

IN THE SUPREME COURT OF PENNSYLVANIA

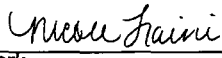
OFFICE OF DISCIPLINARY COUNSEL, : No. 2722 Disciplinary Docket No. 3
: :
Petitioner : No. 70 DB 2020
: :
: Attorney Registration No. 39874
v. :
: (Chester County)
: :
WILLIAM H. LYNCH JR., :
: :
Respondent :

ORDER

PER CURIAM

AND NOW, this 6th day of January, 2022, upon consideration of the Report and Recommendations of the Disciplinary Board, William H. Lynch, Jr. is suspended from the Bar of this Commonwealth for a period of three years. Respondent shall comply with all the provisions of Pa.R.D.E. 217 and pay costs to the Disciplinary Board. See Pa.R.D.E. 208(g).

A True Copy Nicole Traini
As Of 01/06/2022

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 70 DB 2020
Petitioner	:	
	:	
v.	:	Attorney Registration No. 39874
	:	
WILLIAM H. LYNCH, JR.,	:	
Respondent	:	(Chester County)

REPORT AND RECOMMENDATIONS OF
THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

TO THE HONORABLE CHIEF JUSTICE AND JUSTICES
OF THE SUPREME COURT OF PENNSYLVANIA:

Pursuant to Rule 208(d)(2)(iii) of the Pennsylvania Rules of Disciplinary Enforcement, the Disciplinary Board of the Supreme Court of Pennsylvania (“Board”) herewith submits its findings and recommendations to your Honorable Court with respect to the above-captioned Petition for Discipline.

I. HISTORY OF PROCEEDINGS

By Order dated July 13, 2020, the Supreme Court of Pennsylvania placed Respondent, William H. Lynch, Jr., on temporary suspension pursuant to Pa.R.D.E. 214(d)(2). On July 20, 2020, Respondent filed with the Board a request for accelerated disposition of the matter pursuant to Pa.R.D.E. 214(f)(2). On August 17, 2020, Petitioner filed a Petition for Discipline and charged Respondent with violating the Pennsylvania Rules of Professional Conduct and the Pennsylvania Rules of Disciplinary Enforcement

based on Respondent's criminal conviction for stalking. On September 9, 2020, Respondent filed an Answer to Petition for Discipline.

Following a prehearing conference on February 1, 2021, a District II Hearing Committee ("Committee") held a disciplinary hearing on March 18, 2021. As Respondent admitted all rules violations charged in the Petition for Discipline, the Committee proceeded to hear evidence on the appropriate discipline to be imposed under D. Bd. Rules § 89.151(b). Petitioner introduced exhibits ODC-1 through ODC-33, which the Committee accepted into evidence. Petitioner presented the testimony of Special Agent Kristin D. Mertz of the Pennsylvania Office of Attorney General and Rachelle Sellers, the victim of Respondent's crime. Respondent was represented by counsel at the hearing. He presented the testimony of Franklin Maleson, M.D.; Mindy Bell, MA, LPC; Stephen Fireoved, Esquire; and Michael T. Dolan, Esquire. Respondent testified on his own behalf.

On May 5, 2021, Petitioner filed a post-hearing brief and requested that the Committee recommend to the Board that Respondent be suspended for a period of not less than three years. On May 25, 2021, Respondent filed a post-hearing brief and requested that the Committee recommend to the Board that a stayed suspension with probation be imposed or in the alternative, a suspension less than one year retroactive to the date of Respondent's temporary suspension.

By Report filed on July 16, 2021, the Committee concluded that Respondent violated the rules as charged in the Petition for Discipline and recommended that he be suspended for one year and one day, retroactive to July 13, 2020.

On July 27, 2021, Respondent filed a Brief on Exceptions to the Committee's Report and recommendation and requested oral argument before the Board. Respondent objected to the one year and one day suspension as too severe in light of

his proffered mitigation and reiterated his request for a stayed suspension or suspension less than one year with retroactivity. On August 2, 2021, Petitioner filed a Brief on Exceptions to the Committee's Report and recommendation and contended that the Committee's recommended discipline is not sufficient to address the severity of Respondent's misconduct. On August 11, 2021, Petitioner filed a Brief Opposing Respondent's Exceptions.

A three-member panel of the Board held oral argument on September 20, 2021. The Board adjudicated this matter at the meeting on October 25, 2021.

II. FINDINGS OF FACT

The Board makes the following findings:

1. Petitioner, whose principal office is situated at Pennsylvania Judicial Center, 601 Commonwealth Avenue, Suite 2700, P.O. Box 62485, Harrisburg, Pennsylvania, 17106, is invested, pursuant to Rule 207 of the Pennsylvania Rules of Disciplinary Enforcement, with the power and duty to investigate all matters involving alleged misconduct of any attorney admitted to practice law in the Commonwealth of Pennsylvania and to prosecute all disciplinary proceedings brought in accordance with the various provisions of said Rules.

2. Respondent is William H. Lynch, Jr., born in 1958 and admitted to the bar of the Commonwealth of Pennsylvania in 1983. Respondent is subject to the jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

3. By Order dated July 13, 2020, the Supreme Court of Pennsylvania placed Respondent on temporary suspension. ODC-28; Stip. ¶3.

4. Until the temporary suspension of his law license, Respondent was a sole practitioner at The Law Offices of William H. Lynch, Jr., where he primarily handled workers' compensation matters. Stip. ¶5.

5. On November 13, 2020, Respondent filed with the Board a Statement of Compliance in connection with the temporary suspension of his law license. Stip. ¶6.

6. Respondent has no prior record of discipline in Pennsylvania. Stip. ¶7.

7. On August 7, 2019, at approximately 7:15 a.m., Respondent met Ms. Rachelle Sellers at the Berwyn train station. Respondent and Ms. Sellers exchanged business cards and began to communicate through telephone calls, voicemails, and text messages. Stip. ¶9.

8. From August 2019 to early September 2019, Respondent and Ms. Sellers occasionally met in person for dinner or breakfast. N.T. 39; Stip. ¶ 12.

9. Ms. Sellers was aware that Respondent was an attorney as they had exchanged business cards and Respondent had told Ms. Sellers he was a trial attorney. N.T. 37, 39.

