



**IN RE: NICOLE J. DESHARNAIS**

**NO. BD-2012-108**

**S.J.C. Order of Term Suspension/Stayed entered by Justice Spina on January 29, 2014.<sup>1</sup>**

**SUMMARY<sup>2</sup>**

The respondent, Nicole Desharnais, was admitted to the Massachusetts bar on December 13, 1999. On February 27, 2012, the respondent admitted to sufficient facts in Dedham District Court to operating under the influence in violation of G. L. c. 90, § 24(1)(a)(1). The case was continued without a finding until February 26, 2013, subject to conditions and supervised probation. The respondent did not report this conviction to bar counsel within ten days, thereby violating S.J.C. Rule 4:01, § 12(8).

On August 2, 2012, the respondent was arraigned in Peabody District Court on charges of operating under the influence, second offense, and leaving the scene of property damage. The respondent was released on condition that she not consume alcohol.

Due to the charges in Peabody District Court, the respondent was found in violation of her conditions of probation in the Dedham case on August 2, 2012. The continuance without a finding was revoked, and the respondent was convicted of operating under the influence. The court ordered the respondent not to consume alcohol, to complete outpatient treatment and follow all recommendations for aftercare, and to abide by the original conditions of probation.

On August 12, 2012, the respondent tested positive for alcohol at Dedham District Court. She was ordered to enter and complete an inpatient program and undergo daily screening. Based on the positive test, Peabody District Court revoked bail on August 29, 2012, and the respondent was incarcerated until September 24, 2012.

On September 24, the respondent was convicted in Peabody District Court of operating under the influence, second offense, and was sentenced to eighteen months in the house of correction, with twenty-nine days served and the remaining term suspended until September 23, 2014, subject to conditions. The respondent also admitted to sufficient facts to leaving the scene of property damage. That case was continued without a finding until September 23, 2014.

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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.

The respondent's criminal conduct violated Mass. R. Prof. C. 8.4(b) and (h). Her violation of the bail and probation conditions was a violation of Mass. R. Prof. C. 3.4(c) and 8.4(d). The respondent's failure to report the Dedham conviction to bar counsel violated Mass. R. Prof. C. 8.4(d).

On December 14, 2012, bar counsel filed a petition for discipline; the respondent filed an answer on January 3, 2013. On September 17, 2013, the respondent filed an amended answer admitting to the facts and rule violations alleged in the petition. The parties stipulated that the respondent's criminal conduct did not involve the representation of a client, that the respondent had a history of depression and alcoholism exacerbated by serious events occurring in her personal life at the time of the criminal conduct, that she had sought appropriate treatment to address her alcoholism and depression, and that she stopped practicing law and transferred to inactive status until she stabilized her condition.

The parties also stipulated to a three-month suspension, stayed for two years subject to conditions including that the respondent be evaluated by Lawyers Concerned for Lawyers within fourteen days of the entry of the order of suspension. In addition, within fourteen days of the entry of the order, the respondent would be required to provide to bar counsel an executed agreement with LCL authorizing LCL to report any failure by the respondent to abide by LCL recommendations or the recommendations of her treatment provider or to abstain from alcohol and a list of all treatment providers, including LCL, together with releases acceptable to each provider to provide information requested by bar counsel. In addition, the respondent would be required to notify bar counsel of any change in treatment providers and to provide a release acceptable to new providers.

On October 28, 2013, the Board of Bar Overseers voted to accept the parties' recommendation for discipline. The board filed an information in the Supreme Judicial Court for Suffolk County. On January 29, 2014, the county court (Spina, J.) entered an order of suspension for three months stayed for two years subject to the conditions requested by the parties and recommended by the board.