



COPY

**STATE OF OHIO
COUNSELOR AND SOCIAL WORKER BOARD**

ADJUDICATION ORDER
in the Matter of:

Suzanne E. Smithers
14109 Monclovia Road
Swanton, Ohio 43558

IN THE MATTER OF THE ELIGIBILITY OF SUZANNE SMITHERS TO BE LICENSED AS A SOCIAL WORKER IN THE STATE OF OHIO.

THE MATTER OF SUZANNE SMITHERS CAME BEFORE THE SOCIAL WORK PROFESSIONAL STANDARDS COMMITTEE OF THE OHIO COUNSELOR AND SOCIAL WORKER BOARD ON MAY 19, 2000.

FINDINGS, ORDER, AND JOURNAL ENTRY

This matter came for consideration after a Notice of Opportunity for Hearing was issued to Suzanne Smithers by the Counselor and Social Worker Board on July 22, 1999. An administrative hearing was held on January 27, 2000, at 10:00 a.m. in the offices of the Ohio Counselor and Social Worker Board, 77 S. High Street, Columbus, Ohio 43266, pursuant to Chapter 119 and Section 4757 of the Ohio Revised Code. The State was represented by Assistant Attorney General David V. Patton. Suzanne Smithers was present and not represented by counsel. Ms. Smithers waived her right to counsel when asked by the Hearing Officer.

The Board has reviewed the Hearing Officer Report and Recommendations prepared in this case following the administrative hearing. The Board has also reviewed the Objections to the Hearing Officer Report and Recommendations submitted by Ms. Smithers. The Board adopts in their entirety the Findings of Fact and Conclusions of Law in the Hearing Officer Report and Recommendations. A copy of the Hearing Officer Report and Recommendations is attached to this Adjudication Order. The Board modifies the Hearing Officer's recommendation to permanently revoke Ms. Smithers' license to practice social work in the State of Ohio and in its place revokes Ms. Smithers' license to practice social work under the provisions of Ohio Revised Code Section 4757.36(B).

THEREFORE, it is hereby ORDERED that for the reasons outlined in this ORDER and in the attached Hearing Officer Report and Recommendations which is hereby incorporated, by reference, into this ORDER, the license of Suzanne Smithers (S-8850) to practice as a Social Worker in the State of Ohio is REVOKED. This ORDER was approved by unanimous vote of the Members of the Board who reviewed this case.

Motion carried by order of the Social Work Professional Standards Committee of the Ohio Counselor and Social Worker Board.

It is hereby certified by this Board that the above language is incorporated into the Board's journal in this matter.

APPEAL RIGHTS

Pursuant to Section 119.12 of the Ohio Revised Code, you may appeal from this Order. Such an appeal may be taken to the court of common pleas in the county in which your place of business is located or to the court in the county in which you reside. If you do not have a place of business in Ohio and are not a resident of Ohio, you may appeal to the Court of Common Pleas in Franklin County, Ohio.

Such an appeal, setting forth the Order appealed from and the grounds of the appeal must be commenced by the filing of a Notice of Appeal with the State of Ohio Counselor and Social Worker Board and the appropriate Court within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12 of the Ohio Revised Code.

By Order of the State of Ohio Counselor and Social Worker Board.


Chester Partyka
Chair

May 19, 2000
Date

State of Ohio
Counselor and Social Worker Board
77 South High Street, 16th Floor
Columbus, Ohio 43266-0340

MAR 6 2000
COUNSELOR AND SOCIAL WORKER BOARD

In the Matter of:

Suzanne E. Smithers, LSW
Respondent-Licensee

Elizabeth Y. Collis, Esq.
Hearing Examiner

March 6, 2000

Report and Recommendation

Appearances:

For the Ohio Counselor and Social Worker Board: Ohio Attorney General Betty D. Montgomery, through David H. Patton, Assistant Attorney General, 30 East Broad Street, Columbus, Ohio 43215-3428.

Respondent- Licensee Suzanne E. Smithers, LSW, appeared on her own behalf.

