

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 3108 Disciplinary Docket No. 3
	:	
Petitioner	:	No. 49 DB 2025
	:	
v.	:	Attorney Registration No. 46132
	:	
MARK D. MUNGELLO,	:	(Out of State)
	:	
Respondent	:	

ORDER

PER CURIAM

AND NOW, this 4th day of November, 2025, upon consideration of the Recommendation of the Three-Member Panel of the Disciplinary Board, the Joint Petition in Support of Discipline on Consent is granted, and Mark D. Mungello is suspended on consent from the Bar of this Commonwealth for a period of one year and one day. Respondent shall comply with all the provisions of Pa.R.D.E. 217 and pay costs to the Disciplinary Board. See Pa.R.D.E. 208(g).

A True Copy Nicole Traini
As Of 11/04/2025

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :	:	No. <u>49</u> DB 2025
Petitioner	:	
	:	
	:	
v.	:	Nos. C1-22-959, C1-24-169,
	:	C1-25-308
	:	
	:	Attorney Reg. No. 46132
MARK D. MUNGELLO	:	
Respondent	:	(Philadelphia)

**JOINT PETITION IN SUPPORT OF DISCIPLINE
ON CONSENT PURSUANT TO RULE 215, Pa.R.D.E.**

Petitioner, the Office of Disciplinary Counsel (“Petitioner” or “ODC”), by Thomas J. Farrell, Chief Disciplinary Counsel, and Jeffrey M. Krulik, Disciplinary Counsel, and Respondent, Mark D. Mungello, who is represented by Samuel Stretton, Esquire, file this Joint Petition in Support of Discipline on Consent Pursuant to Rule 215(d), Pa.R.D.E. and respectfully represent as follows:

1. Petitioner, whose principal office is located at Pennsylvania Judicial Center, Suite 2700, 601 Commonwealth Avenue, P.O. Box 62485, Harrisburg, Pennsylvania 17106, is invested, pursuant to Pennsylvania Rule of Disciplinary Enforcement (“Pa.R.D.E.”) 207, with the power and duty to investigate all matters involving alleged misconduct of an attorney admitted to practice law in

FILED
10/03/2025
The Disciplinary Board of the
Supreme Court of Pennsylvania

the Commonwealth of Pennsylvania and to prosecute all disciplinary proceedings brought in accordance with the various provisions of the aforesaid Enforcement Rules.

2. Respondent, Mark D. Mungello, was born in 1953, and was admitted to practice law in the Commonwealth of Pennsylvania on June 4, 1986. Respondent has been administratively suspended since September 11, 2024. He previously maintained an office at The Graham Building, 30 South 15th Street, 15th Floor, Philadelphia, PA 19102.

3. Pursuant to Pa.R.D.E. 201(a)(1), Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court.

SPECIFIC FACTUAL ADMISSIONS

I. The Marcus Cox Matter.

4. On January 22, 2015, a jury sitting before the Honorable Charles J. Cunningham III, found Marcus C. Cox guilty of robbery. See Commonwealth v. Marcus C. Cox, No. CP-51-CR-0013269-2012.

5. On April 17, 2015, Judge Cunningham sentenced Mr. Cox to a term of ten to twenty years of incarceration.

6. On April 23, 2015, Mr. Cox filed a Motion for Reconsideration of Sentence.

7. On August 24, 2015, Mr. Cox's Motion for Reconsideration was denied by operation of law.

8. Mr. Cox did not timely appeal his judgment of sentence.

9. On January 27, 2016, Mr. Cox filed a petition for relief pursuant to the Post Conviction Relief Act ("PCRA"), 42 Pa.C.S. §9541 et seq.

10. New counsel, Richard Giuliani, Esquire, was appointed to represent Mr. Cox.

11. By Order, dated January 3, 2018, Judge Cunningham, ruling on Mr. Cox's PCRA petition, reinstated his direct appeal rights, nunc pro tunc.

12. On January 26, 2018, Mr. Giuliani filed a Notice of Appeal to the Superior Court on Mr. Cox's behalf.

13. By Order, dated January 3, 2019, the Superior Court dismissed Mr. Cox's appeal due to his counsel's failure to file a brief. See Commonwealth v. Marcus C. Cox, No. 367 EDA 2018.

14. On July 19, 2019, Mr. Cox filed a pro se petition for a Writ of Habeas Corpus in the Court of Common Pleas.

15. On December 10, 2019, Mr. Cox filed a pro se PCRA petition.

16. On December 18, 2019, new counsel, William J. Ciancaglini, Esquire, was appointed to represent Mr. Cox.

17. On January 24, 2020, Attorney Ciancaglini filed an amended PCRA petition, in which he alleged that trial counsel was ineffective for:

- a. failing to investigate the serial numbers introduced into evidence for the bicycle Mr. Cox was convicted of taking during the robbery; and
- b. failing to conduct a reasonable pre-trial investigation, which allegedly would have revealed discrepancies related to the serial number for the bicycle.

18. By Order, dated December 17, 2020, Judge Cunningham dismissed the PCRA petition.

19. On December 28, 2020, Mr. Cox filed a pro se Notice of Appeal to the Superior Court.

20. The case on appeal was captioned, Commonwealth v. Marcus Cox, No. 342 EDA 2021.

21. By Order, dated May 13, 2021, the Superior Court, remanded the case for the trial court, inter alia to:

- a. determine whether Attorney Ciancaglini had abandoned Mr. Cox;

- b. determine whether Mr. Cox was eligible for court-appointed counsel; and
- c. appoint counsel for Mr. Cox if he was eligible.