10. Beginning on September 5, 2019, Respondent began sending Ms. Sellers sexually explicit text messages. Stip. ¶13.

11. On September 6, 2019 at 12:08 a.m., Respondent sent a text message to Ms. Sellers stating: "We should start sexting." (Stip. ¶14). On September 6, 2019 at 5:35 a.m., Ms. Sellers declined to engage in sexting and characterized

Respondent's sexually explicit text messages as inappropriate and unwanted. Stip. ¶¶15-26.

12. Respondent attempted to persuade Ms. Sellers to engage in a romantic relationship, which she declined. Stip. ¶¶17-20.

13. Throughout September 6-7, 2019, Respondent sent numerous sexually explicit and derogatory text messages to Ms. Sellers, despite Ms. Sellers' protests. Stip. ¶¶21-29.

14. On September 7, 2019, Respondent left a voicemail for Ms. Sellers that caused her to send the following texts:

Ms. Sellers at 3:36 p.m.: Please don't ever yell at me.

Ms. Sellers at 3:46 p.m.: Bill, I listened to your message and sad you think that low about me. I have friendships for yrs with people and even my ex in laws respect me. All I have to offer is friendship and I have told you this many times. Instead of respecting this, you get mad that I am not jumping into a relationship with you.

Ms. Sellers at 3:48 p.m.: I wish you all the best. Truly am, as every person should be able to find happiness.

Stip. ¶ 26.

15. Respondent immediately replied with angry texts in which he described Ms. Sellers using sexually explicit, derogatory, and profane words. Stip. ¶ 27-28.

16. During a September 7, 2019 phone call, Respondent became angry, stated Ms. Sellers never seemed to have time for him, scared Ms. Sellers with his tone of voice, refused to allow Ms. Sellers to hang up the phone, and screamed that, as an attorney, he had many contacts, including friends at the FBI and CIA, and could get Ms. Sellers (a native of The Netherlands), deported. N.T. 44-45.

17. On September 7, 2019 at 5:49 p.m., Ms. Sellers permanently ended the friendship through text message, directing Respondent to never contact her again, either directly or indirectly. Stip. ¶30.

18. At approximately 6:15 p.m., Respondent left a voicemail for Ms. Sellers in which Respondent offered her a “deal” as follows: (a) she would need to return his property; (b) Respondent would draft an “airtight release” by which Ms. Sellers would agree to have consensual sexual acts with him; (c) Respondent would put specific sexual acts in the contract; (d) Respondent would not charge Ms. Sellers for any encounters and “it can go on for a while”; and (e) Ms. Sellers would sign the contract and have it notarized. N.T. 47-53; ODC-6; ODC-7; Stip. ¶31.

19. Respondent’s voicemail included several descriptions of explicit sex acts and foul language, alluded to his fear that Ms. Sellers would “try to cry rape and sue” him, and invited Ms. Sellers to call him to negotiate the deal terms. N.T. 47-53; ODC-6; ODC-7; Stip. ¶ 32-34.

20. Shortly thereafter, Respondent left Ms. Sellers a second sexually explicit voicemail about the contract. The voicemail included derogatory and offensive language. N.T. 53-57; ODC-8; ODC-9; Stip. ¶37.

21. Respondent’s voicemails intimidated, humiliated, and frightened Ms. Sellers. N.T. 53, 57.

22. On September 7, 2019, Respondent threatened to use his status as an attorney to hurt Ms. Sellers, including without limitation: “[i]f appropriate I will follow up with legal action against you”; and “I have already filed a report on u to tredyffrin police.” Stip. ¶40.

23. From September 7, 2019 to September 9, 2019, Respondent on three occasions attempted to file baseless criminal complaints against Ms. Sellers with the Tredyffrin Township Police Department. ODC-2; ODC-3; ODC-4; ODC-5, Stip. ¶¶ 45-46, 48-54.

24. Soon after, Respondent threatened Ms. Sellers' safety by telling her that he had weapons available to him. Stip. ¶43.

25. Ms. Sellers understood Respondent's texts about firearms as "a physical threat ... that he had several firearms in his house. [She] took it as a realistic threat and was in fear that he would either kill [her] and/or [her] son." N.T. 45-46.

26. After attempting to file a police report against Ms. Sellers, Respondent texted Ms. Sellers numerous times, including without limitation the following: "You are being placed on legal notice that if u destroyed or do destroy the two llove [sic] letters William h [sic] Lynch jr [sic] wrote to you that William h [sic] Lynch jr [sic] may have a legal claim against you for spoliation of evidence in a pending or possible civil lawsuit or criminal prosecution" Stip. ¶46.

27. For the next several days, Respondent sent Ms. Sellers more than 90 text messages that were sexually explicit, inappropriate, disparaging, and threatening. Stip. ¶47.

28. On September 9, 2019, Respondent threatened to involve the federal government when he texted to Ms. Sellers: "If u pass a background check my contact with FBI and CIA. [sic] Your privileges to contact hill Billy will be restored fully. Texts. Calls in person and physical contact will be allowed. This vetting process will take several days. Maybe till friday [sic] or monday [sic] and I will [sic]." Stip. ¶56.

29. On September 10, 2019 at approximately 1:00 a.m., Respondent first threatened to show up, uninvited, at Ms. Sellers' work. Stip. ¶¶57.

30. On September 11, 2019, Respondent told Ms. Sellers that he was having a private investigator perform a background check on her and reiterated his threat to come to her work. Stip. ¶¶58.

31. Respondent then sent a series of texts in which he said he wanted to have sex with Ms. Sellers in her office after the employees were gone and described in graphic detail proposed sexual acts. N.T. 57-60; Stip. ¶¶ 59.

32. Ms. Sellers took Respondent's threats about the sex contract, criminal complaints, and lawsuits against her very seriously, as he was an attorney. Ms. Sellers feared deportation. N.T. 45.

33. On September 11, 2019, Ms. Sellers reported Respondent's conduct to the Tredyffrin Township Police Department. Stip. ¶¶60. On that same day, Detective Michael D. Carsello filed a Police Criminal Complaint against Respondent, and the Honorable District Judge John R. Bailey issued a warrant for Respondent's arrest. Stip. ¶¶61-62.

34. Ms. Sellers testified that her employer provided building security with Respondent's photo and a copy of the warrant for his arrest so that he would not be able to enter the building. N.T. 58-59.

