

STATE OF MAINE

Maine Supreme Judicial Court

BAR-11-20

Board of Overseers of the Bar,)
)
 Plaintiff)
)
 v.)
)
 Suzanne Dwyer-Jones,)
 of York, Maine,)
 and Lowell, Massachusetts,)
 Me. Bar No. 8638,)
)
 Defendant)

**CORRECTED DECISION and
 ORDER OF SUSPENSION
 Maine Bar Rule 7.2(b)**

A final hearing was conducted on March 25, 2013 on a petition for suspension commenced by the Board of Overseers of the Bar against Suzanne Dwyer-Jones pursuant to M. Bar R. 7.3(e)(2)(B). The Board was represented by Bar Counsel Aria Eee, Esq., and Ms. Dwyer-Jones, who was present for all proceedings, was represented by James P. Hall, Esq.

The Board’s petition alleges that Ms. Dwyer-Jones is unable to properly discharge her professional duties due to significant substance abuse and substantial mental health conditions. Ms. Dwyer-Jones’s answer admits some of the factual allegations of the petition, denies others, and generally rejects the notion that her professional conduct has been adversely affected by alcohol, drugs, or any psychiatric condition. After conferences of counsel and exchanges of materials

between parties, the matter was scheduled for hearing on January 3, 2013, but continued upon the request of Ms. Dwyer-Jones and rescheduled to March 25, 2013.

Ms. Dwyer-Jones then sought a continuance of the March 25 hearing by motion filed March 21, 2013 alleging, *inter alia*, that (1) she was incarcerated, (2) that counsel had potentially conflicting commitments, and (3) she had been denied medications while incarcerated. After notice and opportunity to be heard, the Court determined that Ms. Dwyer-Jones was currently incarcerated because she had managed to enter into execution of a sentence (discussed *infra*) that had been stayed beyond the March 25 hearing date. After hearing arguments of counsel, the motion was denied. The Court reaffirmed its ruling on March 25 after a colloquy on the record with Ms. Dwyer-Jones.

FINDINGS

Ms. Dwyer-Jones was admitted to the practice of law in the State of Maine in 1998. She is also admitted to practice in Massachusetts and maintains a law office in Lowell, Massachusetts. Her solo practice, which centers upon criminal defense work, involves representing clients in Maine and Massachusetts. She has not previously been involved in any disciplinary proceedings and has had no criminal charges lodged against her until December 30, 2010, when she caused a head-on collision in York, Maine, which resulted in a charge of Operating Under

the Influence. Her defense to this charge centered on an assertion that the blood drawn at York Hospital on the night of the collision, which provided evidence of her blood-alcohol level, was not her blood. The District Attorney obtained an order requiring her to provide a blood or tissue sample so DNA testing could confirm or disprove her argument. She has not been compliant with the court's order.

Ms. Dwyer-Jones came to the attention of the Board in 2011 as a result of her failure to renew her attorney registration and to complete continuing legal education credits. On October 11, 2011, she was administratively suspended by the Board from the practice of law pending her satisfaction of these requirements.

Notwithstanding the Board's action, Ms. Dwyer-Jones continued to practice law after that date. She claims to have been unaware of the administrative suspension until December 2011; however, the Court finds these claims patently not credible. Ms. Dwyer-Jones knew, as early as September 2011, that her suspension was imminent. At a minimum, she had the duty to take reasonable steps to be aware of her current registration status.

Ms. Dwyer-Jones blames many of her post-2010 behaviors upon certain stressors that she claims lead her to drink alcohol after many years of abstinence. The death of her father in 2009 and the disintegration of her marriage were, in her view, the primary triggers that precipitated her decline.

She testified that she had been involved in a stress-filled marriage and, later, a contentious divorce which culminated in an agreed-upon judgment of divorce in May 2011. Apparently she continued to live in the marital home, which had been awarded to her former husband, for a period of time after the divorce until her former husband forced her out. Before and after the divorce, Ms. Dwyer-Jones made a number of calls to the police that ultimately resulted in the authorities directing her to leave the home.¹ The police also responded to at least one call from Ms. Dwyer-Jones's mother, who was concerned about her substance abuse and mental health issues. Ms. Dwyer-Jones appeared at the police station to complain about a perceived lack of assistance from the local authorities. She was argumentative and sat on the floor during the confrontation, and was ultimately asked to leave the building. In February 2012, the police responded to suicide threats by Ms. Dwyer-Jones as reported to them by her cousin.

