

STATE OF INDIANA,)
)
Petitioner,)
)
v.)
)
CARMELLA L. DUNN, R.P.H.,)
License Number: 26016517,)
)
Respondent.)

FILED

MAR 28 1995

HEALTH PROTECTION DIVISION
BUREAU

COMPLAINT

The State of Indiana ("Petitioner"), by counsel, Pamela Carter, Attorney General of Indiana, by Amy Huffman Oliver, Deputy Attorney General, pursuant to IC 25-1-7-7(a), files its complaint against Carmella L. Dunn, R.Ph. ("Respondent") and in support thereof alleges and states:

1. The Attorney General of Indiana is empowered to bring disciplinary complaints in the name of the State of Indiana before the Indiana State Board of Pharmacy ("Board") pursuant to IC 25-1-7-1 *et seq.*
2. The Board is charged with the duty and responsibility of regulating the practice of pharmacy in the State of Indiana pursuant to IC 25-26-13-4.
3. The Board is empowered to hold this disciplinary hearing pursuant to the authority of IC 25-1-9-4 and IC 4-21.5-3 *et seq.*
4. Respondent's address is 624 South 20th Street, Terre Haute, Indiana 47803.

5. Respondent is a duly licensed pharmacist in the State of Indiana holding license number 26016517.

COUNT I

1. The Respondent has been employed in the Terre Haute Regional Hospital pharmacy from August 6, 1991, to the present date.

2. On or about January 3, 1994, the Terre Haute Police Department began an investigation regarding missing Schedule II narcotics from the above pharmacy.

3. On November 10, 1994, an Affidavit of Probable Cause for Arrest Warrant and Information for Theft and Possession of Cocaine, Class D Felonies, were filed in Vigo County Superior Court against the Respondent. Certified copies of these documents and the docketing sheet are attached and incorporated by reference with this Complaint as State's Exhibits A, B, and C.

4. The Respondent admitted to her employment supervisor, John Webb, that on or about April 1, 1994, she diverted approximately 9.6 g. of powdered cocaine and 6 X 4 ml. of cocaine solution from the hospital pharmacy for her own use.

5. The Respondent also admitted to Mr. Webb that she replaced the pharmacy's supply of powdered cocaine with a similar looking, white powder substance that was not cocaine.

6. The Respondent was referred to the Indiana Impaired Pharmacist's Association for cocaine addiction treatment and follow-up care.

7. The Respondent's continued practice of pharmacy at Terre Haute Regional Hospital is governed by certain terms and conditions of employment related to her addiction.

8. The Respondent has an addiction to controlled substances.

9. The above conduct constitutes a violation of the following state statutes and regulations: IC 25-1-9-4(a)(1)(B), to-wit: the practitioner has engaged in fraud or material deception in the course of professional services or activities; IC 25-1-9-4(a)(4)(D), to-wit: the practitioner has continued to practice although the practitioner has become unfit to practice due to addiction to, abuse of, or severe dependence upon alcohol or other drugs that endanger the public by impairing a practitioner's ability to practice safely; IC 25-1-9-4(a)(8), to-wit: a practitioner has diverted a legend drug.

WHEREFORE, Petitioner demands an order against Respondent, Carmella L. Dunn, R.Ph., that:

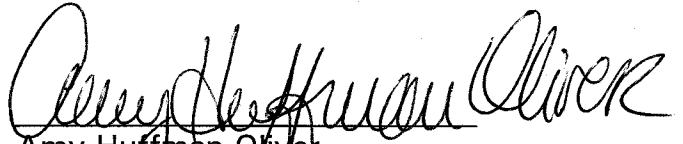
1. Imposes the appropriate discipline on Respondent's Indiana pharmacy license;

2. Directs the Respondent to immediately pay all costs incurred in the prosecution of this case;

3. Provides such further relief as the Board deems just and proper in the premises.

Respectfully Submitted,

PAMELA CARTER
Attorney General of Indiana

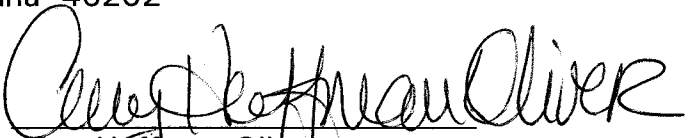
By: 
Amy Huffman Oliver
Deputy Attorney General
Atty. No.: 0016752-07-A

