

In the Indiana Supreme Court

In the Matter of: Benjamin M. Mattingly,
Respondent

Supreme Court Case No.
24S-DI-100



Published Order Approving Statement of Circumstances and Conditional Agreement for Discipline

Pursuant to Indiana Admission and Discipline Rule 23(12.1)(b), the Indiana Supreme Court Disciplinary Commission and Respondent have submitted for approval a “Statement of Circumstances and Conditional Agreement for Discipline” stipulating agreed facts and proposed discipline as summarized below.

Stipulated Facts: At relevant times, Respondent was a deputy prosecutor in Elkhart County. On June 6, 2023, during work hours, Respondent began drinking alcohol in his car in the employee parking lot before the start of his lunch hour. Respondent left during the lunch hour to drive around, then returned to the parking lot and continued to drink. Staff from the prosecutor’s office discovered Respondent in his car slipping in and out of consciousness and summoned law enforcement. Respondent refused to submit to field sobriety tests, was arrested, and was transported to the hospital for a blood draw. Respondent later was charged with two counts of operating a vehicle while intoxicated (“OWI”) and pled guilty to OWI with a prior conviction, a level 6 felony.

As a result of his conviction of a crime punishable as a felony, Respondent has been under an order of interim suspension since March 15, 2024. *Matter of Mattingly*, 228 N.E.3d 439 (Ind. 2024).

Violations: The parties agree that Respondent violated these Indiana Professional Conduct Rules prohibiting the following misconduct:

8.4(b): Committing a criminal act that reflects adversely on Respondent’s trustworthiness or fitness as a lawyer.

8.4(d): Engaging in conduct prejudicial to the administration of justice.

Discipline: The Court, having considered the submission of the parties, now approves the following agreed discipline.

For Respondent’s professional misconduct, the Court **suspends Respondent from the practice of law for a period of 120 days, beginning March 15, 2024, with 30 days actively served and the remainder stayed subject to completion of at least two years of probation with monitoring by the Indiana Judges and Lawyers Assistance Program (“JLAP”).** The Court

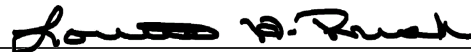
incorporates by reference the terms and conditions of probation set forth in the parties' Conditional Agreement, which include among other things:

- (1) Respondent shall report to JLAP within 10 days of this order, and failure to do so shall be considered an act of contempt.
- (2) Respondent shall provide the Commission with a copy of his JLAP monitoring agreement and shall execute any and all authorizations necessary for JLAP to implement the monitoring agreement and for the Commission to obtain information from JLAP and treatment providers.
- (3) JLAP shall submit quarterly progress reports to the Commission.
- (4) Respondent shall refrain from using alcohol and all controlled substances except as validly prescribed.
- (5) During his probation Respondent shall have no violations of the law, the Rules of Professional Conduct, or the procedural rules of any agency or court.
- (6) Respondent shall report to the Commission, within 14 days and in writing, any violation of the terms of Respondent's probation.
- (7) If Respondent violates the terms of his probation, the stay of his suspension may be vacated and the balance of the stayed suspension may be actively served without automatic reinstatement.

Notwithstanding the expiration of the minimum term of probation set forth above, Respondent's probation shall remain in effect until it is terminated pursuant to a petition to terminate probation filed under Admission and Discipline Rule 23(16).

The costs of this proceeding are assessed against Respondent. Pursuant to the parties' stipulation, the Court hereby orders Respondent to pay \$250.00 by check made payable and transmitted to the Clerk of the Indiana Supreme Court. The Clerk shall retain those funds in their entirety upon receipt. The parties further stipulate that the Commission's investigation costs under Admission and Discipline Rule 23(21)(a)(1) remain to be determined.

Done at Indianapolis, Indiana, on 4/26/2024.



Loretta H. Rush
Chief Justice of Indiana

All Justices concur.