

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 11-455
District Docket No. VB-2010-0024E

IN THE MATTER OF
ERIC S. LENTZ
AN ATTORNEY AT LAW

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Decision

Decided: June 7, 2012

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

This matter was before us on a certification of the record filed by the District VB Ethics Committee (DEC), pursuant to R. 1:20-4(f)(2). The complaint charged respondent with violating RPC 1.3 (lack of diligence), RPC 1.4(b) (failure to comply with a client's reasonable requests for information), RPC 1.16(a)(2) (failure to withdraw from representation when the attorney is unable to continue due to mental or physical impairment), and RPC 8.1(b) (failure to cooperate with disciplinary authorities).

We determine to impose a reprimand.

Respondent was admitted to the New Jersey bar in 1976. He has no history of final discipline. However, he has been temporarily suspended, since December 31, 2010, for failing to comply with a fee arbitration committee determination requiring him to refund \$20,000 to his client and pay a \$500 sanction to the Disciplinary Oversight Committee. In re Lentz, 204 N.J. 568 (2010).

Respondent has been ineligible to practice law in New Jersey, since September 28, 2009, for failure to pay the annual assessment to the New Jersey Lawyers' Fund for Client Protection.

In August 2011, the DEC sent a copy of the complaint, by certified and regular mail, to respondent's home office address, 181 Parsonage Hill Road, Short Hills, New Jersey 07078. The certified mail receipt indicates delivery. The signature is not legible, but appears to read "ELe." The regular mail was not returned.

In October 2011, the DEC sent a second letter to the above address, by regular and certified mail, advising respondent that, if he did not file an answer to the complaint within five days, the allegations of the complaint would be deemed admitted and the record would be certified to us for the imposition of

discipline. The letter also served to amend the complaint to charge respondent with violating RPC 8.1(b) for failing to file an answer.

The certified mail receipt was returned, indicating delivery. Here, too, the signature is illegible, but "Eric Lz" is printed underneath the signature. The regular mail was not returned. Respondent did not file an answer to the complaint.

The facts are as follows:

In September 2010, Jesse Spann filed an ethics grievance alleging that respondent, during the course of the representation, had failed to appear for court dates, eventually refused to reply to Spann's calls, and told Spann that he was on medication that impaired his ability to handle Spann's case.¹ The complaint does not state when respondent was retained.

In November 2010, the DEC investigator wrote to respondent, requesting his reply to Spann's grievance. Respondent did not comply with the investigator's request. In December 2010, the investigator again requested that respondent reply to the

¹ The nature of the underlying case is unclear. On Spann's grievance form, he indicated negligence (personal injury), workers' compensation, and malpractice.

grievance. Although the details are unclear, it appears that there was some communication between respondent and the investigator.

In February 2011, at respondent's request, a third letter was sent to him providing a duplicate of the package sent to him in November 2010, and asking that he reply to the grievance within two weeks. Respondent did not do so.

Between January and May 2011, respondent and the DEC investigator communicated about respondent's health issues. According to respondent, his health was responsible for his inability to effectively represent his own interests in the ethics matter.

In June 2011, the investigator sent a letter and an email to respondent, asking for documentation from his physician about his illness and its ramifications, proof that he was not practicing law, and any other information relevant to the investigation. The formal ethics complaint summarized respondent's reply as follows:

- a. He was recently released from the Kessler Institute which followed right hip replacement surgery.
- b. His wife, whose condition is poor from severe secondary progressive MS, was

hospitalized immediately prior to his recent hip surgery.

c. During his representation of Grievant, he underwent a left hip replacement, and was also involved in an auto accident in which he sustained multiple herniated discs resulting in the need to take narcotic pain relievers.

d. His health issues have caused severe depression, continuation of the narcotic regimen for another six months, the need for physical therapy and treatment for depression.

e. He has not had a legal practice for over 2½ years, and that he requested a Board Certified workers compensation attorney to file for appointment as a trustee for his compensation practice.

f. He would make every effort to respond with the requested documentation as detailed in the June 8, 2011 letter of [the DEC investigator].

[C19.]²

Respondent did not reply further.