22. On June 15, 2021, the Court of Common Pleas appointed Respondent as counsel for Mr. Cox.

23. By Order dated June 16, 2021, Judge Cunningham directed Respondent to file a Statement of Matters Complained of on Appeal, pursuant to Pa.R.A.P. 1925.

24. On July 7, 2021, Respondent filed a Statement of Matters Complained of on Appeal, in which he failed to raise any issues related to the claims of ineffective assistance presented in the amended PCRA petition Attorney Ciangalini had filed.

25. In Respondent's Statement of Matters Complained of on Appeal, he instead raised the following claims:

- a. that the evidence was insufficient to support the conviction for robbery; and
- b. that the prosecutor committed misconduct by referring to Mr. Cox as a Muslim.

26. In an Opinion, dated July 29, 2021, Judge Cunningham addressed the claims Respondent had presented, and concluded that they were without merit.

27. On October 21, 2021, Respondent filed in the Superior Court a Motion for Remand Based Upon After Discovered Evidence (“Remand Motion”), in which he:

- a. asserted that, on August 11, 2021, Mr. Cox had sent to him a copy of an “affidavit or statement dated May 29, 2019 signed by Ryan Swartz of Blackout Distribution, t/a Kink BMX stating that the serial numbers ... that allegedly pertain to the bicycle that was unlawfully taken by the Defendant from the victim on November 7, 2012, do not exist”;
- b. asserted that this alleged “after-discovered evidence” had “not yet [been] revealed to [him]” at the time he filed his Statement of Matters Raised on Appeal; and
- c. requested a remand to the Court of Common Pleas for an evidentiary hearing regarding the alleged after-discovered evidence.

28. The “affidavit or statement” signed by Mr. Swartz was a document that:

- a. Mr. Cox had attached to the pro se Petition for a Writ of Habeas Corpus he filed on July 19, 2019;
- b. Mr. Cox had attached to the pro se PCRA petition he filed on December 10, 2019; and
- c. Attorney Ciancaglini had attached to the amended PCRA petition he filed on January 24, 2020.

29. By Order, dated November 16, 2021, the Superior Court denied Respondent’s Remand Motion, without prejudice to raising the issue before the panel assigned to decide the merits of the appeal.

30. On December 14, 2021, Respondent filed a Brief and Reproduced Record for Appellant on Mr. Cox’s behalf in which he presented the following claims:

- a. whether trial counsel provided ineffective assistance of counsel by failing to conduct any pretrial investigation, when he did not provide copies of the discovery to Ryan Swartz to determine if the serial numbers attributed to the stolen bicycle

matched serial numbers in the Kink BMX serial number database;

- b. whether the evidence was insufficient to convict Mr. Cox of robbery where “the trial attorney was prevented from filing a pretrial motion in limine or could not raise a reasonable doubt in the minds of the jury ... as to whether Mr. Cox was guilty of ... robbery if an evidentiary hearing had not been held on remand and the information provided by Ryan Swartz ... was not made a part of the record”; and
- c. whether the prosecutor committed misconduct by referring to Mr. Cox as a “Muslim.”

31. In Respondent’s Brief and Reproduced Record for Appellant, he also:

- a. asserted that at the time that he filed his Statement of Matters Complained of on Appeal, he had been “unaware” of the statement from Mr. Swartz, and believed the matter “was on direct appeal”; and
- b. requested a remand to address the issue raised in Mr. Swartz’s statement.

32. In an Opinion, dated December 16, 2022, the Superior Court found, inter alia, that:

- a. the appeal before the Court concerned the dismissal of Cox's amended PCRA petition, which had asserted claims of trial counsel ineffectiveness;
- b. Respondent's Statement of Matters Complained of on Appeal failed to include any issue of trial counsel ineffectiveness raised before the PCRA court;
- c. Respondent had waived any cognizable issues regarding ineffective assistance of trial counsel;
- d. Respondent had attempted to raise claims "as if on direct appeal";
- e. even had the claims Respondent presented been preserved, they would not be cognizable under the PCRA; and
- f. Respondent's attempt to reframe his arguments in terms of a motion for remand based on after-discovered evidence "misconstrue[d] the record, as the information he claim[ed] [was] new had already been placed before the PCRA court as attachments to Cox's amended PCRA petition."

33. The Superior Court further:

- a. held that Respondent had rendered ineffective assistance of counsel in the preparation and litigation of Mr. Cox's PCRA appeal;
- b. held that Respondent's actions had "completely deprived Cox of his right to a meaningful appeal from the dismissal of his first PCRA petition"; and
- c. remanded the matter for the appointment of new counsel to file a Rule 1925(b) statement, nunc pro tunc, and represent Mr. Cox in his appeal.

34. By his conduct as alleged in paragraphs 4 through 33, above, Respondent violated the following Rules of Professional Conduct:

- a. RPC 1.1, which states that a lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation; and
- b. RPC 1.3, which states that a lawyer shall act with reasonable diligence and promptness in representing a client.

II. The David R. Ramos, Jr. Matter.

35. In February 2022, David R. Ramos, Jr., retained Respondent to represent him in litigating an appeal from the dismissal of a PCRA Petition.

