

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT [204 PA. CODE CH. 85]

Amendments to the Rules of Organization and Procedure of the Board Relating to the Time for Submission of Complaints

Notice is hereby given that The Disciplinary Board of the Supreme Court of Pennsylvania is considering amending its Rules of Organization and Procedure as set forth in Annex A to eliminate in certain circumstances the current time limitation on complaints against respondent-attorneys alleging ineffective assistance of counsel or prosecutorial misconduct.

The Rules of the Board currently provide that complaints against respondent-attorneys involving alleged misconduct occurring more than four years before the date of the complaint will generally not be considered. See 204 Pa. Code § 85.10. The Board believes that it may take more than four years for some cases of ineffective assistance of counsel or prosecutorial misconduct to come to the attention of the Board. Thus the Board is proposing to amend Section 85.10 of its rules to provide that the generally applicable four year period within which complaints must be submitted will be tolled while there is litigation pending that results in a finding of ineffective assistance of counsel or prosecutorial misconduct.

Interested persons are invited to submit written comments regarding the proposed amendments to the Office of the Secretary, The Disciplinary Board of the Supreme Court of Pennsylvania, First Floor, Two Lemoyne Drive, Lemoyne, PA 17043, on or before November 21, 2001.

ELAINE M. BIXLER,
*Executive Director and Secretary
The Disciplinary Board of the
Supreme Court of Pennsylvania*

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCTS

Subpart C. DISCIPLINARY BOARD OF THE SUPREME COURT OF PENNSYLVANIA

CHAPTER 85. GENERAL PROVISIONS

§ 85.10. Stale matters.

* * * * *

(b) *Exceptions.* The four year limitation in subsection (a) shall:

* * * * *

(2) Be tolled during any period when there has been litigation pending that has resulted in a finding that the subject acts or omissions involved civil fraud, **ineffective assistance of counsel or prosecutorial misconduct** by the respondent-attorney.

[Pa.B. Doc. No. 01-1951. Filed for public inspection November 2, 2001, 9:00 a.m.]

Title 207—JUDICIAL CONDUCT

PART IV. COURT OF JUDICIAL DISCIPLINE [207 PA. CODE CHS. 1 AND 7]

Amendment to the Rules of Procedure of the Court of Judicial Discipline; Doc. No. 1 JD 94

Order

Per Curiam:

And Now, this 23rd day of October, 2001, the Court, pursuant to Article 5, Section 18(b)(4) of the Constitution of Pennsylvania, having adopted proposed amendments to Rules of Procedure No. 102, 701, and 704—708, as more specifically hereinafter set forth, *It Is Hereby Ordered:*

That Court Administrator Wanda W. Sweigart provide for the publication of the Amendment in the *Pennsylvania Bulletin*, and

That interested parties shall submit suggestions, comments, or objections no later than thirty days from the publication of this Order in that Bulletin.

Annex A

TITLE 207. JUDICIAL CONDUCT PART IV. COURT OF JUDICIAL DISCIPLINE ARTICLE I. PRELIMINARY PROVISIONS CHAPTER 1. GENERAL PROVISIONS IN GENERAL

Rule 102. Definitions.

The following words and phrases when used in these rules shall have the following meanings, unless the context or subject matter otherwise requires:

* * * * *

Conference Judge is a Court member appointed by the President Judge following the filing of a Board Complaint, to preside at the pre-trial conference, to rule on the omnibus motion, and, during a panel hearing, to make evidentiary rulings. A Conference Judge may also be appointed by the President Judge to rule on [**preliminary motions**] **petitions filed** in proceedings other than those initiated by the filing of a Board Complaint.

ARTICLE III. OTHER PROCEEDINGS

CHAPTER 7. OTHER RELIEF

Rule 701. Other Relief Generally.

Whenever the Board [**or a Judicial Officer**] seeks relief [**on grounds**] other than **by** the filing of formal

charges pursuant to Article V, § 18(b)(5) of the Pennsylvania Constitution, it shall be initiated by a Petition for Relief as provided in this Chapter.

* * * * *

Rule 704. [Motion to Dismiss] Conference Judge.

[Any party may file a motion to dismiss the petition on any legal ground within 14 days after the service of the petition unless the Court shortens or lengthens the time for filing such motion.

The motion shall state with particularity the grounds for the motion and the facts and legal principles which support each ground. The motion shall be divided into consecutively numbered paragraphs, each containing only one material allegation as far as practicable.] The President Judge may appoint a member of the Court to serve as Conference Judge on the case as provided by the rules of this Chapter 7.

Rule 705. [Reply to Motion to Dismiss] Hearing or Argument.