CERTIFICATE OF SERVICE

I certify that a copy of the above "Complaint" has been served upon the party listed below, by United States mail, first class postage prepaid, on this 23rd day of March, 1995:

Carmella L. Dunn, R.Ph.
624 South 20th Street
Terre Haute, Indiana 47803

Steven H. Johnsonbaugh
Attorney at Law
302 North East Street
Indianapolis, Indiana 46202

By: 
Amy Huffman Oliver
Deputy Attorney General
Atty. No.: 0016752-07-A

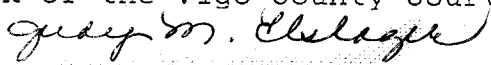
Office of the Attorney General
Indiana Government Center South
402 West Washington Street, Fifth Floor
Indianapolis, Indiana 46204-2770
Telephone: (317) 233-3206
AHO:26146

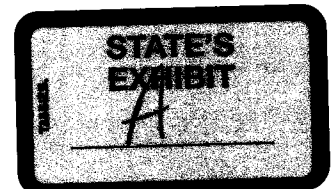
STATE OF INDIANA)

) SS:
COUNTY OF VIGO)

I, Patricia R. Mansard, Clerk of the Vigo County Court,
do hereby certify that the attached is a full, true
and complete copy of: CHARGING INFORMATION AND PROBABLE CAUSE AFFIDAVIT AND
DOCKET SHEET ON CARMELLA L. DUNN, CAUSE #: 84E05-9411-CF-1380
recorded in the files of this office of which I am
legal and lawful custodian.

IN WITNESS WHEREOF, I have hereunto set my hand and official
seal, this the 1st day of March, 1995.


Clerk of the Vigo County Court






CRIMINAL CHRONOLOGICAL CASE SUMMARY

State Form 44797 (4-91) DSCA-911-CCS-2

MSO CO. COURT

Court

CASE

Number

84E05-9411-CF-1380

Status

☐ Pending ☐ Decided

Date filed 11/14/94	Date disposed	Continuation sheet ☐ Yes ☐ No	If dismissed, give date	Bond ☐ Set ☐ Posted	Sureties
------------------------	---------------	--	-------------------------	--	----------

State of Indiana

v.

Name CARMELLA L. DUNN	Description (narrative)		Code (if citation)	Class	Type	Check if Dismissed
--------------------------	----------------------------	--	-----------------------	-------	------	-----------------------

Address 624 S. 20th Street Terre Haute, IN 47803	COUNT I - THEFT	35-43-4-2(a)	D	FEL		
--	-----------------	--------------	---	-----	--	--

Telephone number 308-68-4121	Social Security Number 08/06/58	COUNT II - POSSESSION OF COCAINE	35-48-4-6	D	FEL	
---------------------------------	------------------------------------	----------------------------------	-----------	---	-----	--

On probation ☐ Yes ☐ No	Other case number					
--	-------------------	--	--	--	--	--

ATTORNEY FOR DEFENDANT

Pauper? ☐ Yes ☐ No	FEE RECORD		COLLATERAL RECORD		REDOCKETED (if redocketed, give date)	
--	------------	--	-------------------	--	---------------------------------------	--

Name of attorney JOSEPH K. ETTLING	Fee Book 18 Page	Bond:		DATE	Check if Decided
---------------------------------------	---------------------	-------	--	------	---------------------

Address of attorney	Court costs	Book	Page		
---------------------	-------------	------	------	--	--

Telephone number	Fine	Judgment Lien:			
------------------	------	----------------	--	--	--

	User fees	Book	Page		
--	-----------	------	------	--	--

	Other (explain)	Other (explain)			
--	--------------------	--------------------	--	--	--

