

**ORIGINAL**

**IN THE SUPREME COURT OF OHIO**

In Re: :

Kenneth L. Lawson : CASE NO. 2011-0131  
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Honolulu, Hawaii 96816 :  
**Attorney Registration No. 0042468** :

Respondent :

Disciplinary Counsel :  
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Columbus, OH 43215-7411 :

Relator :

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**RESPONDENT'S REPLY TO RELATOR'S OBJECTIONS  
TO THE BOARD OF COMMISSIONERS'  
REPORT AND RECOMMENDATION**

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**I.**  
**INDEFINITE SUSPENSION WAS AND REMAINS**  
**THE APPROPRIATE SANCTION FOR**  
**MR. LAWSON'S ADMITTED MISCONDUCT**

The Relator cites no evidence of any misconduct of any kind or degree on the part of Mr. Lawson occurring at any time subsequent to January of 2007 when he entered drug rehabilitation. The misconduct which it does cite and which Mr. Lawson has candidly and remorsefully admitted all occurred before that date.

This Court has already determined in July of 2008 that, during the relevant time period while suffering from the disease of addiction to pain-killers, Mr. Lawson engaged in a pattern of stealing from clients and illegally obtaining prescription drugs for his own use. As the Court noted then, as Mr. Lawson acknowledged then and still acknowledges, and as the Relator now reiterates, that pattern was “pervasive and devastating.” *Cincinnati Bar Assoc. v. Lawson*, 119 Ohio St. 3d 58, 2008-Ohio-3340, 891 N.E.2d 749, at ¶64 (the “Prior Decision”).

Four unbroken years of unblemished conduct should add significant weight to the mitigating factors that led to this Court’s imposition of an indefinite suspension for the serious and regrettable misconduct the Relator seeks to revisit. Mr. Lawson has already paid the price for that misconduct, both in the disciplinary process and in the criminal justice system.

The outcome of every disciplinary case turns on its unique facts and on a weighing of the aggravating and mitigating factors arising from those facts. *Ohio State Bar Association v. Peskin*, 125 Ohio St. 3d 244, 2010-Ohio-1811, 927 N.E.2d 598, at ¶11. Each of the cases cited by the Relator in support of its objection is easily distinguished

from this case. Unlike Messrs. Gallagher, Neller and Longo, Mr. Lawson was never involved in the distribution of drugs to third parties. Unlike Mr. Phillips, Mr. Lawson did not commit crimes while serving as a public official. Unlike Ms. Hunter, Mr. Lawson was driven by a disease of addiction to appalling conduct in order to finance and feed that disease.

It should, however, not be necessary to parse the facts of other cases. The facts of this case were concluded over four years ago and resolved by this Court over two and a half years ago. The controlling principle articulated in the Prior Decision was reconfirmed by this Court with citation to the Prior Decision as recently as December 21, 2010.

Relator sought disbarment of Respondent. Here, however, the evidence suggests strongly that Respondent's drug use led to the ethical breaches at issue. In such cases, we tailor the sanctions imposed to assist in and monitor the attorney's recovery.

*Ohio State Bar Association v. Resnick*, 2010-Ohio-6147, at ¶23.

It likewise should not be necessary to parse the facts of this case except to state that they are simply part of the pattern of misconduct that was presented and explored in the prior proceeding. At one point in its memorandum the Relator does go beyond the evidence in accusing Mr. Lawson of "blackmailing" Dr. Broadnax out of \$50,000.00 (Relator's Objections at p. 10). The testimony was that Dr. Broadnax in fact owed \$50,000.00 to Mr. Lawson. The stipulation entered by the Relator was that there was a conspiracy "with" Dr. Broadnax, not against him. (*See* Items 4 and 9 of the Stipulation attached to the Board's Report). It distorts the facts to characterize Mr. Lawson's drug dealer as a victim just as much as it would distort the facts to describe Mr. Lawson's

conduct in his blind quest to feed his addiction as anything but unethical, criminal, pervasive and devastating.

Like all recovering addicts, Mr. Lawson will always be a recovering addict. Control of that disease, however, has rendered him once again a valuable member of society. The evidence presented at the hearing before the Panel in the present proceeding underscores the wisdom and justice of the principle articulated in the Prior Decision and in the *Resnick* decision. Despite considerable adversity, Mr. Lawson for the past four years has done an exemplary job of personal rehabilitation and of making positive contributions to his former profession and to individuals afflicted with the disease that led to his past ethical breaches.

The argument that Mr. Lawson has not yet worked out a plan of restitution is unpersuasive in light of the facts that he has been unemployed, in rehabilitation and, for a lengthy period, in a federal penitentiary for most of the relevant time period, that he has a wife and children who need his support, and that he only began receiving any meaningful compensation from employment shortly before the Panel hearing.

The argument that he has failed to comply with his OLAP contract is unpersuasive in light of the facts that no representative of OLAP testified regarding any alleged noncompliance, that he has been in continuous compliance with all treatment requirements since February of 2007, and that he is fully involved in lawyers assistance programs and law school activities in the state where he now resides.

The argument that the Panel relied on hearsay testimony is unpersuasive in light of the fact that each of the witnesses in question was subject to cross-examination by

Disciplinary Counsel. The time lapse with respect to that testimony only goes to its weight.

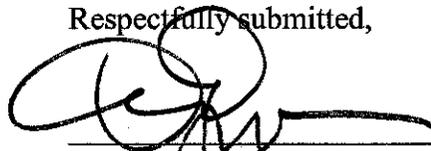
The argument regarding qualification for chemical dependency mitigation was conclusively resolved by this Court in the Prior Decision.

### CONCLUSION

It has been established, in the words of this Court's Prior Decision and in the *Resnick* decision, that Mr. Lawson's drug use "led to the ethical breaches at issue." This Court has already determined that the pattern of misconduct resulting from that drug use was "pervasive and devastating." It is conceded that the pattern of misconduct warranted an indefinite suspension from the practice of law.

The Relator is also forced to concede, however, that the pattern of misconduct ended in January of 2007. The hearing with respect to that pattern of misconduct was in fact concluded by a final decision from this Court in July of 2008. For the reasons stated in the Objections filed on behalf of Mr. Lawson to the Board's Report and Recommendations, the finality of that 2008 determination should not be disrupted in the absence of some misconduct occurring after January of 2007.

Respectfully submitted,

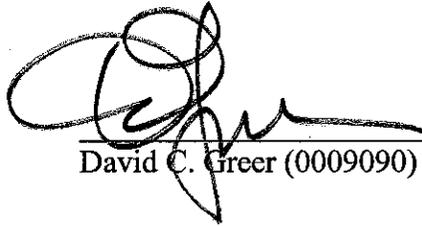


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**CERTIFICATE OF SERVICE**

This certifies that a true and accurate copy of the foregoing document has been served upon Robert R. Berger, Senior Assistant Disciplinary Counsel, 250 Civic Center Drive, Suite 325, Columbus, OH 43215-7411, by First Class United States Mail, this 16 day of February, 2011.



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