On December 4, 2011, Patrol Sergeant Luke Earnenweine of the York Police Department responded to a call from the Microtel Motel about a motel guest who appeared to be intoxicated. Although this guest, later identified as Ms. Dwyer-Jones, drove away, she returned while Sergeant Earnenweine was present. As she walked around him, she appeared unsteady on her feet and her

¹ In September 2011, Detective Sargent Thomas Cryan of the York Police Department responded to the marital residence in response to a call from Ms. Dwyer-Jones reporting that an assault had taken place. Upon arrival, he saw no evidence of assault and concluded that the issue was centered on financial disagreements. He directed Ms. Dwyer-Jones to leave the residence.

sweatshirt was unzipped, revealing her undergarments. Sergeant Earnenweine asked her to stop so he could speak to her, but she refused to respond to him. He followed her to the elevator and put his foot in the door so it would not close. He smelled alcohol. Ms. Dwyer-Jones said she would fight him if he tried to put her in handcuffs.

Another officer arrived shortly thereafter and Sergeant Earnenweine entered the elevator. Ms. Dwyer-Jones kicked at him and loudly and repeatedly screamed, "Stop!" After Ms. Dwyer-Jones was removed from the elevator, Sergeant Earnenweine advised her that he had received reports that she had been offering to sell prescription drugs to hotel employees. She denied his accusation and continued yelling. He searched her purse and found a prescription bottle containing two types of pills, only one of which matched the label. He also searched her vehicle and found a prescription bottle for Xanax, but the Xanax tablets in the bottle were a different strength than that indicated on the label.

Ms. Dwyer-Jones was transported to the police station where she underwent a blood-alcohol breath test that produced a result of .16. She was combative and obstreperous for most of the time at the police station. She admitted, and later denied, driving earlier in the evening. She was charged with Operating Under the Influence, Unlawful Possession of Scheduled Drugs, and Refusing to Submit to Arrest.

Later, in January 2012, the same officer saw Ms. Dwyer-Jones driving near the courthouse at a time when he knew she was under suspension,² and he stopped her vehicle. She was charged with Operating After Suspension, Possession of a Suspended Driver's License, and Violation of Conditions of Bail.

Zachary Harmon is a patrol officer with the Kittery Police Department. On February 25, 2012, shortly after midnight, while driving his patrol vehicle on the U.S. Route 1 bypass, he observed a vehicle coming at him on an apparent collision course. He activated his lights, drove his cruiser onto the grass to avoid a collision, and turned his cruiser to pursue the vehicle, which was operated by Ms. Dwyer-Jones. During Harmon's conversation with Ms. Dwyer-Jones, she advised him that she was a lawyer. Officer Harmon noted that her speech was very fast and slurred and she seemed to be flustered. The interior of the car was very cluttered. He smelled no odor of alcohol.

Officer Harmon administered field sobriety tests, including the horizontal gaze nystagmus test, which Ms. Dwyer-Jones failed badly. He reported that Ms. Dwyer-Jones talked incessantly during his entire period of interaction with her. She said she would kill herself if they took her to jail, so Officer Harmon

² Ms. Dwyer-Jones advised the officer that she had obtained a stay on the suspension of her driver's license. In fact, she had not. Indeed, a request for stay was received by the Bureau of Motor Vehicles *after* she was stopped by the officer.

elected to transport her to the hospital. She was charged with Operating Under the Influence.

Justina McGettigan, an Assistant District Attorney who has known Ms. Dwyer-Jones for a number of years, became quite concerned over her behavior and the criminal charges she was incurring starting in September 2011. Numerous rambling and emotional messages from Ms. Dwyer-Jones were left on her voice mail. In December 2011, Justice Fritzsche issued a bench warrant for Dwyer-Jones as a result of her non-appearance in her own case. In February 2012, ADA McGettigan filed a motion for revocation of preconviction bail on Ms. Dwyer-Jones's own pending criminal charges.

