

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket Nos. DRB 02-030 and 02-043

IN THE MATTER OF :
:
STEVE HALLETT :
:
AN ATTORNEY AT LAW :

Decision

Argued: April 18, 2002

Decided: July 24, 2002

Daniel E. Chase appeared on behalf of the District VII Ethics Committee in Docket No. DRB 02-030.

E. Elizabeth Sweetser appeared on behalf of the District VII Ethics Committee in Docket No. DRB 02-043.

Respondent's counsel waived appearance for oral argument.

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

These matters were before us based on two separate recommendations for discipline filed by the District VII Ethics Committee ("DEC"). In the matter under DRB 02-030, the only charge was respondent's alleged violation of R.1:20-3(g)(3), more properly RPC 8.1(b) (failure to cooperate with disciplinary authorities), based on his failure to answer the DEC's numerous requests for information about the grievance. The

underlying matter under scrutiny by the DEC (Williams) was administratively dismissed after the grievant refused to cooperate with the investigation.

In the matter under DRB 02-043, respondent was charged with, and admitted to, violations of RPC 1.1(a) (gross neglect) and RPC 1.3 (lack of diligence). The only issue before the DEC was respondent's offer of mitigating circumstances.

Respondent was admitted to the New Jersey bar in 1991. He maintains an office for the practice of law in Trenton, Mercer County. He was reprimanded on June 5, 2001 for failing to communicate with the client, failing to provide a written fee agreement and filing a frivolous suit. He was also required to complete courses in municipal court practice and in law office management. In re Hallett, 167 N.J. 610 (2001).

Docket No. DRB 02-030 (District Docket No. VII-00-31E)

The facts are not disputed. By letter dated June 19, 2000 Alan G. Frank, Jr., the DEC secretary, notified respondent that Alberta Williams had filed a grievance against him.¹ Frank's letter requested a reply to the grievance within ten days. On July 25, 2000, after respondent failed to comply with that request, Frank sent him a follow-up letter, asking for a reply within ten days. No answer was forthcoming.

On August 15, 2000 the DEC investigator, Robert J. Durst, II, sent a letter to respondent, requesting a reply and advising him that the failure to comply with his request could be considered a separate violation of the Rules of Professional Conduct.

¹ The grievance alleged misconduct in connection with respondent's preparation of a will for Williams' father and his handling of the estate.

Respondent ignored that request. On August 29, 2000 Durst sent a second letter to respondent, stating that it was the fourth correspondence from the DEC and warning that, if respondent did not reply within ten days, he would recommend the filing of a separate complaint against respondent for failure to cooperate with the DEC.

Respondent replied to Durst by letter dated September 20, 2000. He apologized for his delay in submitting a response. Although respondent's letter offered some information, it did not address the bulk of the allegations in Williams' grievance. Thereafter, on November 8, 2000, Daniel E. Chase sent a letter to respondent, informing him that he had taken over the investigation of the case. The letter advised respondent that, although he had provided a copy of the will in question, he had not addressed Durst's requests for specific information. Respondent did not supply the requested information. On November 27, 2000 Chase sent another letter to respondent, asking for detailed information. Again, respondent failed to comply with Chase's request.

In June 2001 the DEC filed a complaint against respondent for failure to cooperate with the investigation of the grievance. Although the complaint was limited to the charge of a violation of RPC 8.1(b), it provided some background information about the Williams grievance. Respondent filed an answer denying any wrongdoing and stating that, at the time of the DEC investigation, he was suffering from hypertension and depression. Respondent subsequently retained counsel, who provided a reply to the DEC, essentially denying any misconduct in connection with the Williams matter.

At the DEC hearing, respondent admitted that he did not fully cooperate with the DEC investigation of Williams' grievance prior to the filing of the formal ethics

complaint. Respondent's testimony was limited to mitigation. According to respondent, there were several factors that interfered with his ability to reply to the committee's requests, including his separation from his wife of thirty years, which led to a suicide attempt by one of his children; his own abuse of cocaine and alcohol; financial difficulties, presumably caused by the breakup of his marriage and the need to support his thirteen children; difficulties with his office staff; another pending ethics matter; and a "mental block" arising from the above factors, which prevented him from replying to the DEC.

