

IN RE: THOMAS E. FINNERTY

S.J.C. Judgment of Disbarment entered by Justice Botsford on May 28, 2008, with an effective date of June 27, 2008.¹

SUMMARY²

This matter came before the Court on the respondent's affidavit of resignation pursuant to S.J.C. Rule 4:01, § 15. The respondent admitted in the affidavit that the following facts could be proved by a preponderance of the evidence.

The respondent represented a witness in connection with the witness's appearance, under a grant of immunity, before a federal grand jury that was investigating whether anyone was harboring James "Whitey" Bulger from apprehension by law enforcement officials. The respondent met with the witness before his grand jury appearance. During the meeting, the witness told the respondent that James Bulger had called the witness's home in July 1996. The witness told the respondent that John Bulger spoke to James Bulger during the call.

Shortly after that meeting, the respondent learned that John Bulger had previously testified before the grand jury that he had had no contact with James Bulger. The respondent became concerned that if the witness testified that John Bulger had spoken on the phone with James Bulger, then John Bulger might be prosecuted for lying to the grand jury. This prompted the respondent to meet with the witness again. The respondent told the witness that in order to prevent John Bulger from being prosecuted, the witness should not testify that John Bulger was present for the phone call. Instead, the respondent instructed the witness to testify that he received the call from James Bulger, but that no one else was present.

On August 11 and September 1, 1998, the witness appeared before the federal grand jury. The respondent represented the witness. Following the respondent's advice, the witness lied to the grand jury. In essence, he testified that he alone spoke to James Bulger during the July 1996 call.

After the witness waived his attorney-client privilege over his communications with the respondent, the respondent appeared before the grand jury on several occasions between 2003 and 2006 pursuant to a grant of immunity. The respondent admitted that he and the witness "agreed" to a plan whereby the witness would lie to the grand jury so that John Bulger would not be prosecuted for perjury.

The respondent's conduct in this matter was in violation of Mass. R. Prof. C. 3.4(b) (assisting a witness to testify falsely), 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation), 8.4(d) (conduct prejudicial to the administration of justice) and 8.4(h) (conduct adversely reflecting on fitness to practice law). In aggravation, the respondent has a prior six-month suspension for intentional misrepresentation on a financial statement in his own divorce.

On May 12, 2008, the Board of Bar Overseers voted to recommend that the affidavit of resignation be accepted and that the respondent be disbarred. The Court so ordered on May 28, 2008.

FOOTNOTES:

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

² Compiled by the Board of Bar Overseers based on the record before the Supreme Judicial Court.

Please direct all questions to webmaster@massbbo.org.

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