36. The case on appeal was captioned, Commonwealth v. David R. Ramos, Jr., Nos. 34-37 EDA 2022.

37. Mr. Ramos' girlfriend, Sara Pergolese, paid Respondent \$5,000 for the representation.

38. On April 7, 2022, Respondent entered his appearance in Superior Court on Mr. Ramos' behalf.

39. On September 6, 2022, Respondent filed a brief for appellant on Mr. Ramos' behalf.

40. By Order, dated April 19, 2023, the Superior Court affirmed the dismissal of Mr. Ramos' PCRA Petition.

41. A petition for allowance of appeal to the Supreme Court needed to be filed by no later than May 19, 2023. See Pa.R.A.P. 1113(a).

42. Respondent failed to timely file a petition for allowance of appeal on Mr. Ramos' behalf.

43. On June 5, 2023, Respondent filed a Motion for Permission to File Petition for Allowance of Appeal Late, in which he:

- a. asserted that he had failed to timely file a petition for allowance of appeal on Mr. Ramos' behalf due to his struggles in taking care of his wife, who had recently suffered two strokes in 2022;
- b. asserted that he had "brought [his] recent difficulties to the Court in a number of previous cases" and had attempted to "correct [his] error[s] by seeking a reinstatement of appeal and extensions of time"; and
- c. identified three cases, as well as Mr. Ramos' appeal in Superior Court, as examples of cases where he had needed to take steps to "correct [his] errors."

44. By Order, dated September 27, 2023, the Supreme Court granted Respondent's motion and ordered him to file a petition for allowance of appeal within 15 days. See Commonwealth v. David R. Ramos, Jr., Nos. 36-39 EM 2023.

45. Respondent failed to file a petition for allowance of appeal on Mr. Ramos' behalf by the due date of October 12, 2023.

46. On October 19, 2023, Respondent filed a Motion for Permission to File Petition for Allowance of Appeal Nunc Pro Tunc Late, in which he:

- a. incorrectly asserted that the petition for allowance of appeal, nunc pro tunc, was due on October 11, 2023;
- b. asserted that he had been unable to file a petition for allowance of appeal by October 11, 2023, because “[his] scanner machine was not working on that date” and because he had an appointment to see a physician on that date related to injuries he had suffered on October 6, 2023, while working at Federal Express; and
- c. noted that his injuries had “made it difficult ... to concentrate on completing his responsibilities to [the Court] in the instant matter.”

47. By letter, dated February 3, 2024, Respondent told Mr. Ramos, inter alia, that:

- a. he had failed to file a petition for allowance of appeal by the October 12, 2023 due day because he had been injured while working at his “second job at FedEx Ground”;
- b. his injuries included a broken rib, injuries to his shoulders and back, and “some head injuries”;

- c. as a result of the injuries and a pain killer he was directed to take it “was impossible for [him] to concentrate on completing the petition”; and
- d. he was in the process of “completing a Petition Nunc Pro Tunc to file with the Pennsylvania Supreme Court asking that its original Order of September 27, 2024 (sic) be reinstated.”

48. In his February 3, 2024, letter, Respondent further advised Mr. Ramos to file a PCRA petition alleging that his attorney was “ineffective for failing to file a Petition for Allowance of Appeal within fifteen days of the Supreme Court’s Order of September 27, 2024 (sic).”

49. By Order, dated March 6, 2024, the Supreme Court granted Respondent’s motion, and directed him to file a petition for allowance of appeal within fifteen days. See Commonwealth v. David R. Ramos, Jr., Nos. 84-87 EM 2023.

50. Respondent failed to file a petition for allowance of appeal on Mr. Ramos’ behalf.

51. By his conduct as alleged in paragraphs 35 through 50, above, Respondent violated the following Rules of Professional Conduct:

- a. RPC 1.1, which states that a lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation;
- b. RPC 1.3, which states that a lawyer shall act with reasonable diligence and promptness in representing a client; and
- c. RPC 1.16(a)(2), which states that except as stated in paragraph 1.16(c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if ...the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client.

II. The Kareem Mosley Matter.

52. Respondent was appointed to represent Kareem Mosely in an appeal from the dismissal of a PCRA petition. See Commonwealth v. Kareem Mosley, No. 362 EDA 2020.

53. By Order, dated April 14, 2021, the Superior Court affirmed the dismissal of Mr. Mosley's PCRA petition, finding that the petition was untimely.

54. A petition for allowance of appeal to the Supreme Court needed to be filed by no later than May 14, 2021. See Pa.R.A.P. 1113(a).

55. A petition for allowance of appeal may be filed by mail, but will only be deemed timely if:

- a. it is received by the prothonotary by the due date (Pa.R.A.P. 121(a)); or
- b. it is accepted for posting by the due date as “evidenced by a United States Postal Service Form 3817 Certificate of Mailing, Form 3800 Receipt for Certified Mail, Form 3806 Receipt for Registered Mail, or other similar United States Postal Service form from which the date of deposit can be verified” and the certificate of mailing or other similar Postal Service form from which the date of deposit can be verified “shall be cancelled by the Postal Service, shall show the docket number of the matter in the appellate court below, and shall be either enclosed with the petition or separately mailed to the Prothonotary” (Pa.R.A.P. 1112(c)(2)).

56. Respondent attempted to file a petition for allowance of appeal on Mr. Mosley’s behalf by mail.

57. The petition for allowance of appeal was not accepted for filing as:

- a. it was not received by the Prothonotary by May 14, 2021; and
- b. Respondent did not submit proof of mailing satisfying the requirements of Pa.R.A.P. 1112(c)(2).