I. Introduction

A. *Procedural Posture*

The above-captioned matter is an administrative proceeding conducted pursuant to Chapters 119 and 4757 of the Ohio Revised Code (R.C.). On July 22, 1999, the Ohio Counselor and Social Worker Board ("Board") notified Respondent-Licensee, Suzanne E. Smithers ("Ms. Smithers"), that pursuant to R.C. 4757.36(A) the Board proposed to take disciplinary action against her license to practice as a licensed social worker ("LSW"). The July 22, 1999 Notice ("Notice") indicated that the proposed disciplinary action was based upon a felony conviction for Corruption of a Minor, in violation of R.C. 2907.04. The Board also notified Ms. Smithers in the Notice that the Board planned to impose disciplinary action against her license.

On or about August 20, 1999, Ms. Smithers wrote to the Board and requested a hearing

regarding the allegations in the July 22, 1999 Notice. The Board issued a scheduling letter and set an administrative hearing in the above captioned case for August 27, 1999 and upon its own motion the Board continued the hearing until January 27, 2000.

The Board appointed the undersigned to serve as the hearing examiner in this case. This report and recommendation is based upon the testimony and exhibits that were presented at the January 27, 2000 hearing.

II. Evidence Examined

A. Exhibits

The State presented the following exhibits, all of which were admitted into evidence:

- 1) State's exhibit 1: July 22, 1999 Notice of Opportunity for Hearing;
- 2) State's exhibit 2: August 17, 1999 letter from Ms. Smithers to Beth Farnsworth requesting a hearing on the allegations in the July 22, 1999 Notice;
- 3) State's exhibit 3: August 23, 1999 letter to Ms. Smithers from Beth Farnsworth setting the hearing for August 27, 1999 and continuing the hearing upon motion of the Board;
- 4) State's exhibit 4: November 17, 1999 letter to Ms. Smithers from Beth Farnsworth setting the hearing for January 27, 2000.
- 5) State's exhibit 5: Licensed Social Worker-Processing Checklist showing that Ms. Smithers was licensed as a licensed social worker, license No. S8850 on September 16, 1989;
- 6) State's exhibit 6: Appearance and Execution of Criminal Docket form from the Cuyahoga County Court of Common Pleas, Criminal Case No. CR 367421 in *State of Ohio v. Suzanne Smithers*;
- 7) State's exhibit 7: Journal Entry in the Cuyahoga Court of Common Pleas in Case

No. CR 367421 showing that on or about January 4, 1999, Ms. Smithers retracted her former plea of Not Guilty and entered a plea of Guilty to Corruption of a Minor in violation of R.C. 2907.04;

8) State's exhibit 8: Journal Entry dated June 3, 1999 in the Cuyahoga County Court of Common Pleas in Case No. CR 367421 showing that the Court imposed a prison term of one year on counts one and two against Ms. Smithers to be served consecutively in the Ohio Reformatory for Women in Marysville, Ohio. In addition, the Court ordered that Ms. Smithers absolutely must not be employed as a social worker;

9) State's exhibit 9: Indictment for Corruption for a Minor against Ms. Smithers in Case No. 367421 in the Cuyahoga Court of Common Pleas;

10) State's exhibit 10: True Bill of Indictment for Count One, Corruption of a Minor, R.C. 2907.04, against Ms. Smithers in Case No. 367421 in the Cuyahoga County Court of Common Pleas;

11) State's exhibit 11: True Bill of Indictment for Count Two, Corruption of a Minor, R.C. 2907.04, against Ms. Smithers in Case No. 367421 in the Cuyahoga County Court of Common Pleas;

12) State's exhibit 12: True Bill of Indictment for Count Three, Corruption of a Minor, R.C. 2907.04, against Ms. Smithers in Case No. 367421 in the Cuyahoga County Court of Common Pleas;

13) State's exhibit 13: True Bill of Indictment for Count Four, Corruption of a Minor, R.C. 2907.04, against Ms. Smithers in Case No. 367421 in the Cuyahoga County Court of Common Pleas;

14) State's exhibit 14: True Bill of Indictment for Count Five, Corruption of a Minor,

