

Supreme Court

In the Matter of David J. Potkul.

No. 2012-241-M.P.

O R D E R

This attorney disciplinary matter came before the Court at its conference on October 11, 2012, pursuant to a petition for discipline filed by this Court's Disciplinary Counsel. Article III, Rule 24 of the Supreme Court Rules of Disciplinary Procedure, entitled "Proceedings in cases involving conviction of crime" provides, in pertinent part:

"An attorney admitted to practice in this State who is convicted in a court of record of a crime which is punishable by imprisonment for more than one (1) year in this or any other jurisdiction may * * * be ordered to appear before the court to show cause why his or her admission to the bar should not be revoked or suspended."

The facts giving rise to this petition are as follows. The respondent, David J. Potkul, is a member of the Rhode Island Bar. On January 6, 2012, the respondent was charged with two felony counts of leaving the scene of an accident resulting in personal injury, in violation of G.L. 1956 § 31-26-1; and with one misdemeanor count of operating a motor vehicle while under the influence of liquor in violation of G.L. 1956 § 31-27-2. The three charges resulted from a single motor vehicle accident which occurred that evening.

On July 19, 2012, he entered a plea of nolo contendere to each of the charges. He was sentenced to a two-year term of probation, to be served concurrently, on each of the felony counts. On the misdemeanor count he was fined \$500, ordered to perform twenty

hours of community service, and ordered to attend DUI school. Additionally, his license to drive a motor vehicle was suspended for one year.

On August 16, 2012, Disciplinary Counsel forwarded to this Court a certified copy of the judgments and his petition for discipline. We directed the respondent to appear before the Court to show cause, if any, why the petition should not be granted. The respondent appeared before the Court, without counsel. He did not contest the factual allegations set forth in the petition. Disciplinary Counsel has recommended that we publicly censure the respondent. The respondent on the other hand has requested that we impose private discipline.

After hearing the representations of Disciplinary Counsel and the respondent, we deem it appropriate that discipline be imposed. We note that the actions of the respondent bear no relation to his practice of law. However, we have consistently stated that “we expect all members of the bar to comport themselves in accordance with the criminal laws of this state.” In re Casale, 10 A.3d 466, 467, (R.I. 2010) (mem.) (quoting In re Ciolli, 994 A.2d 81, 82 (R.I. 2010) (mem.)); In re Hunter, 980 A.2d 755, 756 (R.I. 2009) (mem.). Failure to obey those laws subjects an attorney to the disciplinary jurisdiction of this Court, and there need be no nexus between the criminal conduct and the practice of law. Hunter, 980 A.2d at 756.

Professional discipline “serves two important functions: protecting the public and maintaining the integrity of the profession.” In re Ciolli, 994 A.2d at 82. We believe that an order of discipline is required in this case to maintain that integrity. The facts of this case are very similar to those we addressed in In re Russo, 14 A.3d 225 (R.I. 2011). In that case we publicly censured an attorney who had pled nolo contendere to a charge of

leaving the scene of an accident involving personal injury. We see no reason to impose a lesser sanction in this case.

Accordingly, the respondent, David J. Potkul, is hereby publicly censured.

Entered as an Order of this Court this 15th day of October, 2012.

By Order,

_____/s/_____
Clerk



RHODE ISLAND SUPREME COURT CLERK'S OFFICE

Clerk's Office Order/Opinion Cover Sheet

TITLE OF CASE: In the Matter of David J. Potkul.

CASE NO: No. 2012-241-M.P.

COURT: Supreme Court

DATE ORDER FILED: October 15, 2012

JUSTICES: Suttell, C.J., Goldberg, Flaherty, Robinson, and Indeglia, JJ.

WRITTEN BY: N/A – Court Order

JUDGE FROM LOWER COURT:
N/A – Court Order

ATTORNEYS ON APPEAL:

For Petitioner: David D. Curtin, Esq.
Chief Disciplinary Counsel

For Respondent: David J. Potkul, Pro Se