58. Respondent's failure to timely file the petition for allowance of appeal or submit the required proof of mailing was a lack of competent and diligent representation.

59. On May 28, 2021, Respondent filed a Petition for Leave to File Petition for Allowance of Appeal Nunc Pro Tunc, in which he asserted, inter alia, that:

- a. on May 14, 2021, he had mailed a petition for allowance of appeal to the Office of the Prothonotary of the Supreme Court;
- b. the Office of the Prothonotary had called and requested proof of mailing that complied with Pa.R.A.P. 1112(c)(2);
- c. on May 19, 2021, he forwarded to the Office of the Prothonotary a copy of a receipt he had received from the United States Postal Service; and

- d. on May 19, 2021, the Office of the Prothonotary sent him an email informing him that the receipt he had forwarded was not an acceptable form of proof of mailing, and that he would need to request leave to file for allowance of appeal, nunc pro tunc.

60. By Order dated November 19, 2021, the Supreme Court granted Respondent's petition and ordered him to file a petition for allowance of appeal, nunc pro tunc, within five days. See Commonwealth v. Kareem Mosley, No. 50 EM 2021.

61. On November 22, 2021, Respondent filed a petition for allowance of appeal on behalf of Mr. Mosley.

62. By Order dated March 29, 2022, the Supreme Court denied Respondent's petition for allowance of appeal. See Commonwealth v. Kareem Mosley, No. 508 EAL 2021.

63. By his conduct as alleged in paragraphs 52 through 62, above, Respondent violated the following Rules of Professional Conduct:

- a. RPC 1.1, which states that a lawyer shall provide competent representation to a client. Competent representation requires

the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation; and

- b. RPC 1.3, which states that a lawyer shall act with reasonable diligence and promptness in representing a client.

IV. The Rickie James Matter.

64. Respondent was appointed to represent Rickie James in an appeal before the Superior Court. See Commonwealth v. Rickie James, 776 EDA 2019.

65. By Order dated August 28, 2020, the Superior Court affirmed the dismissal of Mr. James' PCRA Petition.

66. A petition for allowance of appeal to the Supreme Court needed to be filed by no later than September 28, 2020. See Pa.R.A.P. 1113(a).

67. Respondent failed to timely file a petition for allowance of appeal with the Supreme Court on Mr. James' behalf.

68. Respondent's failure to timely file the petition for allowance of appeal was a lack of competent and diligent representation.

69. On January 7, 2021, Respondent filed a Motion for Permission to File Petition for Allowance of Appeal Nunc Pro Tunc, in which he asserted, inter alia, that:

- a. he had placed a petition for allowance of appeal in Mr. James' case in the United States mail on September 28, 2020;
- b. he mistakenly sent the petition for allowance of appeal to the Deputy Prothonotary of the Superior Court, rather than to the Supreme Court, with a cover letter that was incorrectly dated December 4, 2019;
- c. "[n]ot long after" mailing the petition for allowance of appeal to the wrong court, he "received a message from what sounded like a female at the Superior Court stating that [Mr. James'] filings had been erroneously sent to the wrong court and that they were to be sent over to the Pennsylvania Supreme Court in a mailing or delivery that was used for such purposes";
- d. he did not know the name of the person who left the message and "should have confirmed the facts relating to it" but did not do so;
- e. he "wrongly assumed that his filing for Mr. James would be sent over to th[e] [Supreme Court] as a matter of course";

- f. he assumed that the matter would be “taken care of by the Prothonotary’s Office of the Pennsylvania Supreme Court” and that he would receive an email if any further action was needed;
- g. he eventually checked the appellate docket for Mr. James’ case and saw that “there was no documentation of the mishap” that had occurred when he mailed the petition to the wrong court;
- h. on December 22, 2020, he called the Superior Court and was informed by “an employee” that because the mistaken mailing had occurred “so long ago” it would be impossible to know who may have called him to advise him that the filing had been sent to the wrong court; and
- i. on December 22, 2020, he called the Supreme Court Prothonotary’s Office and was told there was no indication that his mailing had ever been received by the Court.

70. Respondent’s failure to properly file the petition for allowance of appeal with the Supreme Court was a lack of competent, diligent representation.

71. By Order dated April 6, 2021, the Supreme Court granted Respondent's petition and ordered him to file a petition for allowance of appeal within fifteen days. See Order, 4/6/21, Commonwealth v. Rickie James, No. 3 EM 2021.

72. On April 21, 2021, Respondent filed a petition for allowance of appeal on Mr. James' behalf.

73. By Order dated November 3, 2021, the Supreme Court denied the petition for allowance of appeal. See Commonwealth v. Rickie James, No. 184 EAL 2021.

74. By his conduct as alleged in paragraphs 64 through 73, above, Respondent violated the following Rules of Professional Conduct:

- a. RPC 1.1, which states that a lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation; and
- b. RPC 1.3, which states that a lawyer shall act with reasonable diligence and promptness in representing a client.

V. The Self-Reported Cases.

75. By letter, dated May 15, 2024, Respondent, through counsel, self-reported eleven additional cases in which, he believed, “there may be some problems,” and “outlined the steps he intend[ed] to take” with those cases.

76. ODC’s investigation identified a lack of competent and diligent representation in at least five of the cases Respondent self-reported.

