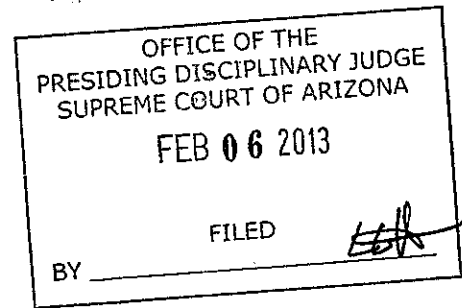


Stacy L. Shuman, Bar No. 018399
Staff Bar Counsel
State Bar of Arizona
4201 North 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Telephone: 602-340-7386
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John R. Thornton, Bar No. 012385
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Prescott, AZ 86301-5444
Telephone: 928-533-5307
Email: N/A
Respondent

**BEFORE THE PRESIDING DISCIPLINARY JUDGE
OF THE SUPREME COURT OF ARIZONA**

**IN THE MATTER OF A MEMBER OF
THE STATE BAR OF ARIZONA,**

**John R. Thornton,
Bar No. 012385,**

Respondent.

PDJ-2013-9018

**AGREEMENT FOR DISCIPLINE BY
CONSENT PRE-COMPLAINT**

State Bar No. 11-3710

The State Bar of Arizona, through undersigned Bar Counsel, and Respondent John R. Thornton, who has chosen not to seek the assistance of counsel, hereby submit their Tender of Admissions and Agreement for Discipline by Consent, pursuant to Rule 57(a), Ariz. R. Sup. Ct. Respondent voluntarily waives the right to an adjudicatory hearing on the complaint, unless otherwise ordered, and waives all motions, defenses, objections or requests which have been made or raised, or could be asserted thereafter, if the conditional admission and proposed form of discipline is approved.¹

¹ By order dated December 20, 2012, the Attorney Discipline Probable Cause Committee of the Supreme Court of Arizona found that probable cause exists to file a complaint against Respondent in File No. 1-3710. This Agreement for Discipline by Consent is being submitted prior to the filing of a complaint.

Respondent conditionally admits that his conduct, as set forth below, violated Rule 42, ER 8.4(b). Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline: Suspension for two (2) years, retroactive to August 21, 2012. The legal and factual basis for the retroactive application of the suspension is set forth below. Respondent also agrees to pay the costs and expenses of the disciplinary proceeding.² The State Bar's Statement of Costs and Expenses is attached hereto as Exhibit "A."

FACTS

GENERAL ALLEGATION

1. At all times relevant, Respondent was a lawyer licensed to practice law in the state of Arizona having been first admitted to practice in Arizona on November 15, 1988.

COUNT ONE (File no. 11-3710/Thornton)

2. On November 13, 2011, Respondent was arrested on felony charges of aggravated assault with a firearm and disorderly conduct after a man told officers that Respondent had pointed a gun at him.

3. At the time of the incident, Respondent was a Deputy Yavapai County Public Defender.

4. On that date, Respondent was at Scotty's Bar, located on Whiskey Row in Prescott, Arizona. The victim, Patrick Oneal, a bouncer at the bar, claimed that when Respondent was asked to leave at closing time, he became belligerent and said that he would not leave. Mr. Oneal then escorted Respondent outside at

² Respondent understands that the costs and expenses of the disciplinary proceeding include the costs and expenses of the State Bar of Arizona, the Disciplinary Clerk, the Probable Cause Committee, the Presiding Disciplinary Judge and the Supreme Court of Arizona.

which time Respondent tried to push him. Mr. Oneal told police that he stopped Respondent from pushing him and asked Respondent to calm down, at which point Respondent walked away.

5. Approximately fifteen (15) minutes later, Mr. Oneal left the bar and got into the passenger seat of a car driven by a friend. The car pulled out of Scotty's Bar's parking lot and stopped at an alley next to the Drunken Lass. Mr. Oneal told police that he saw Respondent walking down the alley and towards the car. Respondent approached his side of the car and lifted up his shirt at which time Respondent grabbed a handgun out of his pants and pointed at Mr. Oneal. Mr. Oneal told police that he grabbed Respondent's hand and pushed it upwards away from the car and then told his friend to drive away.

6. The police were called to investigate the incident and they located Respondent who was walking down the road. Police officers observed Respondent to be heavily intoxicated with a blank stare and slurred speech. He had a Smith & Wesson .38 caliber CHK2158 (with Federal, .38 hollow point bullets) in his pocket. Respondent was arrested without incident.