R.C. 2907.04, against Ms. Smithers in Case No. 367421 in the Cuyahoga County Court of Common Pleas;

15) State's exhibit 15: True Bill of Indictment for Count Six, Corruption of a Minor, R.C. 2907.04, against Ms. Smithers in Case No. 367421 in the Cuyahoga County Court of Common Pleas;

16) State's exhibit 16: True Bill of Indictment for Count Seven, Corruption of a Minor, R.C. 2907.04, against Ms. Smithers in Case No. 367421 in the Cuyahoga County Court of Common Pleas;

17) State's exhibit 17: Report from the Cleveland Police Department dated September 6, 1998 detailing its investigation of Ms. Smithers;

18) State's exhibit 18: Ohio Department of Youth Services Report of Investigation from the Cleveland Investigator, dated September 17, 1989;

19) State's exhibit 19: Cleveland Plain Dealer article dated September 8, 1998 entitled, "Dad finds son in hotel with social worker";

20) State's exhibit 20: Columbus Dispatch article entitled, "Social Worker at youth center accused of having sex with teen", no date;

21) State's exhibit 21: Cleveland Plain Dealer article entitled, "Social Worker charged with corrupting a minor", no date;

22) State's exhibit 22: Cleveland Plain Dealer article entitled, "Social Worker pleads guilty to sex with teen", no date;

23) State's exhibit 23: newspaper article entitled, "Ex-social worker pleads guilty in sex case involving teen-ager", no date;

24) State's exhibit 24: newspaper article entitled, "Social worker gets prison for affair", no date.

Respondent-Licensee Ms. Smithers presented one exhibit which was marked Respondent's exhibit A and was admitted into evidence. Respondent's exhibit A is 35 pages long and includes: Sentencing Memorandum filed by attorney Jay Milano in the Cuyahoga County Court of Common Pleas Case No. 367421 and attached are letters from Ms. Smithers; Sandra A. Brock; Mary Jo Baldwin, LSW, BSW; Jeffrey J. Dennis, RPh.; drug information regarding Demerol 50 mg, Xanax 1mg; letter from Gregory E. Forgac, PhD.; letter from Ella McCadney; letter from David E. Hathaway; two Employee Performance Reviews; letter from Lisa Hetrick; letter from David L. Smithers; letter from George M. Pipoly, M.D.

B. *Testimony*

The State called Mr. William L. Hegerty, Investigative Supervisor as its only witness. During Respondent-Licensee's case in chief, Ms. Smithers testified on her own behalf and did not call any additional witnesses.

C. *Post-Hearing Admission to the Record*

Neither the State nor Ms. Smithers asked to supplement the record following the close of the administrative hearing.

III. *Summary of the Evidence*

For the convenience of the Board, a summary of the exhibits and testimony presented at Ms. Smithers' hearing is set forth below. These summaries are not intended to be a substitute for the original exhibits or the transcript of proceedings. The Board should rely on the transcript of proceedings and the exhibits themselves as the accurate and complete record in this matter rather than attribute any significance to portions of the exhibits or testimony that may have been

included or omitted from these summaries.

A. *Testimony*

The State's only witness was Mr. William L. Hegerty ("Mr. Hegerty"), Investigative Supervisor with the Board. Mr. Hegerty identified all of the State's exhibits. (Tr. 18-25) According to Mr. Hegerty, on or about September 16, 1989 Ms. Smithers was licensed as a Social Worker by the Board, license #S8850. (Tr. 20) Based on alleged violations of the Board's rules, on July 22, 1999, the Board issued a Notice to Ms. Smithers. The Notice alleges that Ms. Smithers pled guilty to two felony counts of Corruption of a Minor, (R.C. 2907.04) before the Cuyahoga County Court of Common Pleas. (Tr. 20, Exh. #7) As a result of the pleading of guilt, the Court found Ms. Smithers guilty and imposed a sentence of one year for each count to be served consecutively. In addition, the Court of Common Pleas ordered that Ms. Smithers not be employed as a social worker. (Tr. 21, exhibit #8).