(A) [Any party may file a reply to the motion to dismiss within 10 days of the filing of the motion unless the Court shortens or lengthens the time for filing such reply.] The Conference Judge may schedule argument or an evidentiary hearing on the petition.

(B) [The reply shall be divided into consecutively numbered paragraphs corresponding to the numbered paragraphs of the motion. The reply shall meet the allegations of the motion.] The President Judge may schedule argument before the full Court on the petition.

(C) Any decision on the petition shall be made by the full Court.

Rule 706. [Preliminary Motions.

(A) Preliminary motions in a matter other than one commenced by the filing of formal charges may be decided by a Conference Judge appointed by the President Judge for that purpose. The Conference Judge may schedule a hearing or argument on the motion, as is appropriate, or may defer any ruling to be decided by the Court. No ruling on a preliminary motion shall constitute a final order for the purpose of appeal.

(B) A decision by the Conference Judge which has the effect of terminating a proceeding based on a Petition for Relief shall be reviewed by the full Court. A majority vote shall be required to sustain such a decision.

Rule 707.] Verification.

A petition[,] or answer [, motion or reply] which sets forth facts which do not already appear of record,

shall be verified by the party filing it or by counsel for the Board, subject to penalties for unsworn falsification to authorities under the Crimes Code, 18 Pa.C.S. § 4904.

[Rule 708. Hearing or Argument.

The Court may schedule argument or an evidentiary hearing on the petition.]

[Pa.B. Doc. No. 01-1952. Filed for public inspection November 2, 2001, 9:00 a.m.]

PART IV. COURT OF JUDICIAL DISCIPLINE
[207 PA. CODE CH. 4]

Amendment to the Rules of Procedure of the Court of Judicial Discipline; Doc. No. 1 JD 94

Order

Per Curiam:

And Now, this 23rd day of October, 2001, the Court, pursuant to Article 5, Section 18(b)(4) of the Constitution of Pennsylvania, having adopted a proposed amendment to Rule of Procedure No. 411, as more specifically hereinafter set forth, *It Is Hereby Ordered:*

That Court Administrator Wanda W. Sweigart provide for the publication of the Amendment in the *Pennsylvania Bulletin*, and

That interested parties shall submit suggestions, comments, or objections no later than thirty days from the publication of this Order in that Bulletin.

Annex A

TITLE 207. JUDICIAL CONDUCT
PART IV. COURT OF JUDICIAL DISCIPLINE
ARTICLE II. PROCEEDINGS BASED ON THE FILING OF FORMAL CHARGES

CHAPTER 4. PRE-TRIAL PROCEEDINGS
OMNIBUS MOTION FOR RELIEF; REPLY; ANSWER
Rule 411. Omnibus Motion.

(A) All motions, challenges, and applications or requests for an order or relief on behalf of the Judicial Officer shall be consolidated in one written motion, except as otherwise provided in these rules, or as permitted by the Conference Judge. The omnibus motion shall be filed no later than 30 days from the [filing] effectuation of the service of the Board Complaint, and shall be served on the Board.

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[Pa.B. Doc. No. 01-1953. Filed for public inspection November 2, 2001, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Disbarment

Notice is hereby given that Frank James Griffin having been disbarred by consent from the practice of law in the State of New Jersey by Order dated April 19, 2001, the Supreme Court of Pennsylvania issued an Order on October 22, 2001, disbaring Frank James Griffin from the Bar of this Commonwealth. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,
*Executive Director and Secretary
The Disciplinary Board of the
Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 01-1954. Filed for public inspection November 2, 2001, 9:00 a.m.]

Notice of Suspension

Notice is hereby given that Margaret Elizabeth Hiller-Polster, having been suspended from the practice of law in the State of Utah for 3 years, with 2 years of the suspension stayed, the Supreme Court of Pennsylvania issued an Order dated October 22, 2001, suspending Margaret Elizabeth Hiller-Polster from the practice of law in this Commonwealth consistent with the Order of the

Third Judicial District Court in and for Salt Lake County, State of Utah. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,
*Executive Director and Secretary
The Disciplinary Board of the
Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 01-1955. Filed for public inspection November 2, 2001, 9:00 a.m.]

Notice of Suspension

Notice is hereby given that James Herbert Wolfe, III having been suspended from the practice of law in the State of New Jersey for 3 months, the Supreme Court of Pennsylvania issued an Order dated October 22, 2001, suspending James Herbert Wolfe, III from the practice of law in this Commonwealth, for 3 months. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,
*Executive Director and Secretary
The Disciplinary Board of the
Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 01-1956. Filed for public inspection November 2, 2001, 9:00 a.m.]