7. On November 23, 2011, Respondent was indicted in the Yavapai County Superior Court, Cause No. P1300CR2011, on multiple felony and misdemeanor counts relating to the events of November 13, 2011.

8. On October 15, 2012, Respondent plead guilty to one count of attempted aggravated assault, a class 4 felony, in violation of A.R.S. §§ 13-1204(A)(2) [a person commits aggravated assault if the person commits assault as prescribed by § 13-1203 if the person uses a deadly weapon or dangerous instrument], 13-1203 [a person commits assault by intentionally placing another

person in reasonable apprehension of imminent physical injury], and 13-1001 [attempt], committed on or about November 13, 2011.

9. On November 19, 2012, Respondent was sentenced to four (4) years supervised probation.

CONDITIONAL ADMISSIONS

Respondent's admissions are being tendered in exchange for the form of discipline stated below and is submitted freely and voluntarily and not as a result of coercion or intimidation.

Respondent conditionally admits that his conduct violated Rule 42, Ariz. R. Sup. Ct., specifically E.R. 8.4(b).

CONDITIONAL DISMISSALS

None.

RESTITUTION

Restitution is not an issue in this matter.

SANCTION

Respondent and the State Bar of Arizona agree that based on the facts and circumstances of this matter, as set forth above, the following sanction is appropriate: Suspension for two (2) years, retroactive to August 21, 2012, which is the date that Respondent entered a six (6) month, residential substance-abuse treatment program, having voluntarily ceased the practice of law to seek to rehabilitate himself. Upon reinstatement, Respondent shall be placed on probation for two (2) years, the conditions of which shall be determined by the Presiding Disciplinary Judge, but which shall in any event include participation in MAP.

LEGAL GROUNDS IN SUPPORT OF SANCTION

In determining an appropriate sanction, the parties consulted the American Bar Association's *Standards for Imposing Lawyer Sanctions (Standards)* pursuant to Rule 57(a)(2)(E). The *Standards* are designed to promote consistency in the imposition of sanctions by identifying relevant factors that courts should consider and then applying those factors to situations where lawyers have engaged in various types of misconduct. *Standards* 1.3, Commentary. The *Standards* provide guidance with respect to an appropriate sanction in this matter. *In re Peasley*, 208 Ariz. 27, 33, 35, 90 P.3d 764, 770 (2004); *In re Rivkind*, 162 Ariz. 154, 157, 791 P.2d 1037, 1040 (1990).

In determining an appropriate sanction consideration is given to the duty violated, the lawyer's mental state, the actual or potential injury caused by the misconduct and the existence of aggravating and mitigating factors. *Peasley*, 208 Ariz. at 35, 90 P.3d at 772; *Standard* 3.0.

The parties agree that *Standard* 5.12 is the appropriate *Standard* given the facts and circumstances of this matter. *Standard* 5.12 provides that suspension is generally appropriate when a lawyer knowingly engages in criminal conduct which does not contain the elements listed in *Standard* 5.11 [serious criminal conduct a necessary element of which includes intentional interference with the administration of justice, false swearing, misrepresentation, fraud, extortion, misappropriation, or theft; or the sale, distribution or importation of controlled substances; or the intentional killing of another; or an attempt or conspiracy or solicitation of another

to commit any of these offenses] and that seriously adversely reflects on the lawyer's fitness to practice.

Respondent plead guilty to one count of attempted aggravated assault in violation of A.R.S. §§ 13-1204(A)(2) [a person commits aggravated assault if the person commits assault as prescribed by § 13-1203 if the person uses a deadly weapon or dangerous instrument], 13-1203 [a person commits assault by intentionally placing another person in reasonable apprehension of imminent physical injury], and 13-1001 [attempt].

Retroactivity

The State Bar and Respondent agree that the recommended sanction, a two (2) year suspension, should be retroactive to August 21, 2012. The Arizona Supreme Court noted in *In re Nicolini*, 168 Ariz. 448, 450, 814 P.2d 1385, 1387 (1991), that the purpose of bar discipline is to protect the public and "[w]hen an attorney who has a . . . alcohol problem voluntarily withdraws from the practice of law and seeks to rehabilitate himself, the public is protected."

