

**IN RE: CRAIG BARTON****NO. BD-2011-099****S.J.C. Order of Indefinite Suspension entered by Justice Gants on December 14, 2012.<sup>1</sup>****SUMMARY<sup>2</sup>**

On December 8, 2008, the respondent admitted to sufficient facts in Westfield District Court to operating under the influence in violation of G. L. c. 24(1)(a)(1). He was placed on probation until December 8, 2009. An admission to sufficient facts constitutes a conviction as defined by S.J.C. Rule 4:01, § 12(1), and the respondent violated S.J.C. Rule 4:01, § 12(8), by not reporting the conviction to bar counsel.

On the morning of August 28, 2010, the respondent drank a number of alcoholic beverages while at a golf course. He then drove his automobile to join a friend at another bar. The respondent operated his automobile at a high rate of speed, lost control of the car, and struck and killed a young man who was at his aunt's mailbox checking for her mail. The respondent's car continued on, striking mailboxes, another car, and a street sign before finally coming to rest.

On September 22, 2011, the respondent was convicted in Hampshire Superior Court of homicide by motor vehicle in violation of G. L. c. 90, § 24G(a); operating under the influence, second offense, in violation of G. L. c. 90, § 24(1)(a)(1); and negligent operation of a motor vehicle in violation of G. L. c. 90, § 24(2)(a). The respondent was sentenced to not more than seven and not less than five years in state prison on the motor vehicle homicide count and to a concurrent term of two and one-half years in the house of correction on the second offense of driving under the influence. The respondent was placed on probation for two years on the charge of negligent operation of a motor vehicle, to commence on and after the other sentences. Homicide by motor vehicle is a felony and a "serious" crime as defined by S.J.C. Rule 4:01, § 12(3).

The respondent's criminal conduct violated Mass. R. Prof. C. 8.4(b) and (h). His failure to report the 2008 conviction to bar counsel violated Mass. R. Prof. C. 8.4(d).

The respondent was temporarily suspended from the practice of law on November 21, 2011. On December 22, 2011, bar counsel filed a petition for discipline. On May 4, 2012, the respondent filed an amended answer admitting to the allegations in the petition for discipline. Bar counsel and the respondent stipulated to a three-year suspension effective November 21, 2011, with the condition that the respondent not be permitted to petition for reinstatement until he was released from custody, including parole. On June 11, 2012, the Board of Bar Overseers made a preliminary determination to reject the stipulated sanction, preferring instead an indefinite suspension.

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<sup>1</sup> The complete Order of the Court is available by contacting the Clerk of the Supreme Judicial Court for Suffolk County.

<sup>2</sup> Compiled by the Board of Bar Overseers based on the record filed with the Supreme Judicial Court.

On October 16, 2012, the respondent notified the board that he accepted the board's recommendation of indefinite suspension and waived hearing. Bar counsel also assented to the proposed sanction. On November 19, 2012, the Board of Bar Overseers voted to recommend that the respondent be indefinitely suspended effective November 21, 2011, while advising the Court that the board would be unlikely to recommend that the respondent be reinstated until after his release from parole and probation. On December 14, 2012, the Supreme Judicial Court for Suffolk County (Gants, J.) entered an order indefinitely suspending the respondent effective retroactively to November 21, 2011.