

IN RE: DAVID W. PERRY

S.J.C. Order of Term Suspension entered by Justice Spina on January 4, 2005.<sup>1</sup>

SUMMARY<sup>2</sup>

The respondent began abusing drugs in about 1986. He was arrested on federal drug charges in November 2001, at which time he took up residence in a drug treatment facility. On October 22, 2003, the respondent was convicted in the United States District Court for the District of Massachusetts of conspiracy to possess cocaine with intent to distribute in violation of 21 U. S. C. § 846. The respondent was sentenced to probation for sixty months. Conspiracy to possess cocaine with intent to distribute is a felony and a "serious crime" as defined by S. J. C. Rule 4:01, § 12(3). In violation of the requirements of S. J. C. Rule 4:01, § 12(8), the respondent did not notify bar counsel of this conviction within ten days of the conviction.

The respondent had previously been convicted of other crimes in State court as a result of admitting to sufficient facts to the following charges in the following courts:

(1) on April 12, 1998, in the South Boston District Court to operating a motor vehicle after his license was suspended in violation of G. L. c. 90, § 23;

(2) on October 5, 1998, in the Barnstable District Court of possession of a class B drug in violation of G. L. c. 94C, § 34C; driving under the influence of drugs in violation of G. L. c. 90, § 24F; and operating a motor vehicle after his license was suspended; and

(3) on November 29, 2000, in the Worcester District Court, of operating a motor vehicle after his license was suspended.

The respondent also failed to notify bar counsel of these convictions.

The respondent's criminal conduct violated Mass. R. Prof. C. 8.4(b) and (h). His failure to comply with S. J. C. Rule 4:01, § 12(8), violated Mass. R. Prof. C. 8.4(d) and (h).

The respondent was temporarily suspended from the practice of law on May 13, 2004. Bar counsel filed a petition for discipline on August 2, 2004. The respondent filed an answer and an amended answer raising matters in mitigation.

On November 19, 2004, the parties filed a stipulation. As mitigation, the parties agreed that the respondent had assiduously pursued treatment and maintained sobriety since November 2001, and that he serves as a mentor for recovering addicts. In recognition of the respondent's extraordinary rehabilitation and assistance to the government, the Federal court departed downward from the guideline range in sentencing him to five years' probation. The parties jointly recommended that the respondent be suspended from the practice of law for three years, retroactive to the effective date of the temporary suspension.

On December 13, 2004, the Board of Bar Overseers voted to accept the stipulation of the parties and to recommend to the Supreme Judicial Court that the respondent be suspended from the practice of law for three years, effective May 13, 2004. On December 22, 2004, the Board of Bar Overseers filed an Information with the Supreme Judicial Court for Suffolk County. On January 4, 2005, the county court entered an order suspending the respondent

from the practice of law for three years, retroactive to May 13, 2004.

<sup>1</sup> The complete Order of the Court is available by contacting the Clerk of the Supreme Judicial Court for Suffolk County.

<sup>2</sup> Compiled by the Board of Bar Overseers based on the record before the Court.

Please direct all questions to [webmaster@massbbo.org](mailto:webmaster@massbbo.org).

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