Respondent testified about the steps he has taken to deal with his problems. As noted above, he was required to complete courses on office management and municipal court practice. He contacted the Lawyers' Assistance Program and completed outpatient substance abuse treatment at New Hope Foundation, Inc. He is also continuing to undergo psychological counseling and attends AA and NA meetings regularly.

The DEC left the record open after the hearing to obtain a report from respondent's treating psychologist. Essentially, the report stated that respondent had been in therapy since July 7, 2001 and he is suffering from "[m]ild, Depressive, Bi-Polar Disorder, without psychotic Symptomatology." The report stated further that respondent's prognosis is good and that he must continue his psychotherapy sessions. In addition, respondent had agreed to undergo monthly drug-screening.

Both the presenter and respondent's counsel urged the DEC to recommend a "private reprimand."

* * *

The DEC concluded that respondent violated RPC 8.1(b) and R.1:20-3(g)(3) by failing to reply to requests for information by disciplinary authorities. The DEC found it difficult to understand how and why with all that he claimed was going on in his life that he was able to continue to practice law and to appear in Court yet could not respond to relatively simple information requests by the Committee.

In light of all the circumstances, including respondent's prior discipline, the DEC recommended that he receive a reprimand. The DEC recognized, in mitigation, his efforts to deal with his problems and his belated reply to the DEC. The DEC further recommended that respondent provide proof of compliance with his therapist's recommendations, including psychotherapy and drug-screening.

Docket No. DRB 02-043 (District Docket No. VII-039)

Respondent admitted the allegations of the complaint in this matter. Specifically, in May 1995 Robert Deys, the grievant, retained respondent to represent him in a personal injury matter arising out of an April 15, 1995 automobile accident. Twenty months later, on January 8, 1997, respondent contacted Allstate Insurance Company ("Allstate") to inquire whether the person allegedly responsible for the accident, Micaiah Burk, was insured by Allstate². By a second letter on that date to Allstate, respondent referred to Burk as its insured, explained Deys' injuries and demanded \$70,000 to settle Deys' claim.

² The record is silent about what transpired between May 1995 and January 1997.

By letter dated March 20, 1997 Allstate requested medical reports and other documents to enable it to process the claim. On March 25, 1997 respondent forwarded Allstate's request to Deys and asked him to provide the requested information.

On April 14, 1997 respondent filed a complaint against Burk. By letter dated July 21, 1997 Allstate requested that respondent forward proof of service on Burk. Respondent never sent the complaint out for service, however.

On January 22, 1998 the complaint was dismissed for lack of prosecution. On April 14, 1998 respondent filed a motion to reinstate the complaint. His certification stated that he had not received the notice of motion for dismissal, due to the relocation of his office and a problem with his mail. For unknown reasons, the court did not act on respondent's motion. More than one year later, June 1999, respondent filed a second motion to reinstate the complaint. Respondent's certification stated that, due to the move of his office, problems with his mail, staff changes and "secretarial inadvertence," the complaint had not been served. The complaint was reinstated by order dated July 9, 1999. Thereafter, respondent never served the complaint on Burk or made substituted service on Allstate. As a result, the complaint was again dismissed.

On October 14, 1999 respondent filed another motion to reinstate the complaint. His certification stated that "[d]ue to staff changes the complaint was not served due to secretarial inadvertence." Respondent's motion was denied in December 1999. He took no further action in Deys' behalf. It was not until September 15, 2001 that he contacted

Deys about the dismissal and requested that Deys' new attorney get in touch with him about a settlement.³

As noted above, respondent admitted his misconduct in this matter. His testimony before the DEC was confined to mitigation and was quite similar to his testimony in Williams. He added here that, in 1998, he attempted to refer out his tort cases to other attorneys and that he no longer represents clients in those cases.

In the presenter's letter-memorandum to the DEC, she argued that respondent's substance abuse did not excuse or mitigate his conduct because he did not meet the standard enunciated by the Court in In re Jacob, 95 N.J. 132 (1984). In the presenter's view, respondent did not suffer a loss of competency, comprehension or free will as a result of his substance abuse. Rather, he was able to maintain a solo practice of law and represent clients in a variety of matters. The presenter argued that, in light of respondent's disciplinary history, a "public reprimand" is the appropriate sanction.