On cross examination by Ms. Smithers, Mr. Hegerty stated that he did speak with Ms. Smithers prior to the hearing and give her information as to the basic format of an administrative hearing. Mr. Hegerty denied ever giving Ms. Smithers legal advice and he repeatedly stated that he told Ms. Smithers that she should seek legal counsel. (Tr. 27-29)

The State called no further witnesses.

Ms. Smithers testified on her own behalf, in her case in chief. Ms. Smithers stated that while she was employed as a social worker with the Maumee Youth Center, "Maumee" that she treated a young man (who was referred to as "The Youth" throughout the hearing and throughout this report to protect his identity, as he is a minor) (Tr. 39) After The Youth was released from Maumee he returned to live with relatives in Cleveland.

In September 1998 Ms. Smithers was charged with several felony counts of Corruption of a Minor (R.C. 2907.04) after she was caught in a hotel room with a former client from Maumee. Ms. Smithers admitted that she pled guilty to the two felony counts of Corruption of a Minor, based on her attorney's advice, due to the potential consequences if she were to proceed to trial.

The events that led to Ms. Smithers being caught in the hotel with her minor client started as follows. In September 1998, Ms. Smithers stated that she was to travel to Cleveland to visit with a friend and tour the Rock and Roll Hall of Fame. (Tr. 40-41) In the week before she visited Cleveland, Ms. Smithers stated that she received several telephone calls from The Youth, who stated that he was planning on returning to the streets to sell drugs as it was his only way of getting money for school clothes. The Youth repeatedly asked to see Ms. Smithers, therefore Ms. Smithers told The Youth that they could meet when she came to Cleveland and go for a walk in the park and talk. (Tr. 41)

When Ms. Smithers came to Cleveland, she went to pick up The Youth at his home, but she became lost and ultimately she picked him up on the street corner outside of where he lived. They were then planning to go to a park and talk about The Youth's plans to start to sell drugs again, but Ms. Smithers stated that she needed to check into her hotel, so she took The Youth with her to the Marriott Hotel at Public Square. (Tr. 42)

Ms. Smithers stated that once they arrived at the hotel, that The Youth continued to make excuses as to why they could not leave the hotel. Finally, The Youth made a phone call and told Ms. Smithers that his father was going to pick him up at the hotel that night. (Tr. 46) But, when the time came for his father to pick him up, Ms. Smithers stated that The Youth's father never came and The Youth told Ms. Smithers that his mother would be out all night. (Tr. 46) At that point, Ms. Smithers stated that she had just taken some pain medication and that she

did not feel comfortable driving The Youth anywhere at that time. (Tr. 46) Ms. Smithers therefore decided to allow The Youth to stay with her in her hotel room that night and she planned to take him home in the morning. (Tr. 46) Ms. Smithers stated that it did not occur to her that she could have sent The Youth home on a bus or in a taxicab. (Tr. 46)

When asked by the State whether Ms. Smithers had sexual relations with The Youth on the night that they stayed in the hotel room together, she stated that she and The Youth did have sexual relations, but that The Youth raped her. (Tr. 42)

According to Ms. Smithers, The Youth stayed with her in the hotel room on the night of September 5, 1998 and in the morning, she was awoken when she heard The Youth talking on the telephone with whom she believed was his father. (Tr. 49) After waking Ms. Smithers, The Youth told her that he was going to go down to the lobby to get a soda pop. According to Ms. Smithers, before leaving the room, The Youth allegedly assaulted Ms. Smithers. (Tr. 47) The Youth then proceeded to go to the hotel lobby. Upon his return to the room, The Youth got into bed with Ms. Smithers and this is when The Youth's father entered the room and started taking pictures of Ms. Smithers and The Youth in bed together. (Tr. 49) Although Ms. Smithers stated that The Youth briefly left the hotel room after assaulting her, at no time did Ms. Smithers contact the police, hotel security or lock The Youth out of the room. (Tr. 50)

Ms. Smithers stated that she told her attorney and her psychologist that she had been raped by The Youth, but that she did not file a police report or any civil action against The Youth. (Tr. 44)