35. On September 11, 2019, Respondent went to the Pennsylvania Office of Attorney General in Harrisburg, PA. Respondent spoke to Special Agent Kristin D. Mertz and two other agents and attempted to file a complaint against former Governor Edward Rendell and Attorney General Josh Shapiro for sexual assault of Ms. Sellers. N.T. 24-26; Stip. ¶¶63-64.

36. Special Agent Mertz testified at the hearing that Respondent was “very loud, very obnoxious, very vulgar.” She also described Respondent as behaving erratically, and further described the nature of the meeting as Respondent making comments about what he sexually wanted to do with Ms. Sellers. N.T. 22, 26.

37. Special Agent Mertz testified that Respondent was “pissed” because he felt he was being scammed by Ms. Sellers when he wanted sexual favors from her, and Respondent compared the situation to “the longest living job in the world” – prostitution. N.T. 33-34.

38. Special Agent Mertz testified that Respondent was “so angry and so obnoxious” that she was afraid he would attack the Attorney General, and his behavior was something she had never seen before in nearly 25 years of law enforcement. N.T. 30; Stip. ¶¶ 65-66.

39. As a result of Respondent’s behavior at the OAG, Special Agent Mertz made a public contact report to the Supervisory Special Agent, the Section Director, and Director of Security. N.T. 22, 28-29; Stip. ¶¶ 65-67.

40. The testimony of Special Agent Mertz was credible.

41. On September 12, 2019 at approximately 7:00 p.m., Respondent was arrested, arraigned by video, and released on bail. Stip. ¶¶74.

42. As a condition of Respondent’s bail, Respondent was to refrain from contacting Ms. Sellers. Stip. ¶¶75.

43. On September 17, 2019, Ms. Sellers received a card in the mail from Respondent, which she gave to Detective Carsello. Respondent described the card as “a letter of apology.” Stip. ¶¶82-84. The card also included an expression of Respondent’s

love for Ms. Sellers and the statement “Look forward to seeing you Friday to return the gifts I gave you (Signed) Love Bill.” Stip. ¶83.

44. Respondent’s card to Ms. Sellers violated the terms of his probation.

45. On November 23, 2019 at approximately 10:40 a.m., Respondent called Ms. Sellers. She did not answer and Respondent did not leave a voicemail. N.T. 62-63, 152; Stip. ¶ 85-88.

46. Respondent’s call to Ms. Sellers violated the terms of his probation.

47. Respondent has had no further contact with Ms. Sellers since November 23, 2019. N.T. 152, 153; Stip. ¶129.

48. Respondent abused his status as an attorney when he used it to berate and intimidate Ms. Sellers. Stip. ¶69.

49. On December 18, 2019, the Chester County District Attorney’s Office filed an Information in the Chester County Court of Common Pleas initiating ***Commonwealth v. William Henry Lynch***, No. CP-15-CR-0004322-2019 and charging Respondent with: (a) Count 1, Stalking in violation of 18 Pa. C.S.A. §2709.1(a)(2), a misdemeanor of the first degree; (b) Count 2, Harassment in violation of 18 Pa. C.S.A. §2709(a)(4), a summary offense; and (c) Count 3, Disorderly Conduct in violation of 18 Pa. C.S.A. §5503(a)(4), a misdemeanor of the third degree. ODC-2; ODC-24; Stip. ¶90.

50. On February 4, 2020, Respondent pled guilty in the Chester County Court of Common Pleas to: (a) Count 1, Stalking in violation of 18 Pa. C.S.A. §2709.1(a)(2), a misdemeanor of the first degree. N.T. 150; ODC-14; ODC-16; ODC-24; Stip. ¶91.

51. The offense of stalking prohibits an individual from engaging in a course of conduct or repeatedly communicating to another person under circumstances

which demonstrate or communicate an intent to place such other person in reasonable fear of bodily injury or to cause substantial emotional distress to such other person. ODC-10; ODC-24; Stip. ¶92.

52. At the February 4, 2020 hearing, Ms. Sellers submitted a letter to the Honorable Patrick Carmody in which she stated, *inter alia*, that: (1) she “had to inform [her] boss [about Respondent], as she was afraid [he] would come to [her] office”; (b) her boss and Detective Carsello advised her to work from home beginning on or about September 11, 2019 and until Respondent’s arrest “out of fear for [her] safety”; (c) her travel outside of the house had been “very stressful” because she “feared [Respondent] would either show up at the train station, [her] office, or follow [her] home”; (d) Respondent’s conduct caused Ms. Sellers, who is a native of The Netherlands, to fear that he would use his law license to threaten her presence in the United States; and (e) Respondent’s conduct caused Ms. Sellers to buy a firearm, become a member of a shooting club, take self-defense classes, and obtain a Pennsylvania license to carry firearms. Stip. ¶94; ODC Ex. 15.

53. The court advised Respondent that his statements were not acceptable and Respondent was not taking responsibility for his actions or showing any remorse. Specifically, the Honorable Patrick Carmody stated:

In Commonwealth versus Penrod, P-E-N-R-O-D, I’m allowed to consider the impact on the victim and the rehabilitative needs of the defendant. I share a little bit of the DA’s concern, I don’t think you quite get it. You say you get it, but the more I hear you, I don’t think you quite get it. And reading through this objectively, it’s not the right response that I would expect. Yes, you pled guilty. No, you don’t want to go through a trial and that’s good. But I’m concerned.
Stip. ¶98.

54. In his Answer to Petition for Discipline, Respondent admitted “Judge Carmody seemed to suggest that he did not believe [Respondent] was accepting responsibility or showing remorse.” Stip. ¶¶99.

55. On February 4, 2020, the court sentenced Respondent to two (2) days to twenty-three (23) months imprisonment – until January 2022. N.T. 151; Stip. ¶¶104. Among other things, the sentence included a requirement for Respondent to undergo a mental health evaluation and follow all recommendations for treatment. Stip. ¶¶101.

56. On February 14, 2020, Respondent began his incarceration at Chester County Prison. Stip. ¶¶103.

57. Respondent was paroled on February 16, 2020 and will be supervised by the Chester County Office of Adult Probation and Parole for twenty-three (23) months, until approximately January 2022. N.T. 151; Stip. ¶¶104.

