

IN RE: DONOVAN R. BIGELOW

S.J.C. Order of Disbarment entered by Justice Greaney on September 13, 2000.¹

SUMMARY²

On May 25, 2000, bar counsel filed a petition for reciprocal discipline with the Supreme Judicial Court notifying the court that the respondent had been disbarred by the Washington Supreme Court on September 29, 1999. In violation of S. J. C. Rule 4:01, § 16(6), the respondent had not notified the Board of Bar Overseers or bar counsel of the disbarment.

The disbarment in Washington arose from the respondent's representation of a defendant charged with engaging in oral sexual intercourse with a minor who was at least 14 years old but younger than 16 years old, in violation of RCW 9A.44.079. The respondent approached the victim's mother to discuss having the defendant plead to a lesser charge and, if she and her son refused to testify, making separate arrangements with the mother for the defendant to provide financing for education and counseling for her son. The respondent advised the mother that the state would probably take no action if she and her son refused to cooperate in the prosecution.

After this discussion, arrangements were made for the respondent to interview the victim in the presence of the prosecutor. The respondent did not appear for that interview, and it was rescheduled. The respondent appeared at that interview, and the mother was also present but without her son. The respondent asked the mother privately whether "...they were on the same page" and advised her not to talk privately with the prosecutor. In the meeting, the mother told the prosecutor that she and her son no longer wished to cooperate and that the attorneys should work out a settlement.

The following day, the respondent told the mother that the prosecutor was angry about her refusal to cooperate but that no one could make her and her son testify if she took a trip or stayed with friends until after the trial was over. The respondent asked her if she would like to take a trip to California.

The mother advised the prosecutor of these conversations, and a court authorization was obtained to permit conversations between the mother and the respondent to be recorded. In the course of these telephone conversations before the trial, the respondent told the mother that her civil claims against his client would be worthless if the client went to jail. When the mother said neither she nor her son would appear in court, the respondent promised to let her know whether or not the prosecutor sought warrants for their arrest as material witnesses.

On May 24, 1999, the respondent pleaded guilty to the gross misdemeanor of attempting to tamper with a witness in violation of RCW 9A.72.120. The respondent was sentenced to confinement of not more than one year in the county jail, suspended on conditions that included his not seeking a review or appeal of an order of disbarment. In the bar discipline proceeding, the respondent stipulated that his conduct violated various state laws as well as Rules of Professional Conduct 8.4(b)-(d).

On September 11, 2000, the Supreme Judicial Court for Suffolk County held a hearing on bar counsel's petition for reciprocal discipline. Despite several notices to the respondent sent to his last known address, the respondent did not appear at the hearing. On September 13, 2000, the county court entered an order of disbarment.

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 Court.

Please direct all questions to webmaster@massbbo.org.

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