Ms. Smithers stated that in meeting with The Youth in Cleveland her intention was to help The Youth, who in her opinion had potential, even though he had previously been incarcerated. Ms. Smithers stated that she believed that her intentions were good regarding The Youth, although her techniques here poor. (Tr. 32) Ms. Smithers stated that in her position as the social

worker for The Youth that she “. . . made a mistake, a severe error in judgment . . . “ (Tr. 33, 45)

By way of explanation, Ms. Smithers stated that at the time of the incident that she was under a great deal of pressure at work, and that she was doing the work of two social workers and carrying out many managerial roles. (Tr. 33) Ms. Smithers stated that at that time she had recently undergone serious surgery and that she was released to go back to work a week early only due to her insistence and her concern for her clients. (Tr. 34) At the time she returned to work, she explained that she was taking a level II narcotic, an anti-depressant, anti-anxiety medication and sleep medication due to her inability to sleep and overwhelming amount of stress. (Tr. 34) She stated that based on all these factors that her decision making ability was clearly diminished. (Tr. 34)

Since the incident, Ms. Smithers stated that she has put safeguards in place to prevent this type of incident from ever happening again. (Ms. Smithers did not enumerate specifically what safeguards she has put in place.) Ms. Smithers believes that she learned a great deal from the situation and that she would like to continue to practice as a social worker. She would also be willing to work under a restricted license and never work with juveniles again. (Tr. 35)

Ms. Smithers also stated that she believed that she was “set up” by The Youth and his father for money. (Tr. 44) Ms. Smithers stated that when she first picked The Youth up outside his home that he told her that Ms. Smithers owed him some money. (Tr. 45) According to Ms. Smithers, The Youth told her that she owed him money and that he needed to buy school clothes. (Tr. 46) According to Ms. Smithers, she was “caught” in bed with The Youth by The Youth’s father after The Youth had made a telephone call and then left the room. It was after The Youth reentered the room, took off his shirt and jumped in bed with Ms. Smithers, that his father came through the door and began to take pictures of The Youth and Ms. Smithers in bed. (Tr. 46-47)

According to Ms. Smithers, after The Youth's father took a few pictures the father told her that he would not turn the pictures over to the authorities if Ms. Smithers paid him \$500.00. (Tr. 47) (Ms. Smithers later stated that The Youth's father actually asked for \$5000.00 not \$500.00 to not turn over the photos.) (Tr. 47) According to Ms. Smithers, it was when she refused to pay The Youth and his father for the photos, that his father called the hotel security. (Tr. 47)

IV. Findings of Fact

1. Ms. Smithers was licensed as an LSW by the Board, License #S8850 on September 16, 1989.
2. In 1998, Ms. Smithers worked as an LSW at the Maumee Youth Center, where she treated The Youth.
3. After The Youth was released from Maumee, he and Ms. Smithers continued to keep in contact with one another. In particular, in September 1998, Ms. Smithers agreed to meet with The Youth in his home town of Cleveland, as she was planning to visit a friend in Cleveland and tour the Rock and Roll Hall of Fame.
4. Upon arriving in Cleveland, Ms. Smithers picked up The Youth on the street corner near his home and she took him with her while she registered at the Marriott Hotel on Public Square.
5. On September 5, 1998, The Youth spent the night in the same hotel room with Ms. Smithers as Ms. Smithers stated that The Youth did not have a ride home and she could not drive him given the fact that she had taken pain medications and did not feel comfortable driving.
6. At some point during the time that The Youth and Ms. Smithers stayed in the hotel room, Ms. Smithers and The Youth engaged in a sexual relationship.
7. On September 6, 1998, The Youth's father found Ms. Smithers and The Youth

together in bed at the Marriott Hotel and he took pictures and contacted the hotel security.

8. Although Ms. Smithers claimed that she was assaulted by The Youth, at no time did Ms. Smithers contact hotel security, the police nor did she lock The Youth out of her room, even though he left the room at one point after the sexual encounter to go to the lobby to obtain a soda pop.

9. Ms. Smithers was indicted on six counts of Corruption of a Minor in the Cuyahoga County Court of Common Pleas in Case No. 367421.