58. By letter dated March 16, 2021, Brent Sanderson of Chester County Probation confirmed that, as of the date of his letter, Respondent was in compliance with the terms of his probation. R-9; Stip. ¶¶109.

59. Mindy Bell, MA, LPC conducted a Mental Health Evaluation and issued a report dated March 25, 2020 that diagnosed Respondent with: (a) bipolar disorder, unspecified; (b) irritability and anger; (c) problems related to other legal circumstances; (d) adult antisocial behavior; and (e) personal history of anxiety. ODC-21; Stip. ¶¶105.

60. The March 25, 2020 Mental Health Evaluation recommended that Respondent complete the anger management/domestic violence program, continue with psychiatric treatment, and ask about the Genesight test to determine what psychotropic medications would be best. ODC-21; Stip. ¶¶ 107.

61. By letter dated May 20, 2020, Ms. Bell certified that Respondent completed the anger management/domestic violence program. N.T. 122-123, 151-152; R-4; Stip. ¶ 109.

62. Respondent privately retained Ms. Bell on December 1, 2020, and they meet biweekly. N.T. 124-125.

63. Ms. Bell testified at the hearing but was not offered as an expert for the purpose of establishing mitigation under *Office of Disciplinary Counsel v. Seymour Braun*, 553 A.2d 894 (Pa. 1989). Stip. ¶121.

64. Ms. Bell testified that the focus of the current sessions is to work on managing Respondent's depression symptoms, anxiety, and emotions. Ms. Bell testified that she observed that Respondent's symptoms worsened after the temporary suspension of his law license in July 2020. N.T. 127-128.

65. According to Ms. Bell, Respondent is gaining insight into the sequence of events, how they unfolded, and what he should have done differently to manage his emotions. N.T. 129.

66. Ms. Bell testified that Respondent has made progress in their sessions and it is her impression that Respondent is not at risk for re-offending. N.T. 129, 130.

67. Ms. Bell has read some but not all of the text messages to Ms. Sellers and did not listen to the voicemails that Respondent sent to Ms. Sellers. N.T. 131-132.

68. Ms. Bell testified that her counseling is based on Respondent's accounts and on discussions with Respondent's probation officer, but no one else. N.T. 132.

69. Ms. Bell's testimony was credible.

70. Respondent received treatment from Franklin D. Maleson, M.D, a psychiatrist. Stip. ¶¶57-63.

71. Dr. Maleson testified at the hearing but was not offered as an expert for the purpose of establishing mitigation under *Office of Disciplinary Counsel v. Seymour Braun*, 553 A.2d 894 (Pa. 1989). Stip. ¶¶121.

72. Dr. Maleson testified that Respondent has had 12 treatment sessions with him from October 2019 to March 2021. N.T. 80; R-6 through R-8; Stip. ¶¶ 116, 118.

73. Dr. Maleson testified that Respondent initially was very defensive and focused on the idea that he had been entrapped and initially was not sufficiently contrite and did not acknowledge “how far he had gone.” N.T. 90-91.

74. Dr. Maleson testified that as time went on, Respondent had a clearer recognition that his anger had been out of control and he had been excessive. *Id.*

75. Dr. Maleson testified that Respondent’s bipolar illness is not fully controlled in the sense that he is still struggling with depression, and Respondent’s mood stabilization is reliant on consistent medication. N.T. 94, 99.

76. Dr. Maleson acknowledged there was a period of time during his treatment of Respondent when Respondent was not compliant with prescribed medication. N.T. 98-99.

77. Dr. Maleson testified that he did not read the texts and did not listen to the voicemails Respondent sent to Ms. Sellers, and his diagnoses and observations were based solely on Respondent’s reports to him. N.T. 99-100.

78. The testimony of Dr. Maleson was credible.

79. The March 25, 2020 Mental Health Evaluation and the letters and testimony of Dr. Maleson and Ms. Bell solely are offered for the purpose of establishing Respondent's compliance with his criminal sentence and his ongoing efforts regarding self-assessment and reflection. N.T. 76-77; Stip. ¶¶122.

80. Respondent testified on his own behalf and accepted responsibility for violating Rules of Professional Conduct 8.4(a), 8.4(b), and 8.4(c), and Pa.R.D.E. 203(b)(1). N.T. 165-166.

81. Respondent testified that the conduct that led to his conviction for stalking arose out of an episode of "extreme anger." N.T. 155.

82. When asked if he accepted responsibility for his misconduct, Respondent replied: "I'm very, very sorry that it occurred, and I'm very remorseful that it occurred, as well." N.T. 154.

83. Respondent described his misconduct as a "terrible episode of very rash behavior" which he regrets. N.T. 165, 172.

84. Respondent further testified that he "thought about this – had a lot of regret about this – almost every day since it's happened. I've thought about this because I've been paying, obviously, a very heavy price for it." N.T. 165.

85. Respondent specifically detailed that he has lost his license, his clients, and his livelihood and was "surprised" and "shocked" when he was placed on temporary suspension. N.T. 166, 167.

86. Respondent's expressions of remorse are not credible.

87. Respondent failed to express any recognition that his misconduct and conviction negatively impacted the reputation and integrity of the legal profession.

88. Although Respondent provided evidence that he is treating with a psychiatrist and a counselor, Respondent admitted that for a period of time in 2020, he was noncompliant with prescribed medication. N.T. 168.

89. Respondent testified that he has engaged in political and charitable work throughout his career. N.T. 161-162.

90. Ms. Sellers testified about the immediate and long-term impact of Respondent's conduct on her personal and professional life, including her intimidation, humiliation, and fright as a result of Respondent's texts and voicemails to her, her fear of deportation, her fear of losing her job at a conservative investment firm because of Respondent's threats to come to her office and cause a scene, her fear that Respondent would recognize her car and know her whereabouts, her teenage son's fear for her safety, her purchase of a gun, her enrollment in a shooting club and self-defense classes, and her "huge scar" from the events caused by Respondent's criminal conduct. N.T. 38-39, 45, 53, 57, 59-60, 65.

91. Ms. Sellers testified that she voluntarily appeared at the disciplinary hearing because she wanted to make sure Respondent does not misuse his law license to threaten, intimidate, and stalk any other woman again. N.T. 68, 73-74.

