

BEFORE THE HEARING BOARD
OF THE
ILLINOIS ATTORNEY REGISTRATION
AND
DISCIPLINARY COMMISSION

In the Matter of:

MARK DAVID KEHOSKIE,

Attorney-Respondent,

No. 6289901.

Commission No. 2022PR00066

COMPLAINT

Jerome Larkin, Administrator of the Attorney Registration and Disciplinary Commission, by his attorney, Albert S. Krawczyk, pursuant to Supreme Court Rule 753 and 761, complains of Respondent, Mark David Kehoskie, who was licensed to practice law in the State of Illinois on December 2, 2006, and alleges that Respondent has engaged in the following conduct which subjects Respondent to discipline pursuant to Supreme Court Rule 770:

COUNT I

(September 27, 2015, Domestic Altercation)

1. On Sunday, September 27, 2015, at or about 12:15 a.m., Respondent and the woman he was dating (“BLC”) had an argument at Respondent’s home in Michigan City, Indiana, over text messages from a former girlfriend on Respondent’s cellphone. The argument occurred after Respondent and BLC had returned to his home after they had been drinking alcohol at Matey’s Bar and Restaurant in Michigan City, where he is co-owner. During the argument, they stumbled onto a couch as Respondent struggled to retrieve his phone from BLC. Respondent opened the front door and pushed BLC out of his home. When a Michigan City police officer arrived at the scene following BLC’s call to 911, BLC had a bloody nose and fresh blood on her clothing.

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2. On October 19, 2015, a one-count information was signed by a deputy prosecuting attorney, and, on October 21, 2015, filed in the LaPorte Superior Court No. 4, County of LaPorte, State of Indiana, alleging that on or about September 27, 2015, Respondent committed the offense of battery, in that he touched the person of BLC in a rude, insolent or angry manner, namely: punched her in the face and dragged her on the ground causing bodily injury, in violation of Indiana Code Section 35-42-2-1, a Class A misdemeanor, which carried a maximum penalty of up to one year in jail. The clerk of the court docketed the matter as *State of Indiana vs. Mark Kehoskie*, cause number 47D04-1510-CM-2718 (Superior Court No. 4, LaPorte County, Indiana).

3. On May 2, 2016, a deputy prosecuting attorney and Respondent, represented by counsel, entered into a pretrial diversion agreement pursuant to Indiana Code Section 33-39-1-8, whereby the parties agreed that if Respondent complied with the terms of the agreement, including not committing, or attempting to commit, any criminal offense for a period of one year, completing counseling at the Swanson Center, and paying a program fee of \$333, that the State would dismiss the battery charge in cause number 47D04-1510-CM-2718.

4. On May 3, 2017, pursuant to the pretrial diversion agreement, the court in cause number 47D04-1510-CM-2718 granted the motion of a deputy prosecuting attorney to dismiss the case.

5. By reason of the conduct described above, Respondent has engaged in the following misconduct:

committing a criminal act that reflect adversely on his honesty, trustworthiness or fitness as a lawyer in other respects, by conduct including the commission of the criminal offense of battery (Indiana Code Section 35-42-2-1), in violation of Rule 8.4(b) of the Illinois Rules of Professional Conduct (2010).

COUNT II

(November 15, 2017, Domestic Altercation)

6. On Wednesday, November 15, 2017, at or about 4:20 a.m., Respondent and BLC had an argument at the home they shared in Long Beach, Indiana, after they had been drinking alcohol at Matey's Bar and Restaurant. During the argument, Respondent and BLC fell at the top of the stairs in the house. Respondent put his hands over BLC's mouth and stepped on her hair, causing hair from BLC's head to get scattered over the floor. When Long Beach police officers arrived at the scene following BLC's call to 911, BLC was lying on the floor of the bathroom to the primary bedroom, and Respondent was standing over her, screaming at the officers to "get out of here." The officers grabbed Respondent and placed him in handcuffs. Blood was running from Respondent's nose, he had a few scratches on his neck, and his speech was slurred and his eyes bloodshot. BLC's hair was tangled, there were scratches on her forehead and near her left eye socket, and she had scratches and redness around her throat. BLC's two minor children were also present.