10. Ms. Smithers pled Guilty to two felony counts of Corruption of a Minor, (R.C. 2907.04) involving her sexual encounter with The Youth.

11. Ms. Smithers was ordered by the Cuyahoga Court of Common Pleas to one year incarceration for each felony count, to be served consecutively. (Exh. #8)

12. Ms. Smithers was ordered by the Cuyahoga Court of Common Pleas to not practice as a social worker.

13. In September 1998, Ms. Smithers was recovering from surgery, and was taking controlled medications for pain, depression, stress and in order to sleep.

V. Conclusions of Law

A. Pursuant to R.C. 4757.36(A) the Board has the authority to suspend, revoke, or otherwise restrict or take other disciplinary action against any license issue by the Board.

B. R.C. 4757.36 (A)(5) authorizes the Board to discipline a licensee who is found guilty of any felony.

C. Ms. Smithers is licensed as a social worker, license #S8850 with the Board.

D. Corruption of a Minor, (R.C. 2907.04) is a felony of the fourth degree in Ohio.

E. Because Ms. Smithers plead Guilty to and was found Guilty of Corruption of a

Minor in the Cuyahoga County Court of Common Pleas in Case No. CR 367421, R.C. 4757.36 (A)(5) authorizes the Board to impose disciplinary action against Ms. Smithers' license to practice social work.

VI. Analysis

The Board has proposed to take disciplinary action against Ms. Smithers' license to practice social work based on the fact that she pled Guilty to two felony counts of Corruption of a Minor and was found Guilty by the Cuyahoga County Court of Common Pleas. Pursuant to R.C. 4757.36(A)(5) the Board has the authority to suspend, revoke or otherwise discipline the license of any person based on a finding of guilt by either a jury or a court. In this case, the Board has the authority to suspend or revoke Ms. Smithers' license to practice as a social worker based on the two felony convictions.

As it is clear that the Board has the authority to discipline Ms. Smithers' for her pleading guilty and for the finding of Guilt by the Court for the two felony convictions, the question then rests on what penalty, if any, that the Board should impose. In making that determination, many factors need to be considered.

First, Ms. Smithers plead guilty to two felony counts of Corruption of a Minor and the minor that was involved was a former client of Ms. Smithers. By Ms. Smithers' own testimony, The Youth was vulnerable and in crisis. The Youth had recently been discharged from the Maumee Youth Center and he was returning home to an unstable family life. The Youth was returning home to a house where both parents has recently been released from prison themselves, and The Youth was scared to live with his father. In addition, we heard testimony that The Youth and Ms. Smithers had spoken on the telephone several times after his release from Maumee and The Youth had told Ms. Smithers that he was planning to return to the streets to sell drugs in

order to buy school clothes. This was clearly a young man that needed help and guidance. To Ms. Smithers' credit, she was sympathetic to The Youth's needs, but her approach and technique were clearly not appropriate.

Ms. Smithers should never have taken The Youth to her hotel and once at the hotel she certainly should not have taken him up to her room. Ms. Smithers could have found a public place at a park, mall or even fast food restaurant to quietly and privately speak with The Youth. Given Ms. Smithers' training and lengthy experience she should have known not to take The Youth up to her hotel room. Once The Youth was in the hotel room then, Ms. Smithers should have had a clear plan on how the child was to return home. We know that Ms. Smithers knew where the child lived, as she had picked him up on the street corner outside of his home, therefore once his father could not pick him up, she should have taken him home or sent him home in public transportation. There were any number of things that Ms. Smithers could have done, but allowing The Youth to spend the night with her in the hotel room was an inappropriate choice.

In Ms. Smithers' attempt to help The Youth she crossed many boundaries and violated some of the basic tenants of the Social Worker Code of Ethics. In drafting the Social Worker Code of Ethics, the drafters included that social workers should not have multiple relationships with clients as this might impair professional judgment or increase the risk of client exploitation. Multiple relationships include not only sexual contact between the social worker and the client, which Ms. Smithers violated; but also a multiple relationship can be created by the social worker and client entering into a personal or emotional relationship that might reasonably impair the professional objectivity of the social worker. (O.A.C. 4757-5-01 (A)(8), (C)) The drafters of the Social Worker Code of Ethics were so concerned that even personal relationships between a social worker and a client could cloud the objectivity of the social worker that they banned this type of relationship in their Code of Ethics. By allowing The Youth to stay in her hotel room on

September 4, 1998, Ms. Smithers' actions were unprofessional and warrant discipline by this Board.