92. Ms. Sellers' testimony was credible.

93. Stephen Fireoved, Esquire testified as a character witness on Respondent's behalf. Mr. Fireoved has been licensed to practice law in Pennsylvania since 1980. N.T. 103.

94. Mr. Fireoved practiced law with Respondent at a private law practice from 2003 to 2006 and has maintained casual contact with Respondent since they stopped practicing together. Mr. Fireoved observed Respondent to be a zealous advocate

who worked hard for his clients, was diligent with details, and was prepared. N.T. 104-106.

95. Mr. Fireoved testified that he was aware of Respondent's conviction for stalking but had not talked to others about it. N.T. 108.

96. Mr. Fireoved testified that Respondent had expressed remorse to him and had "been quite sad with what has developed." N.T. 107.

97. Mr. Fireoved did not read the Petition for Discipline prior to testifying at the disciplinary hearing. N.T. 109.

98. The testimony of Mr. Fireoved was credible.

99. Michael T. Dolan, Esquire testified as character witness on behalf of Respondent. Mr. Dolan has been licensed to practice law in Pennsylvania since 1980. He worked at the same law firm with Respondent for a period of time and has known Respondent for approximately 30 years. N.T. 110-111.

100. Mr. Dolan testified that Respondent was well-prepared as a legal practitioner and had a very good reputation for credibility, honesty, and knowledge of the law. N.T. 112-113.

101. Mr. Dolan testified he was aware of Respondent's conviction for stalking and further testified that Respondent had expressed remorse and contrition to him. N.T. 113, 114.

102. Mr. Dolan testified that among the people he knows who also know Respondent, Respondent has a good reputation as a peaceful and law-abiding person and a truthful and honest person. N.T. 114-115.

103. Mr. Dolan testified that the community of people he knows who know Respondent are aware of Respondent's conviction for stalking. N.T. 115.

104. Mr. Dolan did not read the Petition for Discipline prior to testifying at the disciplinary hearing. N.T. 115.

105. The testimony of Mr. Dolan was credible.

III. CONCLUSIONS OF LAW

By his conduct as set forth above, Respondent violated the following Pennsylvania Rules of Professional Conduct and Pennsylvania Rules of Disciplinary Enforcement:

1. RPC 8.4(a), which states that it is professional misconduct for a lawyer to violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
2. RPC 8.4(b), which states that it is professional misconduct for a lawyer to commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects;
3. RPC 8.4(c), which states that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation; and
4. Pa.R.D.E. 203(b)(1), which states that conviction of a crime shall be grounds for discipline.

IV. DISCUSSION

Respondent's guilty plea to one count of stalking is incontrovertible evidence of the commission of a crime and forms the basis of the instant disciplinary proceeding. Pa.R.D.E. 214(e). When an attorney has been convicted of a crime, the sole issue to be determined is the extent of final discipline to be imposed. ***Office of Disciplinary Counsel v. Joshua Eilberg***, 441 A.2d 1193, 1195 (Pa. 1982). The Board has the duty to consider the events surrounding the criminal charge when determining the appropriate quantum of discipline. ***Office of Disciplinary Counsel v. Philip A. Valentino***, 730 A.2d 479, 481 (Pa. 1999). It is well-established that a determination of appropriate discipline must be done on a case-by-case basis with appropriate weight given to both aggravating and mitigating factors. ***Office of Disciplinary Counsel v. Brian Preski***, 134 A.3d 1027, 1031 (Pa. 2016). Nevertheless, despite the fact-intensive nature of the endeavor, the Board examines precedent to ensure consistency so that similar misconduct "is not punished in radically different ways." ***Office of Disciplinary Counsel v. Robert S. Lucarini***, 472 A.2d 186, 190 (Pa. 1983).

The facts adduced at the disciplinary hearing on March 18, 2021, demonstrate that Respondent and Ms. Sellers met in August 2019 and had a very brief friendship, meeting occasionally in person from August 2019 to early September 2019. Beginning on September 5, 2019, Respondent began sending Ms. Sellers numerous sexually explicit text messages in an attempt to persuade Ms. Sellers to have a romantic relationship with him. Ms. Sellers declined, telling Respondent his text messages were inappropriate and unwanted. Respondent retaliated by inundating Ms. Sellers with numerous, unwanted, sexually explicit, and derogatory text messages. On September 7,

2019, Ms. Sellers permanently ended the relationship and directed Respondent never to contact her again, whether directly or indirectly.

Thereafter, Respondent engaged in an onslaught of disturbing, angry, and inappropriate communications – facilitated by and through the use of his law license -- that frightened and humiliated Ms. Sellers. After receiving Ms. Sellers' directive to not contact her, over the next day or two, Respondent left two voicemail messages for Ms. Sellers that were sexually explicit, profane, and disparaging, in which he yelled at her and detailed a "deal" with an "airtight release" whereby Ms. Sellers would agree to sexual acts with Respondent, which acts he explicitly detailed in repulsive and vulgar language, and Ms. Sellers would sign the "contract" and have it notarized. Respondent's voicemails invited Ms. Sellers to call him to negotiate the "deal" terms.

After leaving the voicemail messages, over the next few days Respondent continued to text Ms. Sellers, deluging her with more than 90 sexually explicit and threatening text messages. Respondent threatened Ms. Sellers' safety and made her fear for her life by informing her that he had weapons available to him. Respondent threatened to use his status as an attorney to harm Ms. Sellers, including but not limited to, texting Ms. Sellers that he would follow up with legal action against her and that he would file a police report against her, and threatening to have Ms. Sellers deported, as she was a native of The Netherlands. Respondent also threatened to involve the federal government when he texted Ms. Sellers that he was having his contacts at the FBI and CIA "vet" her. In fact, Respondent made good on his threat to contact the police and on three occasions, attempted to file a baseless police report against Ms. Sellers.

On September 10, 2019, Respondent for the first time threatened by text message to show up, uninvited, at Ms. Sellers' place of employment to have sex with her

and the next day told her he was having a private investigator perform a background check on her, reiterating his threat to show up at her work. On September 11, 2019, Respondent went to the Office of Attorney General in Harrisburg and attempted to file baseless reports against former Governor Edward Rendell and Attorney General Josh Shapiro for alleged sexual assault of Ms. Sellers. While at the Attorney General's Office, Respondent acted loudly and erratically and used vulgarities.