7. On November 15, 2017, a six-count information was signed by a deputy prosecuting attorney, and filed in the LaPorte Superior Court No. 4, County of LaPorte, State of Indiana, alleging that on November 15, 2017, Respondent committed three felonies and three misdemeanors. The clerk of the court docketed the matter as *State of Indiana vs. Mark D. Kehoskie*, cause number 46D04-1711-F6-001088 (Superior Court No. 4, LaPorte County, Indiana).

8. Count One of the information in cause number 46D04-1711-F6-001088 alleged that Respondent committed the offense of criminal confinement by confining another person without the other person's consent, in violation of Indiana Code Section 35-42-3-3, a Level 6 felony, punishable by imprisonment of between six months and two and one-half years. Count Two

alleged that Respondent committed the offense of domestic battery, in that he touched the person of BLC, a household member, in a rude, insolent or angry manner, namely: punched her and dragged her resulting in injury and committed the offense in the physical presence of a child less than 16 years of age, in violation of Indiana Code Section 35-42-2-1.3, a Level 6 felony. Count Three alleged that Respondent committed the offense of strangulation, by applying pressure to BLC's throat or neck in a rude, angry or insolent manner, in violation of Indiana Code Section 35-42-2-9, a Level 6 felony. Count Four alleged that Respondent committed the offense of domestic battery, in that he touched the person of BLC, a household member, in a rude, insolent or angry manner, namely: punched, slapped and pulled her hair resulting in injury, in violation of Indiana Code Section 35-42-2-1.3, a Class A misdemeanor. Count Five alleged that Respondent committed the offense of battery, in that in a rude, insolent or angry manner, he spit blood onto BLC, in violation of Indiana Code Section 35-42-2-1, a Class B misdemeanor, which carried a maximum penalty of 180 days in jail. Count Six alleged that Respondent committed the offense of interference with reporting a crime, by taking BLC's cellphone as she was calling 911, in violation of Indiana Code Section 35-42-2-5, a Class A misdemeanor.

9. On November 8, 2021, a deputy prosecuting attorney and Respondent, represented by counsel, entered into a plea agreement, whereby Respondent agreed to plead guilty to an amended charge of disorderly conduct in cause number 46D04-1711-F6-001088, in violation of Indiana Code Section 35-45-1-3(1), a Class B misdemeanor, and the deputy prosecuting attorney agreed to dismiss the other charges in the case. At that time, Respondent plead guilty to disorderly conduct and acknowledged that on November 15, 2017, he "engaged in fighting with [BLC] and refused to stop."

10. On November 8, 2021, the Honorable Greta Stirling Friedman approved the parties' agreement in cause number 46D04-1711-F6-001088 and sentenced Respondent to 180 days in jail, with the jail time suspended in favor of probation for 180 days. Judge Friedman also ordered Respondent to pay a fine of \$2, court costs of \$185, and costs associated with probation.

11. By reason of the conduct described above, Respondent has engaged in the following misconduct:

committing a criminal act that reflect adversely on his honesty, trustworthiness or fitness as a lawyer in other respects, by conduct including the commission of the criminal offense of disorderly conduct (Indiana Code Section 35-45-1-3(1)), in violation of Rule 8.4(b) of the Illinois Rules of Professional Conduct (2010).

COUNT III

(August 24, 2019, Domestic Altercation)

12. On Saturday, August 24, 2019, at or about 1:15 p.m., Respondent and BLC had an argument at the home they shared in Long Beach about something that BLC saw on Respondent's cellphone. During the argument, Respondent tried to get his phone back from BLC, and he took BLC's phone from her hands and threw it to the other side of the bed. By the time police officers arrived at the scene following a call to 911 by BLC's minor child, Respondent had left the premises.