In late February, after learning that Ms. Dwyer-Jones had been admitted to a hospital, ADA McGettigan was sufficiently concerned about Ms. Dwyer-Jones's condition and safety, based upon her behavior and suicide references, to request a court-ordered psychological evaluation. Shortly thereafter, in March 2012, upon the court's order, Ms. Dwyer-Jones entered the Riverview Psychiatric Center and a full psychological workup was completed.³

³ During the course of the evaluation, which lasted from March 16 through April 16, Ms. Dwyer-Jones confirmed that she had multiple prior mental health hospitalizations.

Shortly after being released from the Riverview Psychiatric Center, Ms. Dwyer-Jones hired an attorney⁴ and entered guilty pleas in late April 2012, to two OUI charges and a charge of Resisting Arrest.⁵ She was placed on probation with a number of special conditions relating to substance abuse. She claims that her probation supervisor, Dennis Clark, was oppressive and uncooperative. The court finds the opposite to be true. After a string of unsuccessful strategies, Officer Clark filed a motion to revoke probation on November 6, 2012. At the probation revocation hearing, after arriving two hours late, Ms. Dwyer-Jones admitted several of the allegations of the motion.⁶

As the dispositional hearing on the probation revocation drew near, Ms. Dwyer-Jones continued to be uncooperative. She failed to report and was otherwise uncommunicative with Officer Clark. Justice Fritzsche terminated her probation and ordered her to serve a county jail sentence, but allowed a stay of execution that would allow her to attend the March 25, 2013 hearing in this matter. Inexplicably, Ms. Dwyer-Jones arranged to enter into execution the sentence on

⁴ Ms. Dwyer-Jones had previously been represented by a court-appointed attorney, Clifford Strike, Esq., but hired attorney Mark Lawrence to handle the remainder of proceedings. The exact date when attorney Lawrence took over representation from attorney Strike is not clear.

⁵ The third OUI remained unresolved as of the date of the hearing in this matter.

⁶ Officer Clark tested her for alcohol consumption on December 14 and received the results on December 18. Ms. Dwyer-Jones tested positive for alcohol. She denies alcohol use during that period.

March 11, which resulted in her being incarcerated immediately prior to, and during, the hearing in this matter.

Attorney William Nugent of the Maine Assistance Program (MAP) met Ms. Dwyer-Jones in 2009 shortly after her father died.⁷ It appeared to him that she was struggling with the stress of that event and difficulties in her marriage. In February 2011 they met again and entered into a contract to address her substance abuse and emotional problems. He met with her once again in January 2013. At that meeting, they discussed the events that had transpired and considered the possibility of a monitoring program administered by MAP. Ms. Dwyer-Jones was amenable to such a program, but she had not fully filled out all the forms necessary for participation in the program as of the date of the hearing in this matter.

During Ms. Dwyer-Jones's hospitalization at York Hospital and Riverview, she received a diagnosis of bipolar disorder. At the hearing, she acknowledged the fact that she is an alcoholic—she has known this for some time—and that she is now officially diagnosed with a serious, although treatable, psychiatric disorder.

CONCLUSIONS

Despite the fact that Ms. Dwyer-Jones is afflicted with a substantial proclivity for substance abuse and a very serious mental health condition, she was apparently able to compensate well during the decade that preceded her precipitous

⁷ Although confidential by statute, Ms. Dwyer-Jones waived her right to confidentiality by offering as evidence her interactions with MAP.

decline after 2010. It is abundantly clear that that she went seriously “off the rails” (a term that was used on numerous occasions during the hearing) thereafter.

The court has little difficulty in concluding that the combined effects of these conditions clearly produced a substantial incapacity that adversely impacted Ms. Dwyer-Jones’s ability to practice law and resulted in a substantial threat of irreparable harm to the public. Indeed, during this time, she was essentially unable to manage her own affairs, let alone the complex matters involved in the representation of others. The court finds that the incapacitating symptoms of these conditions remain essentially as florid today as they were during the last two years. Accordingly, the court hereby orders that Suzanne Dwyer-Jones be suspended from the practice of law in the State of Maine.