Frightened by his communications, Ms. Sellers reported Respondent's conduct to the Tredyffrin Township Police Department and on September 12, 2019, Respondent was arrested, arraigned on video, and released on bail. As a condition of bail, Respondent was to refrain from contacting Ms. Sellers. However, on September 17, 2019, Ms. Sellers received a card in the mail from Respondent, which stated that he looked forward to seeing her to return gifts he had given her. On November 23, 2019, Ms. Sellers received a phone call from Respondent. She did not answer the call and he did not leave a message. Respondent has not had any contact with Ms. Sellers since November 23, 2019.

Ms. Sellers' testimony confirmed that she obviously endured a traumatic experience, suffering fright, intimidation, and humiliation as a result of Respondent's texts and voicemails to her. She appeared at the disciplinary hearing and credibly testified that the whole experience changed her and left a "huge scar." N.T. 60, 65. She took Respondent's threats about his firearms very seriously and lived in fear that Respondent would kill her or her son. These threats caused Ms. Sellers to purchase a gun and enroll in a shooting club and self-defense classes. She obtained a different car because she was afraid Respondent would recognize her old one. Ms. Sellers feared she would lose her employment at a conservative investment firm because Respondent threatened to

come to her office and cause a scene. She feared that he would make good on his threat to have her deported to her native country. Ms. Sellers' fears and concerns were heightened by her knowledge that Respondent was a lawyer and had specifically referenced his abilities as a lawyer to make good on his threats. Ms. Sellers' testimony demonstrated both the immediate and long terms impacts of Respondent's criminal conduct on her life.

Special Agent Mertz witnessed Respondent's "obnoxious," "loud," and "vulgar" behavior at the Attorney General's Office and offered credible testimony that Respondent's behavior was disturbing, troubling, and unlike anything she had observed in her 25 years in law enforcement.

Respondent's conduct was so outrageous and ongoing that even the trial judge in his criminal matter noted that in the midst of the serious criminal proceedings against him, the Respondent still doesn't "quite get it."

At the disciplinary hearing, Respondent explained that his conduct that led to his stalking conviction arose out of "extreme anger." When asked if he accepted responsibility for his conduct, Respondent's reply was not wholly convincing, as he testified that "I'm very, very sorry that it occurred, and I'm very remorseful that it occurred, as well." N.T. 154. Respondent focused on himself and how he has suffered, testifying that he has "thought about this – had a lot of regret about this – almost every day since it's happened. [He's] thought about this because [he's] been paying, obviously, a very heavy price for it." N.T. 165. Respondent elaborated on the losses of his license, his clients, and his livelihood. Respondent's expressions of remorse did not suggest contrition and lacked the critical element of recognizing the suffering he caused his victim. It was not until he was confronted on cross-examination by Disciplinary Counsel that he

expressed any concern for his victim. After observing Respondent's testimony, the Committee found Respondent's remorse and apology to be not genuine. The Board gives deference to the Committee's findings on credibility and after review, we conclude the record supports a finding that Respondent lacked genuine remorse for his misconduct. ***Office of Disciplinary Counsel v. Lawrence J. DiAngelus***, 907 A.2d 452, 456 (Pa. 2006)

Respondent's evidence demonstrated that he complied with his criminal sentence, including completion of court-mandated counseling with Ms. Bell and an anger management/ domestic violence program. The Mental Health Evaluation prepared by Ms. Bell set forth a diagnosis of bipolar disorder, anger management issues, and anxiety. Respondent offered evidence as to his ongoing treatment efforts for these problems. Respondent privately retained Ms. Bell in December 2020 and meets with her on a biweekly basis. Their sessions are focused on managing the depression component of his bipolar disorder, as well as anxiety and control of emotions. Ms. Bell testified that it was her impression that Respondent's symptoms deteriorated after the temporary suspension of his law license in July 2020. According to Ms. Bell, Respondent has accepted responsibility for his actions and is gaining insight into the sequence of events, how they unfolded, and what he should have done differently to manage his emotions. Ms. Bell believes that Respondent is not at risk to reoffend. Ms. Bell read some, but not all texts sent by Respondent to Ms. Sellers, and did not listen to the voicemails he sent to Ms. Sellers.

Dr. Maleson has treated Respondent on 12 occasions since October 2019 and confirmed the bipolar diagnosis. Dr. Maleson testified that initially, Respondent was defensive, did not exhibit contrition, and did not acknowledge his actions. However, as

time has passed, Dr. Maleson has observed that Respondent has a clearer recognition that his anger had been out of control and that his conduct had been excessive. The record is unclear as to when Respondent began to recognize that his actions had been out of control. Dr. Maleson testified that at the time of the hearing, Respondent's bipolar disorder was not fully controlled and he was still struggling with depression, with his mood stabilization reliant on consistent medication. Dr. Maleson acknowledged that there was a period of time in 2020 when Respondent was not compliant with prescribed medication. Similar to Ms. Bell, Dr. Maleson had not read Respondent's texts and had not listened to the voicemails Respondent sent to Ms. Sellers.

Respondent's character witnesses were aware of Respondent's conviction and testified that he had expressed remorse to them. Neither read the Petition for Discipline prior to their testimony at the disciplinary hearing. Mr. Fireoved and Mr. Dolan have both known Respondent for a long time and both worked with Respondent at different points in Respondent's career and described him as prepared, diligent, and a good advocate for his clients. Although Mr. Fireoved never discussed Respondent's conviction with others, Mr. Dolan testified that the people he knows who know Respondent were aware of his conviction, and he testified that Respondent has a good reputation in the community as a peaceful, law-abiding, truthful and honest person.

After considering the evidence, the Hearing Committee recommended a suspension for one year and one day, retroactive to the date of Respondent's temporary suspension on July 13, 2020. Respondent takes exception to this recommendation as too severe, contending that the Committee failed to credit his mitigation, including his expressions of remorse and reform. Respondent advocates for a stayed suspension or a suspension for less than one year. Petitioner objects to the Committee's recommendation

for the opposite reason, arguing that the one year and one day suspension is insufficient to address Respondent's egregious criminal conduct, which warrants a suspension of not less than three years.

For the following reasons, we conclude that a suspension of three years is appropriate.

