180-day suspension of respondent's license to practice law in Michigan. If respondent decides in the future that he does in fact wish to practice law again, the burden will be on him to prove to a hearing panel by clear and convincing evidence that his impulse control disorder has been successfully treated and is not likely to reoccur such that his license should be reinstated.

NOW THEREFORE,

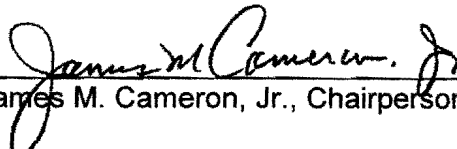
IT IS ORDERED that discipline in this case is increased from a suspension of 133 days to a **SUSPENSION OF RESPONDENT'S LICENSE TO PRACTICE LAW FOR 180 DAYS EFFECTIVE OCTOBER 7, 2014**, and until further order of the Supreme Court, the Attorney Discipline Board or a hearing panel, and until respondent complies with the requirements of MCR 9.123(B) and (C); and MCR 9.124.

IT IS FURTHER ORDERED that the three-year probationary period with conditions imposed by the hearing panel is **VACATED** in its entirety.

IT IS FURTHER ORDERED that the respondent shall comply with all applicable provisions of MCR 9.119.

IT IS FURTHER ORDERED that respondent shall, on or before April 1, 2015, pay court reporting costs incurred by the Board for the review hearing conducted on January 21, 2015, in the amount of **\$128.50**. Check or money order shall be made payable to the Attorney Discipline System, but submitted to the Attorney Discipline Board [211 West Fort St., Ste. 1410, Detroit, MI 48226] for proper crediting. (See attached instruction sheet).

ATTORNEY DISCIPLINE BOARD

By: 
James M. Cameron, Jr., Chairperson

DATED: March 3, 2015

Board members James M. Cameron, Jr., Dulce M. Fuller, Rosalind E. Griffin, M.D., 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.