A. Commonwealth v. Markel Davis.

77. In May 2018, Respondent was appointed to represent Markel Davis in litigating a PCRA petition. See Commonwealth v. Markel Davis, No. CP-51-CR-0014344-2013.

78. Respondent filed amended PCRA petitions on Mr. Davis’s behalf.

79. By Order, dated October 4, 2021, the PCRA court dismissed the PCRA petition.

80. Respondent filed an appeal to Superior Court on Mr. Davis’s behalf.

81. The case on appeal was captioned, Commonwealth v. Markel Davis, No. 2234 EDA 2021.

82. By Order, dated October 26, 2021, the PCRA court directed Respondent to file a statement of matters complained of on appeal, pursuant to Pa.R.A.P. 1925(b).

83. Respondent failed to file the statement of matters complained of on appeal.

84. By Order, dated January 7, 2022, the Superior Court dismissed the appeal because Respondent had failed to file a docketing statement, in violation of Pa.R.A.P. 3517.

85. Respondent filed an application to reinstate the appeal, which Superior Court granted on January 20, 2022.

86. Respondent failed to timely file a brief for appellant.

87. By Order, dated June 9, 2022, the Superior Court remanded the case for a determination as to whether Respondent had abandoned Mr. Davis.

88. On June 16, 2022, Respondent filed another application to reinstate appeal.

89. By Order, dated June 30, 2022, the Superior Court denied the application to reinstate the appeal—as the appeal remained active—but vacated its order remanding the case; the Court directed Respondent to file a brief for appellant within thirty days.

90. Respondent again failed to timely file a brief for appellant.

91. By Order, dated September 16, 2022, the Superior Court remanded the case for a determination as to whether Respondent had abandoned Mr. Davis.

92. By Order, dated February 24, 2023, the PCRA court found that Respondent had not abandoned Mr. Davis.

93. By Order, dated February 27, 2023, the Superior Court directed Respondent to file a brief for appellant by no later than March 26, 2023.

94. On March 28, 2023, Respondent filed his brief for appellant.

95. On July 17, 2023, the Commonwealth filed its brief for appellee.

96. By Order, dated September 6, 2023, the Superior Court:

- a. remanded the case with instructions for Respondent to file a statement of matters complained of on appeal, nunc pro tunc, pursuant to Pa.R.A.P. 1925(b), within twenty-one days; and
- b. directed the PCRA court to file a responsive opinion, pursuant to Pa.R.A.P. 1925(a).

97. By Order, dated November 9, 2023, the Superior Court:

- a. noted that there had been “no activity in the public docket associated with this case”; and

- b. again remanded the case for the PCRA court to determine whether Respondent had abandoned Mr. Davis.

98. On December 1, 2023, Respondent filed the statement of matters complained of on appeal, nunc pro tunc.

99. On March 8, 2024, the PCRA court filed its opinion.

100. By Order, dated April 30, 2024, the Superior Court affirmed the denial of the PCRA petition; in its opinion, the Court noted the “series of delays” that had ensued following Respondent’s filing of the notice of appeal.

101. In his May 15, 2024, letter, Respondent’s counsel stated that Respondent intended to file a Petition for Allowance of Appeal with the Supreme Court on Mr. Davis’s behalf.

102. Respondent did not file the Petition for Allowance of Appeal.

B. Commonwealth v. Joseph Buford.

103. On August 20, 2019, Respondent was appointed to represent Joseph Buford in litigating a PCRA petition. See Commonwealth v. Joseph Buford, No. CP-51-CR-0014415-2014.

104. Respondent filed amended PCRA petitions on Mr. Buford’s behalf.

105. By Order, dated July 9, 2021, the PCRA court dismissed the PCRA petition; a copy of the dismissal order was docketed on August 6, 2021.

106. On August 9, 2021, Respondent filed a notice of appeal to the Superior Court.

107. On August 10, 2021, Respondent filed an amended notice of appeal to the Superior Court.

108. The Superior Court docketed the appeals at Nos. 1624 EDA 2021, and 1650 EDA 2021.

109. By Order, dated May 6, 2022, the Superior Court dismissed the appeal at No. 1650 EDA 2021, as duplicative of the appeal at No. 1624 EDA 2021.¹

110. Respondent failed to timely file a brief for appellant in the appeal at No. 1624 EDA 2021.

111. By Order, dated June 9, 2022, the Superior Court remanded the case to the PCRA court for a determination as to whether Respondent had abandoned Mr. Buford.

112. On July 13, 2022, Respondent filed a Motion for Reinstatement of Appeal.

¹ On July 13, 2022, Respondent filed a “Motion for Reinstatement of Appeal” in the case at No. 1650 EDA 2021. By Order, dated August 2, 2022, the Superior Court denied the motion, finding that it no longer had jurisdiction. See 42 Pa.C.S. §5505.

113. On July 22, 2022, the PCRA court entered a finding that Respondent had not abandoned Mr. Buford.

114. By Order, dated August 1, 2022, the Superior Court denied the Motion for Reinstatement of Appeal—as the appeal remained active—and ordered Respondent to file a brief for appellant within thirty days.

115. Respondent failed to file a brief for appellant.

116. By Order, dated October 13, 2022, the Superior Court again remanded the case to the PCRA court to determine whether Respondent had abandoned Mr. Buford.

