

SUPREME COURT OF WISCONSIN
OFFICE OF LAWYER REGULATION

Public Reprimand With Consent

09-OLR-13

Timothy J. Carmichael
Attorney at Law

Timothy J. Carmichael, (“Carmichael”), is an attorney in Sun Prairie, Wisconsin. On March 10, 2007, Carmichael was the subject of a traffic stop in the City of Sun Prairie which led to charges of misdemeanor Operating While Under Influence (4th) and Operating with PAC .02 or more (4th). *State v. Carmichael*, Dane County case no. 2007CT1262. Approximately 90 minutes after initial police contact on March 10, 2007, Carmichael’s blood alcohol concentration measured 0.293 g/100 mL.

Pursuant to a no contest plea entered on October 24, 2007, Carmichael was convicted of OWI 4th. The PAC charge was dismissed on the prosecutor’s motion. Carmichael’s sentence included 60 days in jail (with Huber privileges) and revocation of his driver’s license for a period of 36 months.

Carmichael did not inform OLR or the Clerk of the Supreme Court of Wisconsin of his conviction, as he was required to do under SCR 21.15(5). In correspondence to OLR dated February 11, 2009, Carmichael asserted that he was under the mistaken assumption that the District Attorney’s office had reported the matter to OLR. Under SCR 21.15(5), however, the only person subject to the reporting requirement is the attorney convicted of a crime.

By engaging in conduct leading to a conviction of OWI 4th in Dane County Circuit Court case no. 2007CT 1262, Carmichael violated SCR 20:8.4(b), which states, “It is professional

misconduct for a lawyer to ... commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects.”

By failing to report his OWI 4th conviction to OLR and to the Clerk of the Supreme Court of Wisconsin, Carmichael violated SCR 21.15(5), which states:

An attorney found guilty or convicted of any crime on or after July 1, 2002, shall notify in writing the office of lawyer regulation and the clerk of the Supreme Court within 5 days after the finding or conviction, whichever first occurs. The notice shall include the identity of the attorney, the date of finding or conviction, the offenses, and the jurisdiction. An attorney's failure to notify the office of lawyer regulation and clerk of the supreme court of being found guilty or his or her conviction is misconduct.

Violations of SCR 21.15(5) are enforceable under the Rules of Professional Conduct via SCR 20:8.4(f), which states, “It is professional misconduct for a lawyer to ... violate a statute, supreme court rule, supreme court order or supreme court decision regulating the conduct of lawyers.”

Carmichael's prior discipline consists of a public reprimand that was issued on September 24, 2002 for violating SCR 20:8.4(b) by his third OWI conviction, for committing a second violation of SCR 20:8.4(b) by committing criminal acts of obstructing police officers by making false oral statements to investigating officers, and by violating SCR 20:8.4(c), relating to making the false statements.

In accordance with SCR 22.09(3), Attorney Timothy J. Carmichael is hereby publicly reprimanded.

Dated this 27 day of July , 2009.

SUPREME COURT OF WISCONSIN

Dennis J. Flynn, Referee