

**STATE OF CONNECTICUT
CONNECTICUT EXAMINING BOARD FOR OPTICIANS**

Lawrence Thornton, L.O.

Petition No. 2000-0621-038-002

AMENDED MEMORANDUM OF DECISION

Procedural Background

The Department of Public Health (“the Department”) presented the Connecticut Examining Board For Opticians (“the Board”) with a July 27, 2000 Motion for Summary Suspension against Lawrence Thornton, L.O. (“respondent”). The Motion for Summary Suspension was based upon a Statement of Charges (“the Charges”) also dated July 27, 2000, brought against respondent; and on the Department’s information and belief that respondent’s continued practice represented a clear and immediate danger to the public health and safety.

On August 9, 2000, the Board denied the Motion for Summary Suspension.

On August 18, 2000, the Charges, along with the Notice of Hearing, was sent to respondent by certified mail, return receipt requested, and first class mail. Bd. Exh. 1. The Notice of Hearing scheduled a hearing for October 18, 2000, and notified the respondent that the hearing would be held before the Board. Bd. Exh. 1.

On October 5, 2000, respondent filed an Answer. Bd. Exh. 3.

On October 18, 2000, the Board held an administrative hearing in accordance with *Conn. Gen. Stats.* Chapter 54 (the Uniform Administrative Procedure Act) and the Regulations of Connecticut State Agencies §19a-9-1, *et seq.*

On March 14, 2001, the Board issued its Memorandum of Decision.

On March 27, 2001, the Department filed a Request for Reconsideration of the Memorandum of Decision; on May 1, 2001, respondent filed his Response thereto.

On June 1, 2001, the Board granted the Department’s Request as to all aspects either agreed upon or not objected to by respondent as incorporated herein.

All Board members involved in this decision received copies of the entire record and attest that they have heard the case or read the record in its entirety. This decision is based entirely on the record. To the extent that the findings of fact actually

represent conclusions of law, they should be so considered, and vice versa. *SAS Inst., Inc. v. S & H. Computer Systems, Inc.*, 605 F.Supp. 816 (M.D. Tenn 1985).

Allegations

1. In paragraphs 1 and 4 of the Charges, the Department alleges that respondent is, and has been at all times referenced therein, the holder of Connecticut licensed optician license no. 001060.
2. In paragraph 2 of the Charges, the Department alleges that on January 13, 1998, respondent was convicted in the Superior Court of the State of Connecticut of illegal sexual contact, a felony, in violation of *Conn. Gen. Stats.* §53-21(2). The Department further alleges that on or about June 28, 1982, respondent was convicted in the Superior Court of the State of Connecticut of kidnapping in the second degree, a felony, in violation of *Conn. Gen. Stats.* §53a-94.
3. In paragraph 3 of the Charges, the Department alleges that the above-described facts constitute grounds for disciplinary action pursuant to *Conn. Gen. Stats.* §19a-17(a)(7)(A).
4. In paragraph 5 of the Charges, the Department alleges that on or about June 20, 1997, respondent illegally entered a private home while he was intoxicated, and sexually assaulted an eight year old girl in the home.
5. In paragraph 6 of the Charges, the Department alleges that the facts contained in paragraphs 1 through 5 constitute grounds for disciplinary action pursuant to *Conn. Gen. Stats.* §20-154, including but not limited to illegal conduct of his business, emotional disorder, and/or abuse or excessive use of alcohol.

Findings of Fact

1. At all times mentioned herein, respondent is, and has been the holder of Connecticut licensed optician license no. 001060. Bd. Exhs. 1, 3.
2. On or about June 28, 1982, respondent was convicted in the Superior Court of the State of Connecticut of kidnapping in the second degree, which is a felony, in violation of *Conn. Gen. Stats.* §53a-94. Admitted; Bd. Exhs. 1, 3.
3. On or about June 20, 1997, respondent illegally entered a private home while he was intoxicated, and sexually assaulted an eight year old girl in the home. Dept. Exhs. 1, 2; Bd. Exhs. 1, 3.
4. On June 20, 1997, respondent engaged in the excessive use and abuse of alcohol. Dept. Exhs. 1, 2; Bd. Exhs. 1, 3.

5. On January 13, 1998, respondent was convicted in the Superior Court of the State of Connecticut of illegal sexual contact as regards the June 20, 1997 incident, which is a felony, in violation of *Conn. Gen. Stats. §53-21(2)*. Admitted; Bd. Exhs. 1, 3.
6. On January 13, 1998, respondent was remanded to the custody of the Commissioner of Correction or said Commissioner's agent for ten years, suspended after four years, plus thirty years probation with conditions. Dept. Exh. 2.
7. Insufficient evidence was presented that respondent has an emotional disorder.
8. Respondent is currently participating in an alcohol abuse prevention program. Tr. 24-25.

Discussion and Conclusions of Law

The Department bears the burden of proof by a preponderance of the evidence in this matter. *Steadman v. Securities and Exchange Commission*, 450 U.S. 91, 101 S.Ct. 999, *reh'g denied*, 451 U.S. 9333 (1981); *Swiller v. Commissioner of Public Health*, CV 950705601, Superior Court, J.D. Hartford/New Britain at Hartford, Memorandum filed October 10, 1995.