The primary goals of the attorney disciplinary system are to protect the public from unfit attorneys, maintain the integrity of the legal system, preserve public confidence in the legal system, and deter professional misconduct. **Office of Disciplinary Counsel v. John Keller**, 506 A.2d 872 (Pa. 1986); **In re Dennis J. Iulo**, 766 A.2d 335, 339 (Pa. 1987). Respondent's conviction for the crime of stalking, his violent threats of physical harm and sexual aggression using vile and repulsive language, his attempts to file baseless complaints about a former governor and the Attorney General and his disturbing misuse of his status as a lawyer against Ms. Sellers in order to coerce her into a sexual relationship are egregious acts that must be addressed with severe discipline in order to fulfill the stated goals of the disciplinary system.

The precedent reveals that the Court has imposed public discipline, often times of a substantial nature, where an attorney's non-consensual sexual contact with another person results in a criminal conviction. In the matter of **Office of Disciplinary Counsel v. Methuselah Z. O. Bradley, IV**, No. 74 DB 2019 (D. Bd. Rpt. 6/16/2020) (S. Ct. Order 8/10/2020), Bradley received a one year suspension following his conviction of harassment by offensive touching or threat in violation of N.J.S.A. 2C:33-4(b), a petty disorderly persons offense. The maximum penalty for this offense was 30 days imprisonment and a fine of \$500; Bradley was ordered to pay a \$100 fine, fees, and court costs. In this matter, Bradley invited a young, female attorney onto his boat to help her

with a case, locked the cabin door, groped the woman's buttocks, and touched and kissed her. The woman did not consent to the contact. The Board found that Bradley expressed remorse but displayed a lack of understanding as to the seriousness of his conviction. Further, the Board found that Bradley did not demonstrate that he was apologetic until directly questioned by the Hearing Committee. In mitigation, Bradley had no prior record of discipline in a legal career spanning nearly forty years.

In a case where the respondent was convicted of crimes for inappropriate contact with a former girlfriend, the Court granted a Joint Petition in Support of Discipline on Consent for a five year suspension, with one year to be served and four years to be stayed with probation. ***Office of Disciplinary Counsel v. Michael Casale, Jr.***, No. 204 DB 2017 (S. Ct. Order 8/30/2018). Therein, Casale placed a GPS tracking device and an audio recording device in a former girlfriend's car to track her movements and learn information about her. Although Casale attempted to retrieve the devices on several occasions, he was unable to do so, and the devices stayed in the individual's car for approximately four months. Casale pled guilty to two felonies - criminal trespass and one count of interception, disclosure or use of wire, electronic or oral communications. Casale was sentenced to five years of criminal probation. In mitigation, Casale cooperated with disciplinary authorities by voluntarily entering into a Joint Petition for Temporary Suspension and later consenting to discipline. Casale had no record of discipline in more than four decades of practice, demonstrated remorse and embarrassment, and recognized that he should be disciplined.

In the matter of ***Office of Disciplinary Counsel v. James Martin Fogerty***, 59 DB 2004 (D Bd. Rpt. 2/25/2005) (S. Ct. Order 5/27/2005), Fogerty was suspended for three years, retroactive to the date of his temporary suspension, for his conviction of

criminal trespass, possession of an interception device, and interception of oral communications. The facts showed that Fogerty harassed a former girlfriend by email and telephone for a period of five months. The content of the emails, which contained offensive language, demonstrated that Fogerty used a listening device to obtain private intimate and sexual information that he repeated back to the victim. Fogerty was sentenced to five years of criminal probation. While Fogerty attempted to portray his crimes as an “isolated mistake,” the Board rejected this depiction, finding that the conduct took place over a period of five months and required preparation. In mitigation, Fogerty presented evidence that he suffered from a psychiatric disorder which caused his misconduct, for which the Board accorded mitigation pursuant to **Braun**. The Board also considered in mitigation Fogerty’s seven character witnesses and his lack of prior discipline. Nevertheless, due to the “egregious intrusion” into the victim’s private life, a lengthy suspension was imposed. Bd. Rpt. at 8.

In another stalking matter, the Court imposed disbarment on consent after the respondent voluntarily resigned from the practice of law following his criminal convictions. **Office of Disciplinary Counsel v. John P. Halfpenny**, Nos. 55 DB 2009 and 166 DB 2010 (S. Ct. 12/10/2014). Therein, Halfpenny made approximately 70 to 90 telephone calls to his ex-wife over a period of six days, in violation of a Protection from Abuse order. About two months later, Halfpenny contacted his ex-wife’s mother and threatened her and Ms. Halfpenny, then that same day appeared in his ex-wife’s yard with a bag. The ex-wife called the police, who responded and observed Halfpenny fleeing through the rear yard and dropping the bag. The contents of the bag suggested Halfpenny intended to kidnap his ex-wife. Halfpenny pled guilty to attempted burglary, criminal trespass, and stalking, among other crimes. Halfpenny was sentenced to a minimum of

25 months and a maximum of 50 months incarceration, with a consecutive sentence of probation for a lengthy period. Halfpenny reported his convictions to the Board and submitted his resignation.

These precedential matters provide a baseline to assess the appropriate measure of discipline in the case before us, which discipline may be tailored after consideration of aggravating and mitigating factors. Here, there are both aggravating and mitigating factors that must be weighed when assessing discipline.

In aggravation, Respondent failed to recognize the seriousness of his misconduct and the impact it had on his victim. Although he testified on cross-examination that he regretted how his actions impacted Ms. Sellers, we conclude, as did the Committee, that Respondent's remorse was not genuine, as he focused more on the negative consequences to his own life, specifically highlighting the "heavy price" he has paid by the loss of his license, his clients, and his livelihood. In further aggravation, Respondent failed to address and demonstrate remorse for how his conduct impacted the reputation of the legal profession, a critical lapse in light of the fact that he used his position as an attorney to frighten and intimidate his victim. Respondent's abuse of his license and status as a lawyer in an attempt to have Ms. Sellers enter into a legal contract for sexual acts, his threats to have her deported, and his threats to use his professional contacts as a weapon against her are nothing short of despicable and aggravate the seriousness of this matter.