On August 21, 2012, Respondent entered A Sober Way Home—a residential, intensive therapeutic alcoholism addiction treatment program. Respondent is in the process of completing a six-month treatment plan. While undergoing treatment, Respondent is under 24-hour supervision, is not permitted a motor vehicle and has only restricted access to telephone, family and friends. Respondent attends group counseling; individual therapy session; and Neurofeedback therapy.

The parties view Respondent's participation in this residential treatment program as a voluntarily withdrawal from the practice of law. Respondent is not currently suspended from the practice of law. Had he chosen to do so, Respondent

could have continued to practice law pending the resolution of his criminal case. Instead, he chose to take the steps necessary to address his addiction and entered the residential treatment program. And he did so, notwithstanding the financial impact on his family, which is currently being supported solely by Respondent's wife who is a hair stylist. For all of these reasons, the parties believe that Respondent qualifies for a suspension retroactive to August 21, 2012.

The duty violated

As described above, Respondent's conduct violated his duty to the profession, the legal system and the public.

The lawyer's mental state

For purposes of this agreement the parties agree that Respondent knowingly committed attempted aggravated assault in violation of A.R.S. §§ 13-1204(A)(2) [a person commits aggravated assault if the person commits assault as prescribed by § 13-1203 if the person uses a deadly weapon or dangerous instrument], 13-1203 [a person commits assault by intentionally placing another person in reasonable apprehension of imminent physical injury], and 13-1001 [attempt], and that his conduct was in violation of the Rules of Professional Conduct.

The extent of the actual or potential injury

For purposes of this agreement, the parties agree that there was actual harm to the profession and the legal system and potential harm to the public.

Aggravating and mitigating circumstances

The presumptive sanction in this matter is suspension. The parties conditionally agree that the following aggravating and mitigating factors should be considered.

In aggravation:

Standard 9.22(k) illegal conduct. Respondent plead guilty to attempted aggravated assault in violation of A.R.S. §§ 13-1204(A)(2) [a person commits aggravated assault if the person commits assault as prescribed by § 13-1203 if the person uses a deadly weapon or dangerous instrument], 13-1203 [a person commits assault by intentionally placing another person in reasonable apprehension of imminent physical injury], and 13-1001 [attempt].

In mitigation:

Standard 9.32(a) absence of a prior disciplinary record;

Standard 9.32(b) absence of a dishonest or selfish motive;

Standard 9.32 (e) full and free disclosure to disciplinary board or cooperative attitude toward proceedings;

Standard 9.32 (g) character or reputation; and

Standard 9.32 (l) remorse.

Discussion

The parties have conditionally agreed that a greater or lesser sanction would not be appropriate under the facts and circumstances of this matter. This agreement was based on the following: based on the *Standards* and in light of the facts and circumstances of this matter, the parties conditionally agree that the sanction set forth above is within the range of appropriate sanction and will serve the purposes of lawyer discipline.

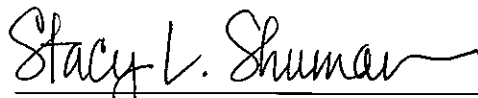
CONCLUSION

The object of lawyer discipline is not to punish the lawyer, but to protect the public, the profession and the administration of justice. *Peasley, supra* at ¶ 64, 90

P.3d at 778. Recognizing that determination of the appropriate sanction is the prerogative of the Presiding Disciplinary Judge, the State Bar and Respondent believe that the objectives of discipline will be met by the imposition of the proposed sanction of a two (2) year suspension; two (2) years probation, the conditions of which shall be determined upon reinstatement, but shall in any event include participation in MAP; as well as the imposition of costs and expenses. A proposed form order is attached hereto as Exhibit "B."

DATED this 6th day of February, 2013.

STATE BAR OF ARIZONA



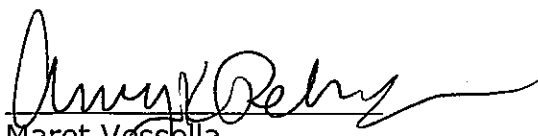
Stacy L. Shuman
Staff Bar Counsel

This agreement, with conditional admissions, is submitted freely and voluntarily and not under coercion or intimidation. I acknowledge my duty under the Rules of the Supreme Court with respect to discipline and reinstatement. I understand these duties may include notification of clients, return of property and other rules pertaining to suspension.

DATED this _____ day of _____, 2013.