117. The PCRA court found that Respondent had not abandoned Mr. Buford.

118. On February 7, 2023, Respondent filed a brief for appellant.

119. By Order, dated August 14, 2023, the Superior Court affirmed the dismissal of the PCRA petition.

120. In his May 15, 2024 letter, Respondent's counsel stated that Respondent intended to file an "Application to Reinstate Appeal ... with the Trial Court."

121. Respondent did not file an application for reinstatement of the appeal, which would have been unnecessary as the appeal at No. 1650 EDA

2022 was dismissed on the basis that it was duplicative, and the Superior Court issued an opinion in the appeal at No. 1624 EDA 2022.

C. Commonwealth v. Fredrick Green.

122. On April 2, 2019, Respondent was appointed to represent Fredrick Green in litigating a PCRA petition. See Commonwealth v. Fredrick Green, Nos. CP-51-CR-0011490-2010, CP-51-CR-0011494-2010.

123. Respondent filed an amended PCRA petition on Mr. Green's behalf.

124. The PCRA court dismissed the PCRA petition, finding that it was untimely.

125. On October 26, 2021, Respondent filed notices of appeal to the Superior Court; the cases on appeal were captioned, Commonwealth v. Fredrick Green, Nos. 2230, 2231 EDA 2021.

126. By Order, dated February 16, 2022, the Superior Court consolidated the two appeals.

127. Respondent failed to timely file a brief for appellant.

128. By Order, dated April 27, 2022, the Superior Court remanded the appeals to the PCRA court for a determination as to whether Respondent had abandoned Mr. Green.

129. On July 3, 2022, Respondent filed an application to reinstate the appeals.

130. On or about July 11, 2022, the trial court found that Respondent had not abandoned his client.

131. On September 19, 2022, Respondent filed a brief for appellant.

132. On January 27, 2023, the Superior Court affirmed the PCRA court's decision to dismiss the petition.

133. In his May 15, 2024, letter, Respondent's counsel indicated that Respondent intended to file an application for leave to file a Petition for Allowance of Appeal, nunc pro tunc.

134. Respondent did not file the application for leave to file a Petition for Allowance of Appeal, nunc pro tunc.

D. Commonwealth v. Derrick Harris.

135. On June 22, 2020, Respondent was appointed to represent Derrick Harris in litigating a PCRA petition. See Commonwealth v. Derrick Harris, No. CP-51-CR-0009725-2014.

136. Respondent filed multiple amended PCRA petitions on Mr. Harris's behalf.

137. On May 9, 2022, the PCRA court granted the PCRA petition, reinstating Mr. Harris's direct appeal rights, nunc pro tunc.

138. On May 31, 2022, Respondent filed a notice of appeal to the Superior Court.

139. On June 2, 2022, Respondent filed an amended notice of appeal.

140. The appeals were captioned Commonwealth v. Derrick Harris, Nos. 1474 and 1475 EDA 2022.

141. By Order, dated October 4, 2022, the Superior Court ordered that the amended notice of appeal be "transferred" to the case at No. 1474 EDA 2022, and that the Prothonotary "close out" the appeal at No. 1475 EDA 2022.

142. Respondent failed to file a brief for appellant.

143. By Order, dated December 8, 2022, the Superior Court:

- a. dismissed the appeal for failure to file a brief;
- b. directed that, if Respondent was court appointed, the trial court withhold his fee;
- c. directed Respondent to "file with [the Superior Court,] within 10 days, a certification that the client had been notified of this dismissal"; and

d. noted that a failure to comply “may result in referral to the Disciplinary Board.”

144. Respondent failed to file the certification required by the Superior Court’s Order.

E. Commonwealth v. Edward Johnson.

145. On October 6, 2020, Respondent was appointed to represent Edward Johnson in litigating a PCRA petition. See Commonwealth v. Edward Johnson, No. CP-51-CR-1104391-2003.

146. Respondent filed an amended PCRA petition on Mr. Johnson’s behalf.

147. By Order, dated April 28, 2023, the PCRA court dismissed the PCRA petition.

148. On May 28, 2023, Respondent filed a Notice of Appeal to the Superior Court. See Commonwealth v. Edward Johnson, No. 1345 EDA 2023.²

149. Respondent failed to file a brief for appellant.

² According to the docket, the PCRA court entered a second dismissal order on July 14, 2023. On August 14, 2023, Respondent filed an appeal from that order. By Order, dated October 30, 2023, the appeal was dismissed for failure to file a docketing statement, as required by Pa.R.A.P. 3517. See Commonwealth v. Edward Johnson, No. 2069 EDA 2023.

150. On January 11, 2024, the Superior Court remanded the case for a determination as to whether Respondent had abandoned Mr. Johnson.

151. The trial court permitted Respondent to withdraw, and appointed new counsel.

152. By his conduct as alleged in paragraphs 75 through 151, above, Respondent violated the following Rules of Professional Conduct:

- a. RPC 1.1, which states that a lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation; and
- b. RPC 1.3, which states that a lawyer shall act with reasonable diligence and promptness in representing a client.

SPECIFIC JOINT RECOMMENDATION FOR DISCIPLINE

153. Petitioner and Respondent jointly recommend that the appropriate discipline for Respondent's misconduct is a suspension from the practice of law for one year and one day.

154. Respondent hereby consents to that discipline being imposed upon him by the Supreme Court of Pennsylvania. Attached to this Joint Petition is Respondent's executed Affidavit required by Pa.R.D.E. 215(d), stating that he

consents to the recommended discipline, including the mandatory acknowledgments contained in Pa.R.D.E. 215(d)(1) through (4).