In mitigation, Respondent has practiced law since 1983 with no prior discipline and offered evidence that he engaged in political and charitable endeavors during his legal career. He offered credible character testimony from two attorneys, although one witness had never discussed Respondent's conviction with anyone, so was

unaware of the community's reaction, and neither witness had read the Petition for Discipline to view the specific allegations against Respondent. Nevertheless, we accord some weight in mitigation to this evidence, as these witnesses came forward and offered sworn testimony that Respondent demonstrated remorse to them for his conduct and had been a diligent and well-prepared attorney in the past.

In further mitigation, Respondent presented evidence that he voluntarily sought and received private treatment from a psychiatrist and a counselor following completion of his court-mandated counseling.¹ He began treating with Dr. Maleson in October 2019 and privately retained Ms. Bell in December 2020. We assign some weight in mitigation to Respondent's voluntary efforts to address his mental health issues, yet concerns that he is unfit to practice law are not alleviated by the testimony of Respondent's medical providers. The testimony of Dr. Maleson revealed that Respondent's bipolar disorder is not fully controlled in that he is still struggling with depression. Respondent takes prescription medication for the depression and his mood stabilization relies on a consistent medication regimen yet troublingly, Respondent was noncompliant with his medication for an unspecified period of time in 2020. Further, Dr. Maleson indicated that when counseling commenced in October 2019, Respondent had been defensive, lacked contrition, and believed he had been entrapped. While Dr. Maleson testified that Respondent has gained a clearer understanding of his actions during treatment, the record is unclear when this change occurred and raises questions as to the progress of Respondent's treatment.

¹ The parties stipulated that the March 25, 2020 Mental Health Evaluation, and the letters and testimony of Dr. Maleson and Ms. Bell, were not offered for the purposes of, and do not establish, the *Braun* standard for mitigation. Hearing Committee Report at 12; N.T. 76-77; Stip. ¶ 121.

Similarly, Ms. Bell testified that Respondent is still working through depression, anxiety, and issues related to his emotions. We note Ms. Bell's observation that Respondent's symptoms deteriorated following his temporary suspension in July 2020.

In comparing the precedential cases to the instant matter, we conclude that a lengthy suspension to address Respondent's misconduct is consistent with the decisions in those matters. The fact and circumstances of the instant matter are similar to the cited matters on several points. Like the respondents in *Fogerty* and *Bradley*, the instant Respondent failed to recognize the seriousness of his actions, choosing instead to focus on the "heavy price" he has paid. Similar to *Bradley*, Respondent only acknowledged any impact on his victim when cross-examined by Disciplinary Counsel. Respondent never acknowledged damage to the legal profession.

Respondent's long history of legal practice without disciplinary issues is similar to the respondents' blemish-free records in *Bradley* and *Casale*, who were afforded mitigation on that point. However, Respondent's mitigation is not as compelling as in *Casale*. Respondent did not cooperate with disciplinary authorities as did Casale, who agreed to his temporary suspension and who consented to his suspension and probation. In contrast, Respondent was "surprised" and "shocked" that his serious criminal conduct would result in the temporary suspension of his license. N.T.167. Casale also demonstrated remorse, embarrassment, and recognition that he deserved to be disciplined, unlike Respondent, who offered self-serving testimony on the negative consequences to his own life.

The respondent in *Fogerty* was accorded mitigation for his psychiatric disorder that caused his serious misconduct. Here, Respondent did not offer *Braun*

mitigation but did offer evidence that he took voluntary steps to address his mental health, to which the Board assigns mitigation. However, the record shows that Respondent has not fully controlled his mental health issues and was not in compliance with his medication for a period of time in 2020. Also similar to **Fogerty**, Respondent offered character testimony, but while his two witnesses were credible and sincere, the record reflects that they did not have a full awareness of Respondent's criminal conduct.

The record demonstrates that Respondent's conduct was more serious than the conduct in **Bradley**, even though Bradley actually touched his victim, while Respondent did not. However, Respondent's egregious criminal acts toward his victim lasted for a longer period of time than Bradley's, involved baseless claims and police reports, and further involved the misuse of Respondent's status as a lawyer to harm his victim. For these reasons, a suspension more severe than the one year suspension imposed upon Bradley is warranted. Likewise, the one year suspension with four years of probation imposed in **Casale** is not appropriate and is too lenient to address the facts and circumstances of the instant matter. As discussed above, Casale demonstrated more mitigating factors than in the instant matter, having cooperated and exhibited sincere remorse. In contrast to the instant matter, the facts of **Halfpenny** are more egregious and we conclude that disbarment is not warranted here. We find Respondent's actions more akin to that in **Fogerty** and require a lengthy suspension.

After review of the totality of the circumstances, we reject as inapt, insensitive, and tone-deaf Respondent's attempt to depict his misconduct as merely a "sad case." Respondent's Brief on Exceptions, at 27. We further specifically reject his counsel's argument that this case did not involve Respondent's law license or conduct as

a lawyer – it clearly did – and the notion that Respondent merely “went off the rails” for “11 or 7 days.”

As the Committee rightly stated, Respondent’s conduct was “repulsive and inexcusable,” and the “overwhelming evidence establishe[d] that Respondent showed a complete disrespect for the legal system” and used his “position as an attorney to prey upon Ms. Sellers.” Hearing Committee Report at 17. We agree with the Committee’s view of this matter, but conclude that their recommendation for a suspension of year and one day is insufficient to address the seriousness of this matter. Respondent’s reprehensible conduct renders him unfit to continue as a member of the bar and cannot be tolerated by the attorney disciplinary system. A lengthy suspension of three years will fulfill the goals of Pennsylvania’s system of discipline and require Respondent to undergo a rigorous reinstatement proceeding in order to ensure his fitness to practice. Our recommendation does not include retroactivity of the sanction to the date of the temporary suspension. After a thorough review of this record, it is our view that a prospective suspension is warranted to afford Respondent time to consider the gravity of his misconduct and the harm it inflicted upon his victim and the legal profession, and to establish that he is approaching his mental health treatment in a responsible manner and has achieved progress.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that the Respondent, William H. Lynch, Jr., be Suspended for three years from the practice of law in this Commonwealth.

It is further recommended that the expenses incurred in the investigation and prosecution of this matter are to be paid by the Respondent.

Respectfully submitted,

THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

By: 

Dion G. Rassias, Member

Date: 12.10.21

Members Dee and Miller recused.