

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 97-087

: IN THE MATTER OF :
: :
: JEFFREY A. FOUSHEE :
: :
: AN ATTORNEY AT LAW :

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

Decided: February 17, 1998

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

Pursuant to R.1:20-4(f)(1), the District VB Ethics Committee ("DEC") certified the record in this matter directly to the Board for the imposition of discipline, following respondent's failure to file an answer to the formal ethics complaint. Service of the complaint was attempted by certified and regular mail at respondent's home address, 13 Elberta Road, Maplewood, New Jersey 07040, on October 18, 1996. The certified mail was returned as "unclaimed" and a new address was listed on the envelope. A second attempt was made by certified and regular mail at the new address, 22 Wayne Ave., East Orange, New Jersey 07018, on December 18, 1996. The certified mail was again returned marked "unclaimed." According to the DEC's certification, there is no indication that the regular mail was returned in either case. Finally, a letter was sent by both certified and regular mail to respondent, advising him that his failure to file an answer to the complaint would result in treating the allegations as admitted and in certifying the record directly to the Board for the imposition of discipline. Neither the certified return receipt card nor the regular mail was returned.

Respondent was admitted to the New Jersey bar in 1988. He was temporarily suspended by Order of the Supreme Court dated March 6, 1996. He remains suspended to date. Respondent was also suspended for three years on June 3, 1997 for misconduct in four separate cases, which included gross neglect, failure to communicate, failure to execute a written fee agreement and failure to cooperate with the disciplinary system.

The formal complaint charged respondent with violations of RPC 1.1(a) (gross neglect), RPC 1.3 (lack of diligence), RPC 1.4(a) (failure to communicate) and RPC 8.1(b) (failure to cooperate with the disciplinary authorities).

According to the complaint, sometime prior to June 1993 respondent was retained by Adrienne Dickens to represent her daughter, Kecia Dickens, in a personal injury matter. Respondent filed the complaint on June 14, 1993. However, the case was dismissed on September 25, 1995 for respondent's failure to appear for trial. Furthermore, respondent failed to inform Dickens of the trial date, the subsequent dismissal or his current location. Dickens attempted to contact respondent on numerous occasions, to no avail. She was unaware of the case's dismissal until an ethics investigator so informed her. Finally, respondent failed to respond to requests for information from both the DEC and the Office of Attorney Ethics.

* * *

Following a de novo review of the record, the Board was satisfied that service was properly made by regular mail and deemed the allegations contained in the complaint admitted. R. 1:20-4(f)(1). The record contains sufficient evidence of respondent's unethical conduct. Respondent

allowed the case to proceed apace until the time of trial. Thereafter, he failed to attend the trial, resulting in the dismissal of the case. He further failed to adequately inform his client of the status of the case. Respondent also failed to advise his client of his whereabouts.

This leaves only the issue of appropriate discipline. As stated above, respondent was recently suspended for three years for virtually the same misconduct as that contained herein. The instant misconduct occurred during the same period as the events that led to respondent's earlier suspension. The misconduct in this matter is part and parcel of the same overall pattern of misconduct displayed at that time. Had this matter been consolidated with the other, the level of discipline imposed in the prior matter would not have been increased. Accordingly, the Board unanimously determined that no additional discipline is required.

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

Dated: 2/17/98



Lee M. Hymerling
Chair
Disciplinary Review Board