155. ODC and Respondent submit that the following are mitigating factors in this case:

- a. Respondent has no record of discipline since being admitted to practice law in Pennsylvania in 1986;
- b. Respondent has admitted engaging in misconduct and violating the charged Rules of Professional Conduct;
- c. Respondent is remorseful and understands that his actions warrant the imposition of discipline, as is evidenced by his agreement to enter into this Joint Petition; and
- d. Respondent has cooperated with ODC in the investigation of this case.

156. By way of further mitigation, Respondent states that in November 2022, his wife suffered a serious stroke, and he is her primary caretaker. In addition, in October 2023, Respondent was injured in an accident while working a second job for Federal Express. He suffered a broken rib, injuries to his shoulders, and head injuries, and was required to take pain medication. Respondent's injuries and obligations to act as his wife's caretaker adversely affected his ability to manage his practice as a solo practitioner.

157. Respondent's misconduct involves neglect in nine cases. There is no evidence that he engaged in dishonesty or other types of more egregious

misconduct. A suspension of one year and one day is within the range of discipline imposed in other cases of serial neglect. See Office of Disciplinary Counsel v. Alexander Geoffrey Tuttle, No. 78 DB 2024 (S.Ct. Order 4/14/25) (one-year, one-day suspension on consent for neglect and related misconduct in five matters; aggravation included, inter alia, a prior informal admonition for similar misconduct in four cases, and two malpractice actions filed against Tuttle); Office of Disciplinary Counsel v. Brian Oliver Williams, No. 38 DB 2022 (S.Ct. Order 4/19/22) (one-year, one-day suspension on consent for neglect and other misconduct in ten matters); Office of Disciplinary Counsel v. Tangie Marie Boston, No. 99 DB 2018 (D.Bd. Rpt. 12/10/19) (S.Ct. Order 2/12/20) (suspension of one year and one day where Boston committed misconduct in four matters, including neglect, lack of communication, failure to return unearned fees, and conduct prejudicial to the administration of justice; mitigation included no prior discipline, acceptance of responsibility, and Boston's recognition that she had committed sanctionable misconduct)

158. There is substantial mitigation in this case. In the first place, Respondent is seventy-one years old and has no record of discipline in Pennsylvania in nearly 40 years of practice.³ See, e.g., Office of Disciplinary

³ On October 27, 1997, Respondent was disciplined in New Jersey. He received a "Letter of Admonition" from the Disciplinary Review Board of the

Counsel v. Anonymous (Albert B. Mackarey), No. 158 DB 2000 (D.Bd. Rpt. 1/4/02) (S.Ct. Order 3/11/02) (respondent's 44 years practicing law without discipline was mitigating; three-month suspension for intentional conversion of \$3,700). Respondent's personal issues—his need to assist in care for his wife and injuries he suffered while working a second job at Federal Express — adversely affected his ability to represent the clients in some of these matters, and are similarly mitigating. See Office of Disciplinary Counsel v. Robert Paul Petyak, 112 DB 2012 (D.Bd. Rpt. 1/17/14, pp. 9, 14) (S.Ct. Order 6/16/14) (Petyak's family and personal problems which impacted his practice were mitigating); Office of Disciplinary Counsel v. Paul Charles Quinn, 39 DB 2006 (D.Bd. Rpt. 6/14/07, pp. 12-13, 14-15) (S.Ct. Order 10/19/07) (Quinn's problems in his personal life were "extenuating circumstances" in determining discipline).

159. With the exception of his representation of David Ramos, Respondent was court-appointed counsel in each of the matters at issue in this matter. That he accepts court appointments to represent indigent criminal defendants is an additional factor that can be considered as mitigating. See Office of Disciplinary Counsel v. Joseph A. Canuso, No. 99 DB 2010 (S.Ct.

Supreme Court of New Jersey for a violation of New Jersey RPC 4.4. See In the Matter of Mark D. Mungello, Docket No. DRB 97-282.

Order 11/23/10), Joint Petition, pp. 8, 14 (that Canuso was an experienced criminal practitioner who accepted court appointments to represent indigent defendants was a mitigating circumstance)

160. Respondent has also demonstrated remorse, acknowledged wrongdoing, and cooperated with ODC in its investigation. In addition, several of the cases at issue are matters Respondent self-reported. These are factors that are similarly due substantial weight as mitigation. Office of Disciplinary Counsel v. Brian Eves, No. 2 DB 2024 (D.Bd. Order 1/18/24), Joint Petition, pp. 9-10 (in public reprimand on consent, mitigation included, inter alia, that Eves self-reported cases, exhibited remorse, and cooperated with ODC); Office of Disciplinary Counsel v. Andrew J. Brekus, No. 20 DB 2007 (S.Ct. Order 12/5/07) Joint Petition, p. 21 (in discipline on consent, mitigating factors included, inter alia, that Brekus admitted misconduct, cooperated with ODC, showed remorse, and understood that he should be disciplined).

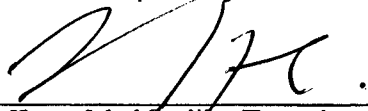
161. Viewing these circumstances in their entirety, including the number of cases involved and the mitigating factors, a suspension of one year and one day is appropriate discipline. The proposed discipline will protect the public by requiring Respondent to demonstrate his fitness before resuming the practice of law, but without being unduly punitive.