13. On August 26, 2019, a two-count information was signed by a deputy prosecuting attorney, and, on August 27, 2019, filed in the LaPorte Superior Court No. 4, County of LaPorte, State of Indiana, alleging that on August 24, 2019, Respondent committed two felonies. The clerk of the court docketed the matter as *State of Indiana vs. Mark Kehoskie*, cause number 46D04-1908-F6-001159 (Superior Court No. 4, LaPorte County, Indiana).

14. Count One of the information in cause number 46D04-1908-F6-001159 alleged that Respondent committed the offense of criminal confinement by holding BLC on a bed and not letting her leave, in violation of Indiana Code Section 35-42-3-3(a), a Level 6 felony. Count Two alleged that Respondent committed the offense of domestic battery in the presence of a juvenile, in that he touched the person of BLC, a household member, in a rude, insolent or angry manner, namely: pushed her on the bed and held her down, in violation of Indiana Code Section 35-42-2-1.3(a)(2), a Level 6 felony.

15. On November 8, 2021, a deputy prosecuting attorney and Respondent, represented by counsel, entered into a plea agreement, whereby Respondent agreed to plead guilty to an amended charge of disorderly conduct in cause number 46D04-1908-F6-001159, in violation of Indiana Code Section 35-45-1-3(1), a Class B misdemeanor, and the deputy prosecuting attorney agreed to dismiss the other charges in the case. At that time, Respondent plead guilty to disorderly conduct and acknowledged that on August 24, 2019, he “engaged in fighting with [BLC] and refused to stop.”

16. On November 8, 2021, the Honorable Greta Stirling Friedman approved the parties’ agreement in cause number 46D04-1908-F6-001159 and sentenced Respondent to 180 days in jail, with the jail time suspended in favor of probation for 180 days, consecutive to the sentence imposed in 46D04-1711-F6-001088, for a total period of probation of 360 days.

17. By reason of the conduct described above, Respondent has engaged in the following misconduct:

committing a criminal act that reflect adversely on his honesty, trustworthiness or fitness as a lawyer in other respects, by conduct including the commission of the criminal offense of disorderly conduct (Indiana Code Section 35-45-1-3(1)), in violation of Rule 8.4(b) of the Illinois Rules of Professional Conduct (2010).

COUNT IV

(June 27, 2012, Driving Under the Influence of Alcohol)

18. On June 27, 2012, at or about 1:01 a.m., Respondent, after drinking beer at a bar in Woodridge, Illinois, was stopped by Hinsdale police for disobeying a red traffic light while driving westbound on Ogden at or about Route 83 in DuPage County. When an officer stopped the vehicle Respondent was driving, Respondent's speech was slurred, his eyes were bloodshot and glassy, and an odor of alcohol emanated from Respondent's person. Respondent was unable to maintain his balance, and Respondent admitted consuming alcohol. Upon completion of field sobriety tests, the officer placed Respondent under arrest. At or about that time, Respondent refused to submit to a test to determine Respondent's blood alcohol concentration.

19. As a result of the incident on June 27, 2012, Respondent was charged in the Circuit Court of the 18th Judicial Circuit, DuPage County, with the offense of driving under the influence of alcohol in violation of 625 ILCS 5/11-501(a)(2), a Class A misdemeanor, which was punishable by a sentence of imprisonment of less than one year. The matter was docketed as *People of the State of Illinois vs. Mark D. Kehoskie*, case number 12 DT 2203 (18th Judicial Circuit, DuPage County).

20. As a result of the incident on June 27, 2012, Hinsdale police also issued traffic citations to Respondent charging him with disobeying a traffic control signal (citation number M077914), improper lane usage (citation number M077915), and operating an uninsured vehicle (citation number M077916).