The facts recited in the complaint support the charges of unethical conduct. Respondent's failure to file an answer is deemed an admission that the allegations of the complaint are

² C refers to the formal ethics complaint.

true and that they provide a sufficient basis for the imposition of discipline. R. 1:20-4(f)(1).

With regard to one allegation, however, we did not find a violation of the RPCs. The complaint alleged that respondent "[d]isrespected Spann on the telephone and in person when asked about the case." If proven, this would be a violation of RPC 3.2 ("A lawyer . . . shall treat with courtesy and consideration all persons involved in the legal process.") Respondent was not charged with violating RPC 3.2. Moreover, Spann's claim that respondent "disrespected" him is vague and subject to many interpretations. We, thus, do not find respondent guilty of any misconduct on the basis of this particular claim.

Generally, an admonition is the appropriate degree of discipline for lack of diligence and failure to communicate with clients. See, e.g., In the Matter of James C. Richardson, DRB 06-010 (February 23, 2006) (attorney lacked diligence in an estate matter and did not reply to the beneficiaries' requests for information about the estate, violations of RPC 1.3 and RPC 1.4(a)); In the Matter of Anthony R. Atwell, DRB 05-023 (February 22, 2005) (attorney did not disclose to the client that the file had been lost, canceled several appointments with the client for allegedly being unavailable or in court when, in

fact, the reason for the cancellations was his inability to find the file, and then took more than two years to attempt to reconstruct the lost file; violations of RPC 1.4(a) and RPC 1.3 found); and In the Matter of John F. Coffey, DRB 04-419 (January 21, 2005) (attorney did not file a bankruptcy petition until nine months after being retained and did not keep the client informed of the status of the case; only after the client contacted the court did she learn that the petition had not been filed; the attorney violated RPC 1.3 and RPC 1.4(a)).

Here, in addition to his lack of diligence and failure to communicate with Spann, respondent failed to withdraw from the representation when his health problems materially impaired his ability to properly represent Spann. An attorney who committed the same violations as respondent received a reprimand. See In re Carmen, 201 N.J. 141 (2010) (for a period of two years, attorney failed to communicate with the clients in a breach-of-contract action and failed to diligently pursue it; aggravating factors were the attorney's failure to withdraw from the representation when his physical condition materially impaired his ability to properly represent the clients and a prior private reprimand for conflict of interest). Although, unlike attorney Carmen, respondent has no history of final discipline,

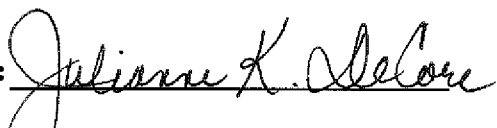
his failure to answer the complaint and allowing this matter to proceed as a default operates as a factor warranting a reprimand, as in Carmen.

Vice-Chair Frost and member Wissinger would have imposed an admonition. Member Baugh did not participate.

We further determine to require respondent, within ninety days of the date of this decision, to submit proof of fitness to the Office of Attorney Ethics, as attested by a health practitioner approved by that office.

We further determine to require respondent to reimburse the Disciplinary Oversight Committee for administrative costs and actual expenses incurred in the prosecution of this matter, as provided in R. 1:20-17.

Disciplinary Review Board
Louis Pashman, Chair

By: 
Julianne K. DeCore
Chief Counsel

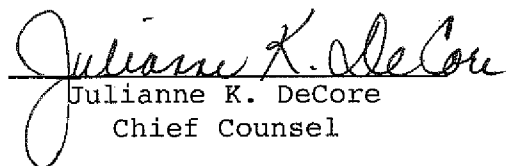
SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Eric S. Lentz
Docket No. DRB 11-455

Decided: June 7, 2012

Disposition: Reprimand

<i>Members</i>	Disbar	Suspension	Reprimand	Admonition	Disqualified	Did not participate
Pashman			X			
Frost				X		
Baugh						X
Clark			X			
Doremus			X			
Gallipoli			X			
Wissinger				X		
Yamner			X			
Zmirich			X			
Total:			6	2		1


Julianne K. DeCore
Chief Counsel