

Andrew J. Ostrowski
4311 North Sixth Street
Harrisburg, PA 17110
717-221-9500

February 25, 2013

Elaine Bixler
Secretary of the Board
The Disciplinary Board of the Supreme Court
of Pennsylvania
601 Commonwealth Avenue, Suite 5600
Harrisburg, PA 17106

Re: Don Bailey, No 11 DB 2011

Dear Ms. Bixler:

I write on behalf of myself, as an American citizen, and the Pennsylvania Civil Rights Law Network, concerning the above-referenced matter. Specifically, I would like to petition the Supreme Court Disciplinary Board to publicly announce the scheduling of their next meeting, and permit a period of public comment on the matter of the discipline of Don Bailey.

On February 15, 2012, I specifically asked Marcie Sloan when and where the next meeting was scheduled, and she told me it was during the first week of March in Philadelphia, and she could give me no further details. I informed her of my intention to make this request, and she did tell me that she did know that Disciplinary Board meetings were not open to the public.

I am aware, of course, of the letter written by the Supreme Court in November, 1978 to the Legislature, opining that the Pennsylvania Supreme Court, and its various inferior agencies and/or boards are exempt from the provisions of the Open Meetings Law, and understand that that policy still prevails. The Court claims that under Article 5, Section 10(c) of the Pennsylvania Constitution, the Supreme Court has the exclusive authority in all matters relating to the business of the courts, among which is the conduct of attorneys, and that any attempt to impose the requirements of a legislative enactment, i.e., the open meetings law, violates the separation of powers concepts built into the Constitutional scheme, with the dictates of the Constitution being supreme, and, in effect, trumping the laws enacted by the Legislature.

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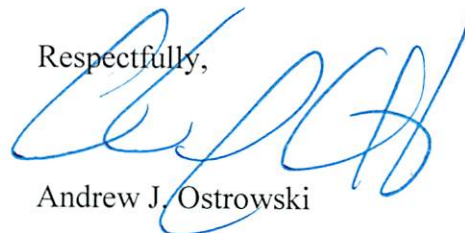
What has escaped the analysis, and, frankly, as raised in my federal lawsuit, are the federal Constitutional implications of this state of affairs. It strikes at the conscience alone that an entire co-equal branch of government has a policy of conducting all of its affairs in secret, regardless of its technical constitutionality under the State Constitution. I believe this violates First Amendment, separation of powers, equal protection, and due process principles of the United States Constitution.

I offer all of the foregoing because I understand that you likely feel constrained by the policy of your employer. It is a request that must, nonetheless, be made, and I ask that you pass this request along to the full Board, as a formal petition on the above-referenced docket, for a formal response by the Board. I will be happy to brief and/or argue it, if necessary. The policy of the Supreme Court is just a policy until the courts themselves adjudicate these issues, or until the Legislature, in this case, changes the Constitution, and a formal response is requested, so that I can take the matter to the Supreme Court and, if necessary, to the federal court if/when I re-file my case.

As you will see, we have anticipated the concerns for Mr. Bailey's confidentiality, privilege, and/or privacy in connection with these proceedings, and he has agreed to endorse this request, and waive any and all such concerns.

Thank you for your assistance with this matter.

Respectfully,



Andrew J. Ostrowski

I, Don Bailey, have indicated to Mr. Ostrowski that I support his idea of an open proceeding. Mr. Ostrowski has developed a "press" approach to these matters, and I believe secrecy is counterproductive to effective governance. I waive any and all confidentiality issues or concerns that the Supreme Court Disciplinary Board may have, and any privileges that I may have in connection with their deliberations, or the evidence relating to my disciplinary proceedings.



Don Bailey