

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 01-086

IN THE MATTER OF
MITCHIL O. BECHET
AN ATTORNEY AT LAW

Decision

Argued: May 17, 2001

Decided: December 21, 2001

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

Respondent waived appearance for oral argument.

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

This matter was before us on a motion for reciprocal discipline filed by the Office of Attorney Ethics (“OAE”), pursuant to R.1:20-14, following an order and decision of the Supreme Court of New York, First Judicial Department, disbarring respondent.¹

¹ Respondent failed to notify the OAE of his disbarment, as required by R.1:20-14(a)(1). The New York Departmental Disciplinary Committee informed the OAE that respondent had appealed his disbarment to the State of New York, Court of Appeals. That court denied the appeal, on the ground that no substantial constitutional question had been directly involved.

Respondent was admitted to the New Jersey bar in 1989. He has no history of discipline.

Respondent was initially placed on temporary suspension in New York on July 15, 1999. The order and decision of temporary suspension set forth the basic facts underlying respondent's suspension:

In April 1997, respondent was retained by a refugee couple from Yugoslavia seeking political asylum and American and Canadian work authorization papers. The fact that the couple's small children were still in Yugoslavia highlighted the urgency of their situation. The clients delivered to respondent \$1,204 in application fees made payable to the Canadian Consulate General, and over the course of his representation they paid him legal fees totaling \$5,750. However, respondent never obtained the necessary papers for his clients. Indeed, he concealed from them the fact that two submissions of the asylum applications had been returned by the Immigration and Naturalization Service as incomplete. When they learned in March 1998 that the Canadian Consulate General had no record of ever receiving applications on their behalf for work authorization, they filed a formal complaint with petitioner Departmental Disciplinary Committee.

Respondent has not cooperated with petitioner's investigation. He was granted a last-minute adjournment of his deposition under subpoena, but later informed petitioner that he would not be honoring the subpoena. Instead, he wrote that he was in the process of 'wind[ing] down' his immigration practice, and offered petitioner his 'apology' for any 'appearance of impropriety' or disrespect. Respondent acknowledged that his conduct would probably lead to his suspension from practice; nevertheless, he has failed to respond to the instant petition.

The failure to appear before the committee in response to a subpoena evinces shocking disregard for the judicial system, and can only be interpreted as a deliberate and willful effort to impede the investigation. . . . Such failure to cooperate constitutes professional misconduct that threatens the public interest . . . , warranting immediate suspension from the practice of law. (Citations omitted).

After respondent was temporarily suspended, his lack of cooperation with the disciplinary committee continued. As a result, the New York Departmental Disciplinary Committee petitioned for respondent's disbarment, pursuant to 22 N.Y.C.R.R. 603.4(g)².

Respondent's disbarment was ordered on October 5, 2000. The decision detailed respondent's total lack of cooperation with the disciplinary authorities as follows:

In July 1999, respondent was suspended from practice for failure to cooperate with petitioner Departmental Disciplinary Committee's investigation into allegations of his neglect of immigration matters he was handling (259 AD2d 113), and the Court of Appeals has dismissed respondent's appeal (2000 NY LEXIS 1783). Since that time, respondent has failed to appear for scheduled hearings, prompting petitioner now to seek respondent's disbarment.

Respondent repeats that he justifiably ignored petitioner's 'unreasonable and unlawful' probe because it was racially motivated, it violated his constitutional right against self-incrimination in these 'quasi-criminal proceedings,' and his engagement in immigration counseling did not constitute practicing law in the first place. These arguments are without merit. This Court has repeatedly disciplined attorneys for neglect in connection with immigration matters (Matter of Evangelista, 233 AD2d 1; Matter of Singh, 195 AD2d 197; Matter of Denhoffer, 127 AD2d 230; Matter of Hunter, 120 AD2d 214).

Respondent defied an order of this Court, issued April 18 of this year, directing him to appear for a deposition in connection with this investigation. Petitioner served that order on respondent with a notice that failure to comply would result in renewal of the petition for disbarment, in accordance with 22 NYCRR 603.4(g). Defiance of that order warrants sanction, even aside from respondent's unconvincing challenge to petitioner's investigative authority. His opposition to petitioner's motion does not meet the regulatory requirement to 'appear[] or appl[y] in writing to the Committee or the Court for a hearing or reinstatement [within] six

² This section states as follows:

An application for suspension pursuant to Section 603.4(e)(1) may state that an attorney who is suspended and who has not appeared or applied in writing to the Committee or the Court for a hearing or reinstatement for six months from the date of the order of suspension may be disbarred. If an application does state the foregoing, and the respondent does not appear or apply in writing to the Committee or Court for a hearing or reinstatement within six months of the suspension date, the respondent may be disbarred without further notice.

months [of] the date of an order of suspension' (see, Matter of Chadi, 243 AD2d 78).

