

SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 04-354  
District Docket No. VA-03-045E

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IN THE MATTER OF  
PATRICIA L. JOHNSON  
AN ATTORNEY AT LAW

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Decision  
Default [Rule 1:20-4(f)]

Decided: December 13, 2004

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

This matter was before us on a certification of default  
filed by the District VA Ethics Committee ("DEC"), pursuant to  
Rule 1:20-4(f).

Respondent was admitted to the New Jersey bar in 1990.  
Although she has no disciplinary history, on April 26, 2004, she

was temporarily suspended for failure to comply with a fee arbitration determination. In re Johnson, 179 N.J. 376 (2004).

On June 1, 2004, the DEC sent a complaint by certified and regular mail to respondent's post office box in Bronx, New York. The certified mail was returned marked "unclaimed;" the regular mail was not returned. On June 18, 2004, respondent faxed a letter to the DEC vice-chair, acknowledging receipt of the complaint, requesting assignment of counsel, and asking for an extension of time to file an answer. On the same day, June 18, 2004, the DEC secretary instructed respondent that applications for assignment of counsel should be made to the assignment judge of Essex County.

On August 16, 2004, the DEC sent a second letter by certified and regular mail, advising respondent that, unless she filed an answer, the allegations of the complaint would be deemed admitted and the record in the matter would be certified directly to us for the imposition of discipline. The letter further informed respondent that the complaint was deemed amended to include a charge of failure to cooperate with a disciplinary authority, based on her failure to answer the complaint. Neither the certified nor the regular mail was returned.

Respondent did not file an answer to the complaint. The DEC certified the record directly to us for the imposition of discipline, pursuant to Rule 1:20-4(f).

In April 1999, Mr. and Mrs. Ronald McEwen<sup>1</sup> retained respondent to represent their son in a federal appeal or a habeas corpus proceeding. The McEwens' son had been charged with a federal crime and was incarcerated in or near Virginia. The McEwens paid respondent a fee of \$10,000. Although the retainer agreement provided that respondent was to file a federal writ of habeas corpus for the \$10,000 fee, the retainer agreement included in the record was missing pages and contained no signatures.

Respondent went to Washington, D.C., twice with Mrs. McEwen, at Mrs. McEwen's expense, to visit the McEwens' son. After these trips, respondent scheduled, and then canceled, appointments to see the McEwens.

In December 2000, Mrs. McEwen confronted respondent to determine why she had not performed services in her son's case for more than a year. Although respondent told Mrs. McEwen that she had communicated with the McEwens' son, the son reported

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<sup>1</sup> The McEwens' name also appears as "McEwan" in the record, which is silent about Mrs. McEwen's first name.

that respondent had never contacted him. Thereafter, the McEwens had no further contact with respondent.

The complaint charged respondent with violating RPC 1.1(a) (gross neglect), RPC 1.3 (lack of diligence), RPC 1.4(a) and (b) (failure to communicate with a client and failure to explain a matter to the extent necessary for the client to make decisions about the representation), RPC 3.2 (failure to expedite litigation), RPC 8.1(b) (failure to cooperate with disciplinary authorities), and RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation).

Service of process was properly made. The complaint contains sufficient facts to support findings of the violations charged in the complaint. Because of respondent's failure to file an answer, the allegations of the complaint are deemed admitted. Rule 1:20-4(f).

The record demonstrates that respondent mishandled the McEwens' case. After agreeing to represent their son in a federal criminal matter, respondent failed to perform legal services in his behalf, except to meet with him on two occasions. We find that respondent's failure to take any action in the case constituted gross neglect and a lack of diligence, violations of RPC 1.1(a) and RPC 1.3. Her failure to keep the appointments that

the McEwens had made and to inform them of the status of the case violated RPC 1.4(a). Her failure to explain the circumstances of the matter, in detail, to permit the McEwens to make informed decisions about the representation violated RPC 1.4(b). Respondent also failed to advance the case, a violation of RPC 3.2. In addition, by not filing an answer to the ethics complaint, respondent failed to cooperate with disciplinary authorities, a violation of RPC 8.1(b). Finally, respondent's misrepresentation to the McEwens that she had communicated with their son violated RPC 8.4(c).

In sum, respondent violated RPC 1.1(a), RPC 1.3, RPC 1.4(a) and (b), RPC 3.2, RPC 8.1(b), and RPC 8.4(c).

The remaining issue is the quantum of discipline to be imposed. In default cases, where the discipline is enhanced because of the attorney's failure to file an answer, similar violations usually result in the imposition of a reprimand or a short-term suspension. See, e.g., In re Salvaggio, 178 N.J. 20 (2003) (reprimand for an attorney who accepted a retainer from a client to resolve a matter and then grossly neglected the case, failed to communicate with the client, and made misrepresentations to the client about the status of the case); In re O'Connor, 174 N.J. 298 (2002) (reprimand where the

attorney misrepresented to the client that he had filed a complaint and that the case was proceeding smoothly, and failed to reply to the client's requests for information); In re Handfuss, 169 N.J. 591 (2001) (three-month suspension for gross neglect, lack of diligence, failure to communicate with a client, failure to promptly deliver property to a client, failure to turn over a file and provide an accounting, failure to cooperate with disciplinary authorities, and misrepresentation; attorney had a prior reprimand); In re Militano, 166 N.J. 367 (2001) (reprimand for failure to advise a client that the requested assistance was not permitted by the Rules of Professional Conduct or other law and for violating RPC 8.4(c) by assisting a client in deceiving the client's mother about a municipal court matter).

In mitigation, we consider that respondent has no disciplinary history, other than the temporary suspension. In our view, the absence of a disciplinary history militates against a suspension. Nevertheless, a reprimand does not adequately address the seriousness of respondent's misconduct. We, thus, determine that a censure is the appropriate level of discipline in this matter. Members Barbara F. Schwartz, Ruth J.

Lolla and Spencer V. Wissinger, III voted to impose a three-month suspension. Chair Mary J. Maudsley did not participate.

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

Disciplinary Review Board  
William J. O'Shaugnessy, Vice Chair

By: Julianne K. DeCore  
Julianne K. DeCore  
Chief Counsel

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SUPREME COURT OF NEW JERSEY  
DISCIPLINARY REVIEW BOARD  
VOTING RECORD

In the Matter of Patricia L. Johnson  
Docket No. DRB 04-354

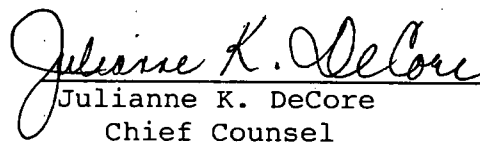
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Decided: December 13, 2004

Disposition: Censure

Members	Censure	Three-month Suspension	Admonition	Disqualified	Did not participate
Maudsley					X
O'Shaughnessy	X				
Boylan	X				
Holmes	X				
Lolla		X			
Pashman	X				
Schwartz		X			
Stanton	X				
Wissinger		X			
Total:	5	3			1

  
Julianne K. DeCore  
Chief Counsel