John R. Thornton
Respondent

Approved as to form and content



Maret Vessella
Chief Bar Counsel

P.3d at 778. Recognizing that determination of the appropriate sanction is the prerogative of the Presiding Disciplinary Judge, the State Bar and Respondent believe that the objectives of discipline will be met by the imposition of the proposed sanction of a two (2) year suspension; two (2) years probation, the conditions of which shall be determined upon reinstatement, but shall in any event include participation in MAP; as well as the imposition of costs and expenses. A proposed form order is attached hereto as Exhibit "B."

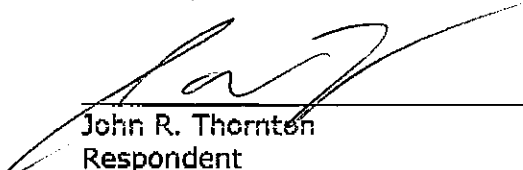
DATED this _____ day of _____, 2013.

STATE BAR OF ARIZONA

Stacy L. Shuman
Staff Bar Counsel

This agreement, with conditional admissions, is submitted freely and voluntarily and not under coercion or intimidation. I acknowledge my duty under the Rules of the Supreme Court with respect to discipline and reinstatement. I understand these duties may include notification of clients, return of property and other rules pertaining to suspension.

DATED this 30th day of January, 2013.



John R. Thornton
Respondent

Approved as to form and content

Maret Vessella
Chief Bar Counsel

Original filed with the Disciplinary Clerk
of the Office of the Presiding Disciplinary Judge
this 6th day of February, 2013.

Copies of the foregoing mailed/emailed
this 6th day of February, 2013, to:

John R. Thornton
1595 Eagle Mountain Dr
Prescott, AZ 86301-5444
Email: None.
Respondent

Copy of the foregoing emailed
this 6th day of February, 2013, to:

William J. O'Neil
Presiding Disciplinary Judge
Supreme Court of Arizona
Email: officepdj@courts.az.gov
lhopkins@courts.az.gov

Copy of the foregoing hand-delivered
this 6th day of February, 2013, to:

Lawyer Regulation Records Manager
State Bar of Arizona
4201 North 24th Street, Suite 100
Phoenix, Arizona 85016-6266

By: *Janie C. Heller*
SLS/dch

BEFORE THE ATTORNEY DISCIPLINE
PROBABLE CAUSE COMMITTEE
OF THE SUPREME COURT OF ARIZONA



IN THE MATTER OF A MEMBER OF THE
STATE BAR OF ARIZONA

No. 11-3710

JOHN R. THORNTON
Bar No. 012385

PROBABLE CAUSE ORDER

Respondent

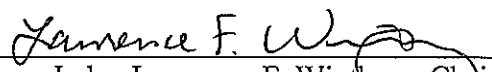
The Attorney Discipline Probable Cause Committee of the Supreme Court of Arizona (“Committee”) reviewed this matter on December 14, 2012, pursuant to Rules 50 and 55, Ariz. R. Sup. Ct., for consideration of the State Bar’s Report of Investigation and Recommendation and Respondent’s Response.

By a vote of 7-0-2¹, the Committee finds probable cause exists to file a complaint against Respondent in File No. 11-3710.

IT IS THEREFORE ORDERED pursuant to Rules 55(c) and 58(a), Ariz. R. Sup. Ct., authorizing the State Bar Counsel to prepare and file a complaint with the Disciplinary Clerk.

Parties may not file motions for reconsideration of this Order.

DATED this 20 day of December, 2012.



Judge Lawrence F. Winthrop, Chair
Attorney Discipline Probable Cause Committee
of the Supreme Court of Arizona

¹ Committee members Richard Segal and Ben Harrison did not participate in this matter.

Original filed this 21st day
of December, 2012, with:

Lawyer Regulation Records Department
State Bar of Arizona
4201 North 24th Street, Suite 100
Phoenix, Arizona 85016-6266

Copy mailed this 21st day
of December, 2012, to:

John R. Thornton
1595 Eagle Mountain Drive
Prescott, Arizona 86301-5444
Respondent

Copy emailed this 21st day
of December, 2012, to:

Attorney Discipline Probable Cause Committee
of the Supreme Court of Arizona
1501 West Washington Street, Suite 104
Phoenix, Arizona 85007
E-mail: ProbableCauseComm@courts.az.gov

Lawyer Regulation Records Manager
State Bar of Arizona
4201 North 24th Street, Suite 100
Phoenix, Arizona 85016-6266

by: *Araic C. Heller*