Conn. Gen. Stats. §20-154 states in relevant part as follows:

The certificate of registration, permit or license of any optician or of any optical permittee may be revoked, suspended or annulled or any action taken under section 19a-17 upon decision after notice and hearing by the board for any of the following reasons: . . . physical or mental illness, emotional disorder . . . abuse or excessive use of drugs, including alcohol, narcotics or chemicals.

The Department sustained its burden of proof as regards all of the factual allegations contained in paragraphs 1, 2, and 5 of the Charges as well as that these facts constitute grounds for disciplinary action pursuant to *Conn. Gen. Stats. §§19a-17 et seq.* and 20-154. FF. 1, 2, 3, 4, 6. The Department, however, failed to sustain its burden of proof that respondent has an emotional disorder, as well as failed to show that either the kidnapping or the sexual assault were committed in the conduct of respondent's business, pursuant to *Conn. Gen. Stats. §20-154*.

Accordingly, the Board concludes that there is an adequate basis upon which to issue the following order pursuant to the *Conn. Gen. Stats.* §20-154.

Order

Pursuant to the authority vested in it by *Conn. Gen. Stats.* §§19a-17 and 20-154, the Board hereby orders the following in this case against licensed optician license no. 001060 held by Lawrence Thornton:

1. Respondent's license shall be suspended until such time as he is released from the custody of the Commissioner of Correction or said Commissioner's agent. All three originals of respondent's license shall be provided to the Department within ten days of the effective date of this Order. Respondent shall notify the Department, in writing, no less than ten days prior to said release.
2. Following said suspension, respondent's license shall be placed on probation for a period of five years under the following terms and conditions:
 - a. During the entire probationary period, respondent shall refrain from the ingestion of alcohol in any form and the ingestion, inhalation, injection or other use of any controlled substance and/or legend drug unless prescribed or recommended for a legitimate purpose by a licensed health care professional authorized to prescribe medications. In the event a medical condition arises requiring treatment utilizing controlled substances, legend drugs, or alcohol in any form, respondent shall notify the Department and, upon request, provide such written documentation of the treatment as is deemed necessary by the Department.
 - (1) During the first year of the probationary period, respondent shall submit to weekly random observed urine screens for alcohol, controlled substances, and legend drugs; during the second and third years, he shall submit to such screens on a bi-weekly basis; during the fourth and fifth years of the probationary period, respondent shall submit to such screens on a monthly basis. Respondent shall submit to such screens on a more frequent basis if requested to do so by the therapist, the Department, or the Board.

Said screens shall be administered by a facility approved by the Department. All such random screens shall be legally defensible in that the specimen donor and chain of custody shall be identified throughout the screening process. All laboratory reports shall state that the chain of custody procedure has been followed.

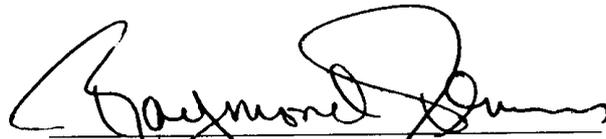
- (2) Respondent shall cause to have the facility provide monthly reports to the Department on the urine screens for alcohol, controlled substances and legend drugs. All such screens shall be negative for alcohol, controlled substances, and legend drugs, except for medications prescribed by respondent's physician. If respondent has a positive urine screen, the facility shall immediately notify the Department. All positive random drug and alcohol screens shall be confirmed by gas chromatograph/mass spectrometer testing.
 - (3) Respondent understands and agrees that if he fails to submit a urine sample when requested by his monitor, such missed screen shall be deemed a positive screen.
 - (4) Respondent shall notify each of his health care professionals of all medications prescribed for him by any and all other health care professionals.
- b. Respondent shall attend "anonymous" or support group meetings on an average of one time per month, and shall provide monthly reports to the Department concerning his record of attendance and his ability to practice his profession in a safe, drug-free, and alcohol free condition.
 - c. During the period of probation, respondent shall report to the Department any arrest under the provisions of Connecticut General Statutes section 14-227a. Such report shall occur within fifteen (15) days of such event.
 - d. During the period of probation, respondent shall not engage in practice as a sole practitioner. Respondent shall only practice in an office and practice setting that includes other licensed opticians.

- e. Respondent shall provide his employer, partner and/or associate at any location at which he is employed or with which he is affiliated or has privileges throughout the probationary period, with a copy of this Order within fifteen (15) days of commencement of said employment, partnership, association, and/or affiliation.
3. All correspondence and reports are to be addressed to:

Bonnie Pinkerton, Nurse Consultant
Department of Public Health
Division of Health Systems Regulation
410 Capitol Avenue, MS #12HSR
P.O. box 34308
Hartford, CT 06134-0308
4. Respondent shall comply with all state and federal statutes and regulations applicable to his licensure.
5. Respondent shall be responsible for all costs associated with satisfaction of this Order.
6. This order is effective as of the date of signature.

Connecticut Board of Examiners for Opticians

August 1, 2001
Date



By: Raymond Dennis, Chairperson
Connecticut Board of Examiners
For Opticians