The issues of the duration and conditions of the suspension are conjoined with Ms. Dyer-Jones’s insight into her medical conditions and the progress she has made to manage them.

Although Ms. Dwyer-Jones’s chronic alcoholism and bipolar disorder can, in all likelihood, be managed with proper medication, supervision, and treatment, and she professes to understand the nature and gravity of her conditions, her testimony displayed an unrealistic and oversimplified outlook on what needs to be done. Ms. Dwyer-Jones holds the view that upon being released from the Riverview Psychiatric Center, and being prescribed several psychotropic

medications, she was stable and ready to return to the active practice of law. Her testimony, paraphrased to a degree, is basically: *I do not feel that I am impaired by my mental health issues. I messed up by drinking. Just give me a chance and it won't happen again.*

Notably missing are an understanding of what needs to be done to address the enormous challenges facing her, and some history of accomplishments indicating that she is making progress, however slight, toward meeting these challenges. To the contrary, Ms. Dwyer-Jones is currently mired in the depression of having hit rock-bottom.⁸ She will need help and a plan to dig out. The court is acutely aware of Ms. Dwyer-Jones's fragile mental state and the danger that anxiety and depression present for her.⁹ The decision to suspend her privilege to practice law in Maine is not taken lightly.

Accordingly, the court imposes a one-year suspension from the date of this order, with conditions as specified below. Ms. Dwyer-Jones may petition for reinstatement thereafter. Any petition for reinstatement must show insight into the serious problems that resulted in this suspension, her plan to address them, and a

⁸ It is difficult to imagine more dire circumstances: (1) she is essentially homeless with no residential location to call her own; (2) she is destitute, without cash reserves, property, or a revenue stream; (3) her driving privileges will be suspended for the foreseeable future; (4) she has substantial healthcare and treatment needs, but no insurance to underwrite them; and (5) she is unable to practice her profession while under suspension.

⁹ More than one friend and colleague have expressed fears of Ms. Dwyer-Jones committing suicide.

showing of substantial progress toward the goal of being able to undertake the affairs of others without being distracted or incapacitated by her underlying conditions.

ORDER

Suzanne Dwyer-Jones is hereby suspended from the practice of law in the State of Maine pursuant to M. Bar R. 7.2(b) for a period of one (1) year from the date of this order. She may petition for reinstatement thereafter. During the period of suspension, she shall:

- (1) undertake active treatment for the conditions noted above from licensed mental health professionals, including in-patient hospitalization if necessary;
- (2) advise Bar Counsel of all of the names of her treating professionals and institutions, and execute releases to allow Bar Counsel to monitor her progress in treatment;
- (3) attend no less than three (3) AA meetings per week and provide proof of attendance if requested by Bar Counsel;
- (4) take all medications as prescribed;
- (5) refrain from all consumption of alcohol and drugs, other than medications in the amounts prescribed by her mental health professionals;
- (6) take steps to ensure that any of her clients with active cases in the State of Maine are immediately referred to other counsel for representation;
- (7) seek employment, as within her abilities, but not provide legal advice or counsel to any other person;
- (8) seek stable housing that is not dependent upon the benevolence of other persons;

(9) engage the services of the Maine Assistance Program to assist with her substance abuse recovery and management of her psychiatric condition;

(10) keep the Board updated on her progress on these requirements at regular intervals, not less than quarterly;

(11) make a good faith effort to reimburse MCLIS for her own court-appointed attorney's services, and similarly reimburse the Board for investigation and prosecution of this matter;

(12) undergo a psychological evaluation at the direction of Bar Counsel if so requested and provide a release to allow Bar Counsel to obtain a report of such evaluation;

(13) otherwise comply with all laws of the State of Maine.¹⁰

The Board is granted leave to file an information directly with the court concerning any new complaints of professional misconduct received after the date of this order.

Dated: July 19, 2013

/s/
Hon. Andrew M. Mead
Associate Justice
Maine Supreme Judicial Court

¹⁰ See M. Bar R. 7.3(j)(5)-(6) for further requirements and procedures for petitions for reinstatement.