The OAE argued that, in New Jersey, an attorney found guilty of gross neglect (RPC 1.1(a)) and failure to cooperate with a disciplinary authority (RPC 8.1(b)) would not be suspended for seven years. The OAE, therefore, urged us to impose a three-month suspension, relying on In re Hanlon, 152 N.J. 2 (1997) (three-month suspension for lack of diligence in a personal injury matter, failure to communicate with the client, misrepresenting the status of the matter by claiming to be in the process of negotiations when the case had already been dismissed and continually disregarding the district ethics committee's request for information); In re Jennings, 147 N.J. 276 (1997) (three-month suspension where attorney abandoned a client in a matrimonial matter, closed his office and disappeared and failed to cooperate with the disciplinary authorities); and In re Healy, 143 N.J. 585 (1996) (three-month suspension where attorney grossly neglected an estate matter, failed to respond to the New Jersey Transfer and Inheritance Tax Bureau and failed to cooperate with disciplinary authorities).

* * *

Upon a de novo review of the full record, we determined to grant the OAE's motion for reciprocal discipline. Pursuant to R.1:20-14(a)(5) (another jurisdiction's finding of misconduct shall establish conclusively the facts upon which the Board rests

for purposes of a disciplinary proceeding), we adopt the findings of the Appellate Division of the Supreme Court of New York.

Reciprocal disciplinary proceedings in New Jersey are governed by R.1:20-14(a) which directs that

[t]he 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 on which the discipline in another jurisdiction was predicated that it clearly appears that:

- (A) the disciplinary or disability order of the foreign jurisdiction was not entered;
- (B) the disciplinary or disability order of the foreign jurisdiction does not apply to the respondent;
- (C) the disciplinary or disability order of the foreign jurisdiction does not remain in full force and effect as the result of appellate proceedings;
- (D) 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
- (E) the misconduct established warrants substantially different discipline.

We agree with the OAE that section (E) is applicable here, that is, that respondent's misconduct warrants substantially different discipline in New Jersey. An attorney disbarred in New York may seek reinstatement seven years after the effective date of disbarment. See 22 N.Y.C.R. 603.14. In New Jersey, the appropriate discipline for gross neglect of a matter and failure to cooperate with a disciplinary authority is not a seven-year suspension (equivalent to disbarment in New York). Discipline in matters involving similar misconduct typically ranges from an admonition to a short-term suspension, depending on the nature of the misconduct and the mitigating factors present.

See In the Matter of David R. Bennett, Docket No. DRB 98-371 (November 24, 1998) (admonition where, after receiving a pro bono assignment, attorney failed to act with reasonable diligence, failed to cooperate with the district ethics committee in its investigation of a grievance and grossly neglected a second matter by failing to diligently pursue a land subdivision); In the Matter of George B. Crisafulli, Docket No. DRB 96-040 (May 6, 1996) (admonition where attorney grossly neglected a matter, failed to act with diligence, failed to keep the client reasonably informed about the matter and failed to cooperate with disciplinary authorities); In re Gruber, 152 N.J. 451 (1998) (reprimand for gross neglect, lack of diligence, failure to communicate with client and failure to cooperate with disciplinary authorities); In re Hanlon, supra, 152 N.J. 2 (three-month suspension) and In re Healy, supra, 143 N.J. 585 (three-month suspension).

Here, respondent's conduct was egregious. He inflicted serious injury on a couple seeking political asylum and work authorization papers and then failed to obtain the documents, despite having collected a \$5,750 legal fee. In addition, he concealed from his clients the fact that their applications for asylum had twice been returned as incomplete. Moreover, it was not until an entire year had almost elapsed that the couple learned that the consulate had no record of receiving their applications for work authorization. To compound the seriousness of respondent's inaction, time was of the essence because the couple's small children were still in Yugoslavia.

Based on the foregoing factors, we unanimously determined to impose a three-month suspension. One member did not participate.

We further determined to require respondent to reimburse the Disciplinary Oversight Committee for administrative costs.

By: 

ROCKY L. PETERSON
Chair
Disciplinary Review Board

SUPREME COURT OF NEW JERSEY

DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Mitchil O. Bechet
Docket No. DRB 01-086

Decided: December 21, 2001

Disposition: three-month suspension

Members	Disbar	Three-month suspension	Reprimand	Admonition	Dismiss	Disqualified	Did not participate
Peterson		X					
Maudsley		X					
Boylan							X
Brody		X					
Lolla		X					
O'Shaughnessy		X					
Pashman		X					
Schwartz		X					
Wissinger		X					
Total:		8					1

Robyn M. Hill 1/09/02
Robyn M. Hill
Chief Counsel