

FILE NO.CX-00-2204
STATE OF MINNESOTA
IN SUPREME COURT

In Re Petition for Disciplinary
Action against JAMES M. BURSETH,
an Attorney at Law of the
State of Minnesota

**STIPULATION
FOR DISCIPLINE**

THIS STIPULATION is entered into by and between Edward J. Cleary, Director of the Office of Lawyers Professional Responsibility, hereinafter Director, and James M. Burseth, attorney, hereinafter respondent.

WHEREAS, respondent has concluded it is in respondent's best interest to enter into this stipulation,

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and between the undersigned as follows:

1. Pursuant to the Rules on Lawyers Professional Responsibility (RLPR), the parties agree to dispense with further proceedings under Rule 14, RLPR, and respondent agrees to the immediate disposition of this matter by the Minnesota Supreme Court under Rule 15, RLPR.
2. Respondent understands this stipulation, when filed, will be of public record.
3. It is understood that respondent has certain rights pursuant to Rule 14, RLPR. Respondent waives these rights, which include the right to a hearing before a referee on the petition; to have the referee make findings and conclusions and a recommended disposition; to contest such findings and conclusions; and to a hearing before the Supreme Court upon the record, briefs and arguments.

4. Respondent waives his right to answer and unconditionally admits the allegations of the petition which may be summarized as follows:

- a. Respondent violated the terms of his probation by failing to remain abstinent from mood altering drugs by smoking marijuana. Between February 28 and August 7, 2000, respondent tested positive for marijuana four times and had dilute specimens on four other occasions.
- b. Respondent's conduct violated the terms of his private probation and Rule 8.4(d), Minnesota Rules of Professional Conduct (MRPC)

5. Respondent understands that based upon these admissions, this Court may impose any of the sanctions set forth in Rule 15(a)(1) - (9), RLPR, including making any disposition it deems appropriate. Respondent understands that by entering into this stipulation, the Director is not making any representations as to the sanctions the Court will impose.

6. The Director and respondent join in recommending that the appropriate discipline pursuant to Rule 15, RLPR is a public reprimand and two year probation subject to the following conditions. Respondent also agrees to the imposition and payment of \$900 in costs and disbursements pursuant to Rule 24, RLPR.

- a. Respondent shall cooperate fully with the Director's Office in its efforts to monitor compliance with this probation and promptly respond to the Director's correspondence by the due date. Respondent shall cooperate with the Director's investigation of any allegations of unprofessional conduct which may come to the Director's attention. Upon the Director's request, respondent shall provide authorization for release of information and documentation to verify compliance with the terms of this probation.

Director's correspondence by the due date. Respondent shall cooperate with the Director's investigation of any allegations of unprofessional conduct which may come to the Director's attention. Upon the Director's request, respondent shall provide authorization for release of information and documentation to verify compliance with the terms of this probation.

c. Respondent shall abide by the Minnesota Rules of Professional Conduct.

d. Respondent shall maintain total abstinence from alcohol and other mood-altering chemicals, except that respondent may use prescription drugs in accordance with the directions of a prescribing physician who is fully advised of respondent's chemical dependency before issuing the prescription.

e. Respondent shall, at his own expense, submit to random urinalysis for drug screening at least four times per month at the Hennepin County Medical Center or such other facility as the Director's Office may approve and shall direct the drug screening facility to provide the results of all urinalysis testing to the Director's Office. If after three months, all such tests have been both negative and not suggestive of a dilute specimen, then the frequency of the random tests may be reduced. Respondent shall cooperate with the phone-in program established by the Director's Office for the random tests. Any failure to call in without advance permission to deviate from the call in schedule shall be considered the same as a positive test.

f. Respondent shall participate in a relapse prevention program or other appropriate counseling approved by the Director's Office.

g. Respondent shall attend at least two meetings per week of Alcoholics Anonymous, LCL or another abstinence support program acceptable to the Director. Respondent shall, by the tenth day of each month, without a specific reminder or request, submit to the Director an attendance verification on

a form provided by the Director, which provides the name, address and telephone number of the person personally verifying the attendance.

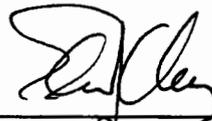
7. This stipulation is entered into by respondent freely and voluntarily, without any coercion, duress or representations by any person except as contained herein.

8. Respondent hereby acknowledges receipt of a copy of this stipulation.

9. Respondent has been advised of the right to be represented herein by an attorney but has freely chosen to appear *pro se*.

IN WITNESS WHEREOF, the parties executed this stipulation on the dates indicated below.

Dated: November 26, 2001.



EDWARD J. CLEARY
DIRECTOR OF THE OFFICE OF LAWYERS
PROFESSIONAL RESPONSIBILITY
Attorney No. 17267
25 Constitution Avenue, Suite 105
St. Paul, MN 55155-1500
(651) 296-3952

Dated: 11/26, 2001.



BETTY M. SHAW
SENIOR ASSISTANT DIRECTOR
Attorney No. 130904

Dated: 11/19/01, 2001.



JAMES M. BURSETH
RESPONDENT
Attorney No. 001350X
3540 Hennepin Avenue South, #221
Minneapolis, MN 55408

MEMORANDUM

Respondent attorney is a Hennepin County Public Defender. As a public officer he has a special duty to refrain from illegal conduct and to conduct himself in a manner that brings credit rather than disrepute on the Office of the Public Defender.

Ordinarily, some period of suspension would be warranted for respondent's continued use of marijuana in violation of his own stipulation and this Court's order to refrain from all mood altering chemicals. The Director's Office submits to the Court for its consideration this lesser sanction because it appears that respondent's work on behalf of his indigent clients has not been adversely affected. His supervisor Liz Hughes reports that his work at the Hennepin County Public Defender's Office remains productive and of high quality.

E.J.C.