

Attorney Discipline Board

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GRIEVANCE ADMINISTRATOR,
Attorney Grievance Commission,

Petitioner,

v

Case No. 11-8-JC

WILLIAM A. SUNDQUIST, P 21165,

Respondent.

ORDER AFFIRMING REPRIMAND AND VACATING CONDITIONS

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

Respondent's plea of guilty to the misdemeanor offense of operating a vehicle while impaired¹ was accepted on March 9, 2010. The order of probation entered that day in the 65A District Court required, among other things, that respondent not possess or consume alcoholic beverages. On July 21, 2010, respondent pled guilty to a probation violation based on a positive alcohol test on March 12, 2010. This discipline proceeding under MCR 9.120 was commenced January 12, 2011. In its July 29, 2011 order, the hearing panel imposed a reprimand and the condition that respondent attend Alcoholics Anonymous (AA) meetings at least two times per week for one year. Following the entry of that order, the Grievance Administrator moved for reconsideration requesting the inclusion of additional conditions that:

Respondent shall remain abstinent from alcohol and non-prescription controlled substances during the one year period of attendance at AA and he shall provide a quarterly affidavit to the Attorney Grievance Commission of compliance with this provision. Respondent shall consume prescription medications only under the direction and supervision of a treating physician. [Grievance Administrator's August 11, 2011 Motion for Reconsideration.]

The panel granted this motion, in part, by adding a condition that respondent abstain from alcohol for a period of one year and that he provide a quarterly affidavit to the Attorney Grievance Commission regarding his compliance. However, the panel declined to order abstinence from controlled substances, noting that there was no evidence in the record that respondent had abused them.

¹ MCL 257.6253

Respondent has petitioned for review, arguing that the panel order should be vacated and that an order of no discipline should be entered. The Administrator has cross-petitioned for review and, in briefs in support, now asks for “a condition of two-years monitoring by the State Bar of Michigan Lawyers and Judges Assistance Program (LJAP), along with a requirement of abstinence,” presumably for two years also.²

In light of a previous drinking and driving incident in 1983 (though it is remote in time), and the probation violation here, we cannot find error in the hearing panel’s decision to impose a reprimand rather than an order imposing no discipline. Compare *Grievance Administrator v Vicky O. Howell* (After Remand), 94-50-JC; 94-93-JC (ADB 1998), lv den 460 Mich 1205 (1999) (Board vacated panel order of no discipline where respondent violated probation for drunk driving offense).

Accordingly, the remaining issue is whether respondent should now be subject to conditions requiring that, for some period of time, he abstain from alcohol and submit to monitoring and reporting to verify compliance with this condition.

After his 1983 incident, respondent went for in-patient treatment and attended AA. The record indicates that respondent has been and remains vigorous and physically active, and still handles a substantial caseload as an administrative law judge, all at the age of 80. As a part of his criminal sentence, respondent was seen by medical and other professionals who determined that he engaged in the abuse of alcohol, but was not dependent upon it. He successfully completed various programs for the assessment and treatment of those with alcohol problems, including a one-year probationary term during which he attended over 200 AA meetings and was subject to weekly random alcohol testing. Respondent acknowledged gaining some insight from AA meetings and other treatment, including help in dealing with the loss of his wife of 51 years which has had an impact upon him. There is no evidence that respondent lacks the ability to moderate or stop his drinking as necessary or appropriate to abide by applicable law and function professionally.

The panel’s order has been stayed on review, and it appears that there has been no order of a criminal court or discipline agency in place prohibiting respondent from drinking since March 9, 2011.³ The purpose of requiring respondent to stop drinking for another year at this point has not been articulated.

NOW THEREFORE,

² At oral argument, counsel for the Administrator acknowledged that there were no additional facts supporting this request for a two-year period of abstinence and monitoring, and that, in light of the earlier position taken by the Administrator (one year of such conditions), the Grievance Administrator “would leave it to the Board to decide if [the conditions should be in place for] one or two years.” January 11, 2012 Review Hrg Tr, p 12.

³ Respondent asserts that he “completed the joint Sparrow.LJAP/Court probationary contract” on February 23, 2011, and that he “completed his one year probation” on March 9, 2011. Respondent’s brief, p 3. There has been no dispute raised as to these assertions.

IT IS ORDERED that the hearing panel's amended order of reprimand with conditions, issued September 9, 2011, is **AFFIRMED** with the exception of that portion of the order imposing conditions which is **VACATED**.

IT IS FURTHER ORDERED that respondent shall, on or before May 15, 2012, pay costs in the amount of **\$2,066.82**, consisting of costs assessed by the hearing panel in the amount of \$1,980.82 and court reporting costs incurred by the Attorney Discipline Board in the amount of \$86.00 for the review proceedings conducted on January 11, 2012. Check or money order shall be made payable to the State Bar of Michigan, 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:


Thomas G. Kienbaum, Chairperson

Dated: April 16, 2012

Board members Thomas G. Kienbaum, James M. Cameron, Jr., Rosalind E. Griffin, M.D., Andrea L. Solak, Carl E. Ver Beek, Craig H. Lubben, Sylvia P. Whitmer, Ph.D, Lawrence G. Campbell, and Dulce M. Fuller concur in this decision.