Name Ellis	PROSECUTING ATTORNEY				
---------------	----------------------	--	--	--	--

Prosecutor's number	Telephone number 462-3305	CHRONOLOGICAL SUMMARY OF FILINGS AND PROCEEDINGS			
---------------------	------------------------------	--	--	--	--

DATE	CHECK IF NOTICE SENT	CHECK IF R/O ENTRY	Court accepts this case from Division One.		
------	----------------------------	--------------------------	--	--	--

11/14/94			Defendant appears with John Kesler II and waives formal arraignment Court enters a not Guilty Plea. Court sets this for omnibus hearing on 2/1/95 for jury trial on 3/29/95 at 1:30 p.m.		
----------	--	--	--	--	--

11/17/94			pretrial on 3/20/95 at 10:30 a.m. bond set at \$5,000.00 with 10% allowed. dp		
----------	--	--	---	--	--

11/18/94	x	x	John A. Kesler file Motion to Withdraw. dp		
----------	---	---	--	--	--

1/30/95.			Court Grants Said Motion. dp		
----------	--	--	------------------------------	--	--

01/31/95			Joseph Etling enters his appearance. dp		
----------	--	--	---	--	--

STATE FILES COMPLIANCE WITH COURT'S ORDER FOR DISCOVERY./jme

STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

IN THE VIGO SUPERIOR COURT 1
DIVISION 1
CAUSE NUMBER: 84D01-9411-CF-0416

STATE OF INDIANA

INFORMATION FOR:

FILED
VIGO SUPERIOR COURT

VS

NOV 10 1994

CARMELLA L. DUNN
DOB: 08/06/58
SS#: 308-68-4121

COUNT 1

Theft
A Class D Felony

Patricia R. Mansard
Clerk

COUNT 2

Possession of Cocaine
A Class D Felony

Count 1

The undersigned being duly sworn upon his oath says that he is informed and believes that on or about April 1, 1994 in Vigo County, State of Indiana, Carmella L. Dunn did then and there knowingly exert unauthorized control over the property of Terre Haute Regional Hospital, to-wit: cocaine, with intent to deprive the said owner of its use, in violation of I.C. 35-43-4-2(a).

Count 2

The undersigned being duly sworn upon his oath says that he is informed and believes that on or about April 1, 1994 in Vigo County, State of Indiana, Carmella L. Dunn did then and there knowingly possess cocaine, in violation of I.C. 35-48-4-6.

Det. Stephen M. Lewis

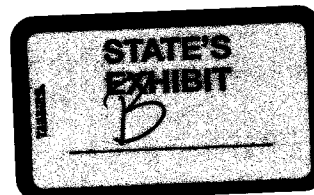
Subscribed and sworn to before me this 10th day of November, 1994.
My Commission Expires:
March 6, 1995

Anita Joy Dragon
Anita Joy Dragon, Notary Public
A Resident of Vigo County

APPROVED BY ME:

James R. Walker
James R. Walker, 1096-84
Chief Deputy Prosecuting Attorney

WITNESSES:
Stephen Lewis



STATE OF INDIANA)
) SS:
COUNTY OF VIGO)

IN THE VIGO Superior COURT
DIVISION One

CAUSE NO. 84D019411CF416

FILED

STATE OF INDIANA VIGO SUPERIOR COURT AFFIDAVIT OF PROBABLE CAUSE
FOR ARREST WARRANT

VS.
Carmella L. Dunn

NOV 10 1994

Peterson R. Mansard
Clerk

Det. Stephen Lewis, states that he believes and has good cause to believe that on or about April 1st, 1994, in Vigo County, Indiana, Carmella L. Dunn, defendant, committed the crime(s) of Theft and Possession of Controlled Substance, and such belief is based on the following:

