

Book

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 93-251

IN THE MATTER OF :
: ANGELA M. BRAY, :
: AN ATTORNEY AT LAW :
:

Decision and Recommendation
of the
Disciplinary Review Board

Argued: October 20, 1993
Decided: January 11, 1994

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

Respondent appeared pro se.

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

This matter was before the Board on a Motion for Reciprocal Discipline filed by the Office of Attorney Ethics pursuant to R. 1:20-7(b), based upon respondent's disbarment in the State of New York on March 29, 1993. Respondent's disbarment stemmed from a default judgment entered against her by the Grievance Committee for the Ninth Judicial District as a result of respondent's failure to file an answer to the Grievance Committee's Petition (formal ethics complaint), charging her with gross neglect and failure to communicate in the Alan Carter matter, failure to cooperate with the Grievance Committee and failure to re-register as an attorney with the Office of Court Administration in 1992.

More specifically, after the filing of the Carter grievance

against respondent, charging her with gross neglect for allowing a complaint to be dismissed for lack of prosecution and with failure to communicate with her client, the Grievance Committee sent three letters to respondent, enclosing a copy of the grievance and requesting a reply within ten days. In addition, on April 10, 1992, the Grievance Committee issued a sua sponte complaint for respondent's failure to re-register as an attorney with the Office of Court Administration in 1992. Respondent failed to reply to the three letters sent by the Grievance Committee and to answer the sua sponte complaint. Thereafter, on July 17, 1992, the Grievance Committee filed an Order to Show Cause seeking respondent's temporary suspension and an authorization to file a disciplinary petition against respondent. On August 12, 1992, respondent filed an Answering Affirmation in opposition to the Order to Show Cause. On November 12, 1992, the Supreme Court of the State of New York, Appellate Division, Second Judicial Department denied the Motion for Temporary Suspension, but authorized the Grievance Committee to institute disciplinary proceedings against respondent based on her failure to answer the Carter grievance and the sua sponte complaint.

When respondent did not file an answer to the Grievance Committee's Petition within ten days, the Committee filed a motion for a default judgment against respondent. Respondent did not respond to that motion. Thereafter, on March 29, 1993, the Appellate Division issued an order disbaring respondent. That order stated as follows:

The charges [of neglect of a legal matter, failure to inform a client of the status of a legal matter, failure to cooperate with the Grievance Committee, and failure to register as an attorney], if established, would require the imposition of a disciplinary sanction against the respondent. Since the respondent has chosen not to appear or answer in this proceeding, the charges must be deemed established. The petitioner's motion to hold the respondent in default and impose discipline is, therefore, granted. Accordingly, the respondent is disbarred and her name is stricken from the role of attorneys and counselors-at-law, effective immediately.

[Exhibit G-2 to Exhibit I of the Office of Attorney Ethics'Motion for Reciprocal Discipline].

Following respondent's disbarment in New York, the Office of Attorney Ethics filed the within Motion for Reciprocal Discipline. Acknowledging that the ethics offenses with which respondent was charged in New York would not result in disbarment in New Jersey, the Office of Attorney Ethics requested that the Board recommend to the Court that respondent be indefinitely suspended from the practice of law in New Jersey until reinstated in New York.

CONCLUSION AND RECOMMENDATION

Upon a review of the full record, the Board recommends that the Office of Attorney Ethics' motion be granted and that respondent be indefinitely suspended until such time as she is reinstated in New York. As of the date of the Board hearing, October 20, 1993, respondent had not filed a motion to vacate and set aside the Appellate Division's decision disbarring her in New York.

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

* * * 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 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.

The Board's review of the record does not disclose any circumstances that would fall within the ambit of sub-paragraphs one through four. In addition, it is clear that a New Jersey attorney found guilty of gross neglect, failure to communicate and failure to cooperate with the disciplinary authorities would not receive a seven-year suspension, the equivalent of disbarment in New York. Nevertheless, the above misconduct has resulted in the imposition of public discipline in New Jersey. See, e.g., In re Williams, 115 N.J. 667 (1989) (attorney was publicly reprimanded for gross neglect and failure to communicate in one matter, and lack of cooperation with the disciplinary system) and In re Beck, 127 N.J. 391 (1992) (attorney was suspended for three months for failure to cooperate in a matter involving three disciplinary complaints). Inasmuch as an attorney disbarred by default in New

York may apply to reopen the matter prior to the expiration of the seven-year period of disbarment, the Board agrees with the Office of Attorney Ethics' position that respondent should be indefinitely suspended in New Jersey until reinstated in New York. The Board unanimously so recommends. Three members did not participate.

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

Dated: _____

11/11/1993

By: _____



Raymond R. Trombadore
Chair
Disciplinary Review Board