WHEREFORE, Petitioner and Respondent respectfully request that, pursuant to Pennsylvania Rules of Disciplinary Enforcement 215(e), 215(g) and 215(i), a three-member panel of the Disciplinary Board review and approve the Joint Petition in Support of Discipline on Consent and file a recommendation with the Supreme Court of Pennsylvania that Respondent receive a suspension of one year and one day.

Respectfully submitted,
OFFICE OF DISCIPLINARY COUNSEL

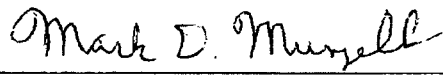
THOMAS J. FARRELL,
Chief Disciplinary Counsel

10/3/25
DATE



Jeffrey M. Krulik, Esquire
Disciplinary Counsel

9/29/25
DATE



Mark D. Mungello
Respondent

9/30/25
DATE



Samuel C. Stretton, Esquire
Counsel for Respondent

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :

Petitioner :

No. _____ DB 2025

v. :

Nos. C1-22-959, C1-24-169,
C1-25-308

Attorney Reg. No. 46132

MARK D. MUNGELLO :

Respondent :

(Philadelphia)

VERIFICATION

The statements contained in the foregoing Joint Petition In Support of Discipline on Consent Under Pa.R.D.E. 215(d) are true and correct to the best of my knowledge or information and belief and are made subject to the penalties of 18 Pa.C.S.A. §4904, relating to unsworn falsification to authorities.

10/3/25

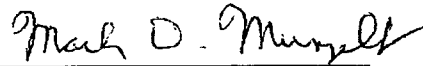
DATE



Jeffrey M. Krulik, Esquire
Disciplinary Counsel

9/29/25

DATE



Mark Mungello
Respondent

9/30/25

DATE



Samuel C. Stretton, Esquire
Counsel for Respondent

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :

Petitioner :

No. _____ DB 2025

v. :

Nos. C1-22-959, C1-24-169,
C1-25-308

MARK D. MUNGELLO :

Respondent :

Attorney Reg. No. 46132

(Philadelphia)

AFFIDAVIT UNDER RULE 215(d), Pa.R.D.E.

Mark D. Mungello, being duly sworn according to law, deposes and hereby submits this affidavit consenting to the recommendation of a suspension of one year and one day, in conformity with Rule 214(d), Pa.R.D.E. and further states as follows:

1. He is an attorney admitted in the Commonwealth of Pennsylvania, having been admitted to the bar on or about June 4, 1986.
2. He desires to submit a Joint Petition in Support of Discipline on Consent Pursuant to Rule 215(d), Pa.R.D.E.
3. His consent is freely and voluntarily rendered, he is not being subjected to coercion or duress, and he is fully aware of the implications of submitting this affidavit.

4. He is aware that there is presently pending an investigation regarding allegations that he has been guilty of misconduct, as set forth in the Joint Petition in Support of Discipline on Consent Pursuant to Rule 215(d), Pa.R.D.E., to which this affidavit is attached.

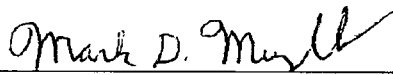
5. He acknowledges that the material facts set forth in the Joint Petition are true.

6. He submits the within affidavit because he knows that if charges predicated upon the matter under investigation were filed in the pending proceeding he could not successfully defend against them.

7. He acknowledges that he is fully aware of his right to consult and employ counsel to represent him in the instant proceeding. He has retained, consulted and acted upon the advice of counsel, in connection with his decision to execute the within Joint Petition.

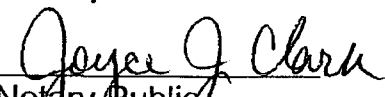
It is understood that the statements made herein are subject to the penalties of 18 Pa.C.S.A. §4904 (relating to unsworn falsification to authorities).

Signed this 29 day of SEPTEMBER, 2025.



Mark D. Mungello

Sworn to and subscribed
before me this 29 day
of Sept, 2025



Notary Public

Joyce J. Clark
NOTARY PUBLIC STATE OF NEW JERSEY
MY COMMISSION EXPIRES AUG 29, 2028

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :	Nos. C1-22-959, C1-24-169,
	C1-25-308
Petitioner :	
v. :	
	Attorney Reg. No. 46132
MARK D. MUNGELLO :	
Respondent :	(Philadelphia)

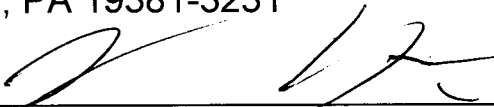
CERTIFICATE OF SERVICE

I hereby certify that I am this day serving the foregoing document upon all parties of record in this proceeding in accordance with the requirements of 204 Pa. Code §89.22 (relating to service by a participant).

First Class Mail and email, as follows:

Samuel C. Stretton, Esquire
103 South High Street
P.O. Box 3231
West Chester, PA 19381-3231

Dated: 10/3/25

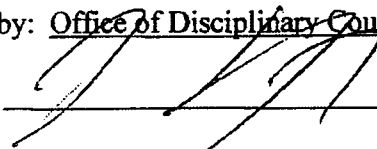


Jeffrey M. Krulik
Disciplinary Counsel
Attorney Registration No. 57110
Office of Disciplinary Counsel
1601 Market Street, Suite 3320
Philadelphia, PA 19103
(215) 560-6296

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: Office of Disciplinary Counsel

Signature: 

Name: Jeffrey M. Krulik, Disciplinary Counsel

Attorney No. (if applicable): 57110