1. The affiant is a regular member of the Terre Haute Police Department, being duly sworn 10-17-85.
2. The affiant learned from crime/incident report #94-0409 that on 1-03-94 John Webb, director of the pharmacy at Terre Haute Regional Hospital, reported a burglary to the Terre Haute Police in which controlled substances had been stolen from a cabinet inside the pharmacy. Webb reported that Cocaine, Dilaudid, Morphine, and Ritalin were stolen with a value of \$1687.00. Webb listed two employees of the pharmacy as witnesses, Carmella Dunn and Gary Brown.
3. The affiant learned during an interview with Gary Brown that he works days at the pharmacy as a pharmacist and when he came to work 1-03-94 he noticed the lock from the schedule two drug cabinet laying on the floor by the cabinet, as the cabinet is near his desk. Brown said that he also saw pry marks on the cabinet door and then called John Webb at home and informed him of the break in. Brown had no further knowledge of the incident.
4. The affiant learned from an interview with John Webb on 1-03-94 that Carmella Dunn had been the only employee working in the pharmacy between the hours the burglary occurred (11:00PM to 6:55AM), and he also told me that there had been a problem on December 15th, 1993, when Dunn borrowed five grams of Cocaine flakes from Union Hospital Pharmacy (which is a common practice), but then returned it with the seal broken and Union would not accept it back so Regional had to buy it even though they did not need it.
5. The affiant learned from a voluntary statement given by John Trevarthan, Pharmacist at Union Hospital, that on December 15th, 1993, Carmella Dunn called him and asked to borrow five grams of cocaine. Trevarthan stated that Dunn told him that Regional Pharmacy was out of cocaine and she needed it to make tac-gel.



NOV 10 1994

Trevarthan stated that he sent the cocaine to Regional ^{Peterson, P. M.} ~~by cab~~ and requested that Dunn send the necessary paperwork, but instead Dunn sent the cocaine back and the seal was broken on the bottle. Trevarthan stated that he then sent the cocaine back to John Webb and requested that Regional buy the cocaine because he doubted the integrity of the cocaine since the seal was broken.

Trevarthan stated that on 1-03-94 Carmella Dunn called him and asked to borrow some Nizoral shampoo, K-Lite and CL-50, which he told her he would send by cab. Trevarthan stated that approximately 10 to 15 minutes later Dunn called back, and sounded like she was crying and asked him to also send her cocaine along with the other items as she had dropped Regionals vial of cocaine and she had none left to make tac-gel with. Trevarthan stated that he told her that she would need to get John Webb's approval before making such a deal due to the previous problem. Trevarthan stated that he then reported the incident to his supervisor.

6. The affiant asked Carmella Dunn to come to headquarters on 1-07-94 to discuss this case and she came in voluntarily at 9:30 AM. Dunn was interviewed by the affiant and by Det. Lt. John Lewis of the Terre Haute Police Dept. During the initial interview Dunn was cooperative and composed when asked about the information she had given the officers in the initial report, but when asked about the discrepancies which had been discovered since the report was made, and the problems arising from the transactions between Regional and Union she became very defensive and visibly shaken.

Dunn denied telling Trevarthan that she had no cocaine in December 1993, but did admit that she had tried to borrow cocaine on 1-03-94 but denied telling him that she had broken her supply. Dunn stated that she had just asked to borrow the cocaine because she needed to make the gel and she asked him rather than looking in Regionals cabinet to check their supply.

As we continued to question Dunn she became more upset and it seemed to the affiant that she was about to admit her involvement in the theft, when she composed herself somewhat and told us she did not want to talk any more and wanted to leave. We advised Dunn that she was free to leave and she did so.

7. The affiant learned from a voluntary statement given by John Webb that after reporting the burglary to the police he talked with Carmella Dunn to ask what she knew about this incident and she knew nothing. Webb stated that he asked her if she noticed that the cabinet lock was broken and the door standing ajar and she knew nothing about this either. Webb stated that this raised his suspicions because during the times the burglary occurred Dunn was the only employee there, and part of her duties were to check the medication carts which are kept only a few feet from the cabinet where the drugs which were stolen were kept.

Webb stated that Dunn told him she had no reason to be in the cabinet during her shift as she did not prepare any gel.

I asked Webb to show me his cocaine log, which he did, and it showed

NOV 10 1994

Patricia R. Messer
Clerk

that at the time Dunn asked Trevarthan to borrow cocaine, Regional pharmacy should have had 14.720 grams of cocaine.