Respondent's counsel conceded that, in light of Jacob, respondent's substance abuse did not mitigate or excuse his misconduct and agreed that a "public reprimand" is appropriate discipline.

Finding violations of RPC 1.1(a) and RPC 1.3, the DEC recommended a "public reprimand."

³ It appears from respondent's letter and testimony that Deys already knew about the dismissal and had new counsel.

* * *

Upon a de novo review of the record, we are satisfied that the DEC's conclusion that respondent's conduct was unethical is supported by clear and convincing evidence.

Admittedly, respondent failed to cooperate with the DEC's investigation of the Williams grievance, in violation of RPC 8.1(b).

In the Deys matter, respondent demonstrated gross neglect, in violation of RPC 1.1(a), and lack of diligence, in violation of RPC 1.3, in his handling of his client's claim. Although he originally pursued the matter in Deys' behalf, he failed to have the complaint served on the defendant, leading to its dismissal on two occasions.

As to mitigating factors, both the presenter and respondent's counsel agreed that respondent did not meet the standard set out in Jacob, supra, 95 N.J. 132 (1984). In Jacob, the Court found that the attorney had not "suffered a loss of competency, comprehension or will of a magnitude that could excuse egregious misconduct that was clearly knowing, volitional and purposeful." The presenter argued that we should reject respondent's mitigating factors because he did not satisfy that standard. Respondent, however, did not ask that his conduct be excused or that the allegations be dismissed because of his psychological problems. Rather, he mentioned his difficulties to mitigate and explain his misconduct. The Jacob standard is too high a benchmark for this case, where only mitigating factors are offered not in defense of the unethical conduct, but in mitigation of the discipline to be imposed.

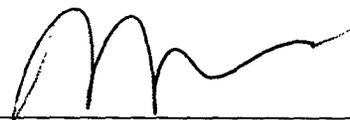
Nevertheless, although we sympathize with respondent's problems, as the DEC noted he was able to maintain his solo practice, make court appearances and presumably competently represent his clients.

In sum, respondent demonstrated gross neglect and lack of diligence in one matter and failure to cooperate with the DEC in the other. For the totality of his conduct we unanimously determined to impose a reprimand. See, e.g., In re Caruso, 153 N.J. 30 (1998) (reprimand where the attorney demonstrated gross neglect, lack of diligence and failure to expedite litigation in a municipal court matter and also failed to cooperate with the DEC; the attorney had a prior reprimand) and In re Gruber 152 N.J. 451 (1998) (reprimand imposed for gross negligence, lack of diligence and failure to communicate in a foreclosure proceeding; in addition, the attorney did not cooperate with the OAE).

We also determined to require respondent to continue his psychotherapy sessions, as well as his attendance at NA and AA meetings. In addition, he is to undergo random drug-screening, supervised by the OAE.

One member recused himself.

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



Mary J. Maudsley
Vice Chair
Disciplinary Review Board

**SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD**

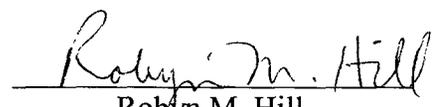
In the Matters of Steve Hallett
Docket Nos. DRB 02-030 and DRB 02-043

Argued: April 18, 2002

Decided: July 24, 2002

Disposition: Reprimand

<i>Members</i>	<i>Disbar</i>	<i>Suspension</i>	<i>Reprimand</i>	<i>Admonition</i>	<i>Dismiss</i>	<i>Disqualified</i>	<i>Did not participate</i>
<i>Peterson</i>						X	
<i>Maudsley</i>			X				
<i>Boylan</i>			X				
<i>Brody</i>			X				
<i>Lolla</i>			X				
<i>O'Shaughnessy</i>			X				
<i>Pashman</i>			X				
<i>Schwartz</i>			X				
<i>Wissinger</i>			X				
Total:			8			1	


 Robyn M. Hill
 Chief Counsel

8/1/02