

Book

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 92-338

IN THE MATTER OF :
: M. DANIEL FRIEDLAND :
: AN ATTORNEY AT LAW :
:

Decision and Recommendation
of the
Disciplinary Review Board

Argued: November 18, 1992

Decided: May 17, 1993

Richard J. Engelhardt appeared on behalf of the Office of Attorney Ethics.

Respondent waived oral argument.

To the Honorable Chief Justice and Associate Justices of the Supreme Court of New Jersey.

This matter is before the Board on a Motion for Reciprocal Discipline filed by the Office of Attorney Ethics ("OAE"). R.1:20-7. The motion is based on respondent's disbarment from the practice of law in the State of Connecticut for misconduct in his representation of four clients. The Supreme Court of Connecticut found respondent in violation of RPC 1.1 (failure to provide competent representation to a client), RPC 1.3 (failure to act with reasonable diligence and promptness in representing a client), RPC 1.4 (failure to keep a client reasonably informed about the status of a matter and to comply promptly with reasonable requests for information), and RPC 3.3 (making a false statement of a material fact or law). Statewide Grievance Committee v. Friedland, 222

Conn. 131 (May 19, 1992).

Respondent was admitted to the bar of New Jersey in 1967 and of Connecticut in 1983. That same year, he was suspended in New Jersey for five years and until further order of the Court, based on a prior disciplinary action in Indiana that resulted in his disbarment in that state (in Indiana, an attorney may petition for reinstatement after five years). In re Friedland, 92 N.J. 107 (1983). Respondent has not sought reinstatement in New Jersey.

Respondent's disbarment in Connecticut originated from a March 1, 1990 presentment by the Statewide Grievance Committee. The alleged misconduct related to four separate client matters. While respondent secured retainers and agreed to provide services, he neglected to perform the most seemingly perfunctory of attorney obligations, as reflected by the violations charged. The facts, as established by the Connecticut disbarment proceedings, are as follows:

Patrick Wade paid respondent \$4,000 for representation in a series of Immigration and Naturalization Service (INS) deportation proceedings. During the first of the scheduled hearings, respondent appeared unprepared. After the second hearing, he failed to inform his client what transpired during the proceedings. At the final hearing, he failed both to make an appearance and to inform Mr. Wade of the hearing date, resulting in Mr. Wade's absence at the hearing as well. Ultimately, due to both respondent's and Mr. Wade's failure to appear, the INS issued an order of deportation against Mr. Wade.

In a second immigration matter, Francis Nkwo paid \$750 to respondent for representation in an effort to obtain legal residency status through the INS amnesty program. Respondent repeatedly failed to keep scheduled appointments with his client and was unreachable by telephone. For over one month, respondent's telephone was not in service.

A third client, Marie Beauvois, gave respondent \$500 for representation in a dissolution action. He failed to procure the pertinent information regarding his client's marriage, which was necessary to proceed with her action. Similarly, as in the Nkwo matter, he failed to keep scheduled appointments and, despite his client's desperate efforts to contact him by telephone for several months, he failed to return any of her telephone calls. Eventually, it became necessary for Ms. Beauvois to seek new counsel.

In the last of the four matters, Joshua Elniston paid a total of \$600 to respondent for representation in a workers' compensation claim. As in the above mentioned matters, despite his client's continued efforts to contact him at both his office and his residence, respondent was unavailable and unreachable to discuss the case. He also failed to pursue the claim diligently in his client's behalf.

Upon finding respondent guilty of misconduct in all four matters, the Supreme Court of Connecticut permanently disbarred him on May 19, 1992. The OAE requests that reciprocal discipline issue and that respondent be disbarred.

CONCLUSION AND RECOMMENDATION

Upon a review of the full record, the Board recommends that the OAE's motion be granted. The Board adopts the factual findings of the Connecticut Supreme Court. In re Pavilonis, 98 N.J. 36, 40 (1984); In re Tumini, 95 N.J. 18, 21 (1979); In re Kaufman, 81 N.J. 300, 302 (1979).

Reciprocal disciplinary proceedings in New Jersey are governed by R.1:20-7 (d), which directs that:

- (d) The Board shall recommend the imposition of the identical action or discipline unless the respondent demonstrates, or the Board finds on the face of the record upon which the discipline in another jurisdiction was predicated that it clearly appears that:
- (1) the disciplinary order of the foreign jurisdiction was not entered;
 - (2) the disciplinary order of the foreign jurisdiction does not apply to the respondent;
 - (3) the disciplinary order of the foreign jurisdiction does not remain in full force and effect as the result of appellate proceedings;
 - (4) the procedure followed in the foreign disciplinary matter was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or
 - (5) the misconduct established warrants substantially different discipline. [Emphasis added.]

In this instance, the record does not demonstrate any of the conditions set forth above to recommend the imposition of discipline different from that imposed in Connecticut. Traditionally, unless a good reason to the contrary exists, the

disciplinary action in New Jersey will ordinarily comport with that imposed in the other jurisdiction. In re Kaufman, supra, 81 N.J. at 303.

Indeed, in New Jersey, attorneys who have procured fees from clients and who have neglected to fulfill their obligations to provide services in behalf of their clients have customarily received either terms of suspension or disbarments. Terms of suspension have been imposed on attorneys who have engaged in similar misconduct to that of respondent's, for such violations as exhibiting a pattern of neglect, failure to communicate with clients, lack of diligence, and general lack of overall professional conduct. In re Turner, 120 N.J. 706 (1990); In re Templeton, 99 N.J. 365 (1985). In In re Goldstein, 97 N.J. 545 (1984), however, an attorney was disbarred due to multiple instances of misconduct related to client matters over a period of years. The Court found his pattern of misconduct indicative of his unwillingness to cope with the requirements of attorney practice. He failed to carry out contracts of employment with clients, failed to act competently, and misrepresented the status of client matters. Undeniably, respondent, in this instance, has shown a similar propensity to disregard the high standards of professionalism required of practicing attorneys.

Furthermore, in addition to his disbarment in Connecticut, respondent was disbarred in Indiana and, as noted above, received a five-year suspension in this jurisdiction based on a motion for reciprocal discipline. The Indiana Supreme Court disbarred

respondent for attempting to intimidate and improperly influence a judge of the Indiana Court of Appeals and members of that jurisdiction's Disciplinary Commission. He was also found guilty of filing and/or prosecuting lawsuits designed to harass and intimidate parties in connection with disciplinary grievances filed against him.

In view of the foregoing, the Board unanimously recommends that respondent be disbarred. One member did not participate.

The Board further recommends that respondent be required to reimburse the Ethics Financial Committee for administrative costs.

Dated: 5/17/93

By: 

Raymond R. Trombadore
Chair
Disciplinary Review Board