Webb stated that in December 1993 when Dunn borrowed the cocaine from Union he asked her why and she told him that she did not think that Regionals cocaine looked right so she borrowed it for comparison purposes, then sent it back when she saw that both looked the same.

Webb also stated that on 7-13-93 Dunn dropped a vial of cocaine and broke the neck of the bottle and the cocaine was destroyed, which was witnessed by Pharmacy tech Karen Hawkins.

7. The affiant learned from a voluntary statement given by Karen Hawkins that she had been called on by Carmella Dunn on 7-13-93 to witness Dunn destroy cocaine which had been dropped on the floor when Dunn dropped the vial and broke the top. Hawkins stated that she saw Dunn wash what she had swept off the floor down the sink and then put the broken vial and the remaining cocaine, (which the log shows was 3.8 grams) into a plastic bag and return it to the cabinet. Hawkins stated that she did not witness Dunn destroy the 3.8 grams, even though the log entry appears to show that she did.

Hawkins stated that the only time she initialed the log was on 7-13-93.

8. The affiant was contacted on 6-01-94 by Gretchen Yordy of the Indiana State Police, who advised that she had received information that a pharmacist had been caught stealing drugs from the Regional Hospital Pharmacy and that the director was aware of this but had not contacted the police. I called John Webb who confirmed that he had caught Carmella Dunn in April 1994, after his continued suspicion of her caused him to watch her closer.

9. The affiant learned from a second statement taken from John Webb on 7-29-94 that after the reported burglary in January he still suspected that Dunn was involved even though he could not prove it, so he began to watch her and during the first week of April he began to mark the position and amounts of cocaine in the drug cabinet. Webb stated that during that week he noticed that some of the cocaine powder appeared to be disappearing so he and one of his pharmacists, Minh Pham, placed the cocaine bottles in a certain position and marked the amount in them prior to Dunns shift. Webb stated that the next day he came in and saw that both five gram vials were empty, so he realigned them and when he checked after Dunns next shift he found that one of the vials which had been empty was full and the pharmacy had not received any shipments of cocaine.

Webb stated that after finding this he called Dunn into his office and confronted her with what he knew and she confessed to him that she had taken cocaine liquid from the pharmacy. Webb stated that when he asked her about the cocaine powder in the vial she told him that it was not cocaine in the cocaine vial.

Webb stated that he then took Dunn to personel who advised him to contact the Pharmacy Board. Webb stated that the Pharmacy Board investigator told him to contact the Impaired Pharmacist Society. Webb stated that Dunn signed a contract with them stating that she would go through re-hab and submit to random testing at the Societies request.

Webb brought the cocaine vials that Dunn had tampered with and the cocaine solution vials which were also found empty in the cabinet and left them in the police departments custody at the time he made his second statement.

Webb also stated that after Dunn was questioned by the affiant in January she said she would not go back and talk to the police with out having her attorney present.

10. A Becton Dickenson test was done on the powder in the vial Webb brought in as evidence to determine if cocaine was present showed negative for cocaine. Test conducted by Det. Ron Bowman of the Vigo Co. Drug Task Force.

11. The affiant learned from a report recieved from the Indiana State Police Laboratory at Indianapolis on 10-27-94, that tests done on the white powder which was in the Cocaine vial brought to the affiant by John Webb, is actually Ascorbic acid, and the test did not reveal the presence of any controlled substance.

Affiant believes the aforementioned persons spoke from personal knowledge and observation. Their demeanor in speaking did not indicate in any manner that they may be fabricating their stories wherefore affiant requests a warrant for the arrest of Carmella L. Dunn.

Pursuant to IC 35-34-1-2.4, I affirm, under penalty for perjury as specified by IC 35-44-2-1, that the foregoing representations are true.

DATE: 11-10-94

Det. Stephen M. Lewis

FILED
VIGO SUPERIOR COURT

NOV 10 1994

Patricia R. Mansell
Clerk