Finally, Ms. Smithers argued at the hearing that even though she plead guilty to two felony counts of Corruption of a Minor, that in fact she did not assault The Youth but that he sexually assaulted her. Ms. Smithers provided no evidence at the hearing to substantiate this claim and her actions at the time of the incident also do not support her allegation that she was in fact victimized by The Youth. Ms. Smithers stated at the hearing that on the night of September 4, 1998 that she allowed The Youth to stay in her hotel room with her as he did not have a ride home. In the morning, according to Ms. Smithers' testimony, she was awoken when she heard The Youth talking on the telephone with whom she believed was his father. After The Youth got off the phone, according to Ms. Smithers, he raped her and then left the room to go to the hotel lobby to get a soda. Once The Youth left the room though, Ms. Smithers never called hotel security or the police, as she stated that she did not want to get The Youth into any further trouble. But, she also did not lock the hotel room door. She left the door open and then allowed The Youth to return to the room, take off his shirt and climb into bed with her again. It was at this point that Ms. Smithers' stated that The Youth's father entered the room and started taking pictures of The Youth and Ms. Smithers in bed together. Even if Ms. Smithers did not want The Youth to get into any further trouble, she could have at a minimum locked the room door once The Youth left to protect herself. Ms. Smithers also stated that she told her attorney and her psychologist after the incident that The Youth in fact raped her, but Ms. Smithers provided no evidence, such as testimony or even a letter from either source to support her position. Therefore, as Ms. Smithers could not provide any evidence to support her position that she was in fact victimized by The Youth and given the fact that Ms. Smithers plead guilty to Corruption of a Minor, I believe that the Board has adequate basis to discipline Ms. Smithers.

Finally, by Ms. Smithers' own testimony, she was in no mental or physical condition at the time she returned to work after surgery and at the time of this incident to adequately and professionally care for her clients. Ms. Smithers was recovering from surgery, she was taking medications for pain, depression, stress and in order to sleep. Once she returned to work she was doing the work of two social workers and some managerial work. As an experienced social worker, Ms. Smithers should have known her boundaries and should not have taken on more work, including her work with The Youth given her condition at the time. Since this incident, Ms. Smithers stated that she has put safeguards in place so that an error like this would never happen again, but she did not detail the precautions she has put in place.

Given the seriousness of the crime for which Ms. Smithers plead guilty, the fact that the crime involved a client from her work and the numerous ethical and professional errors that Ms. Smithers commit, it is the recommendation of this hearing examiner that the Board **permanently revoke** Ms. Smithers' license to practice as a social worker.

VII. Recommendation and Proposed Order

Upon undisputed evidence and testimony, Ms. Smithers was found guilty of two felony counts of Corruption of a Minor, which involved her employment as an LSW. R.C. 4757.36(A)(5) authorizes the Board to discipline a licensee who has been found guilty of any crime which would be considered a felony in Ohio.

For these reasons and the rationale outlined above, this Hearing Examiner recommends that the Board **PERMANENTLY REVOKE** Ms. Smithers' license to practice as an LSW.

This proposed order shall become effective immediately upon its adoption by the Board unless the Board modifies or disapproves it.

Date: 3/6/2000



Elizabeth Y. Collis, Esq. (0061961)
Hearing Examiner,
Ohio Counselor and Social Worker Board

Certificate of Service

Pursuant to R.C. 119.09, the undersigned hereby certifies that a true and accurate copy of the **Report and Recommendation** made a part hereof was served via hand delivery to the Ohio Counselor and Social Worker Board, 77 South High Street, 16th Floor, Columbus, Ohio, on this 6th day of March, 2000.



Elizabeth Y. Collis, Esq.
Hearing Examiner,
Ohio Counselor and Social Worker Board