21. On July 3, 2014, Respondent entered a plea of guilty to the offense of driving under the influence of alcohol as charged in case number 12 DT 2203. The Honorable James J. Konetski entered a judgment of conviction, and, in light of Respondent's conviction in 2000 of driving while

ability impaired by the consumption of alcohol in the state of New York, considered the charge in case number 12 DT 2203 to be a second or subsequent offense. Judge Konetski sentenced Respondent to conditional discharge for a term of two years and ordered him to pay fines and costs totaling \$2,386. Among the terms and conditions of the conditional discharge, Judge Konetski ordered that Respondent perform 240 hours of community service and complete a “DUI” monitoring program for remedial education and counseling, including attendance at a victim impact panel. The disobeying a traffic control signal and improper lane usage charges were dismissed by *nolle prosequi* and the operating an uninsured vehicle charge was continued for Respondent to show proof of insurance.

22. As of July 17, 2017, Respondent had not completed the terms and conditions of conditional discharge in case number 12 DT 2203, and the DuPage County Court Monitoring Program reported the unsatisfactory competition of the conditions to the court in case number 12 DT 2203. Thereafter, the State’s Attorney of DuPage County filed a petition to revoke the conditional discharge in the case.

23. As of January 2018, Respondent had completed three aftercare sessions, received a waiver for the balance of the aftercare that had been recommended, and had otherwise completed the terms and conditions of conditional discharge in case number 12 DT 2203.

24. On January 8, 2018, the State’s Attorney of DuPage County withdrew the petition to revoke the conditional discharge, and the court in case number 12 DT 2203 entered an order terminating the conditional discharge satisfactorily.

25. As a result of Respondent’s refusal to take a test to determine Respondent’s blood alcohol concentration following his arrest on June 27, 2012, Respondent’s driver’s license in Illinois was suspended from August 12, 2012 until August 21, 2013, and, as a result of his

conviction of driving under the influence of alcohol, his driver's license in Illinois was revoked on July 15, 2014 and thereafter not reinstated until May 19, 2021.

26. By reason of the conduct described above, Respondent has engaged in the following misconduct:

committing a criminal act that reflect adversely on his honesty, trustworthiness or fitness as a lawyer in other respects, by conduct including the commission of the criminal offense of driving under the influence of alcohol (Chapter 625, Section 5/11-501(a)(2) ILCS), in violation of Rule 8.4(b) of the Illinois Rules of Professional Conduct (2010).

COUNT V

(Failure to Report Driving Under the Influence of Alcohol Conviction)

27. The Administrator realleges the facts set forth in paragraphs 18 through 25 of Count IV, above.

28. At all times alleged in this disciplinary complaint, Supreme Court Rule 761(a) provided, that it was the duty of an attorney admitted in this state who is convicted in any court of a felony or misdemeanor to notify the Administrator of the conviction in writing within thirty days of the entry of the judgment of conviction.

29. A conviction for driving under the influence of alcohol in violation of Chapter 625, Section 5/11-501(a)(2) of the Illinois Compiled Statutes, is a Class A misdemeanor.

30. Pursuant to Supreme Court Rule 761(a), Respondent was required to notify the Administrator of his conviction in case number 12 DT 2203 on or before August 3, 2014.

31. As of November 21, 2017, when the Administrator received a request to investigate Respondent's conduct, Respondent had not notified the Administrator of his misdemeanor conviction in case number 12 DT 2203 as required by Supreme Court Rule 761(a).

32. By reason of the conduct described above, Respondent has engaged in the following misconduct:

failing to notify the Administrator of his conviction in writing within 30 days after the entry of the judgment of conviction in violation of Supreme Court Rule 761(a).

WHEREFORE, the Administrator requests that this matter be referred to a panel of the Hearing Board of the Commission, that a hearing be conducted, and that the Hearing Panel make findings of fact, conclusions of fact and law, and a recommendation for such discipline as is warranted.

Respectfully submitted,

Jerome Larkin, Administrator
Attorney Registration and
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By: /s/Albert S. Krawczyk
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