

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 97-090

IN THE MATTER OF :
EDWARD C. THOMAS, JR. :
AN ATTORNEY AT LAW :

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

Decided: September 2, 1997

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 XII 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 made by both certified and regular mail to respondent's last known office address, as listed in the New Jersey Lawyers' Diary and Manual. The certified mail receipt was returned, indicating "moved, left no address." The regular mail was also returned to the DEC. On or about February 10, 1997, a notice was published in the New Jersey Law Journal and the Express Times of Easton, Pennsylvania. The Board determined that service of process was presumed made.

Respondent was admitted to the New Jersey bar in 1980. He has a prior ethics history. On June 7, 1994, he was temporarily suspended as a result of his failure to pay a fee arbitration award. Subsequently, on May 18, 1995, respondent was suspended for one year for mishandling two client matters, practicing law while on the ineligible list (respondent has been ineligible to practice law since September 20, 1993), not maintaining a bona fide office and failing to cooperate with the disciplinary authorities. Respondent has not applied for reinstatement.

The formal complaint charged respondent with violations of RPC 1.1(a) (gross neglect), RPC 1.4(a) (failure to communicate), RPC 1.15(d) (failure to deposit funds for professional services into a business account) and RPC 5.5 (failure to maintain a bona fide office).

According to the complaint, in April 1992 respondent was retained to represent the husband of Angela Ghanem on certain motor vehicle violations charges. Respondent accepted from Angela Ghanem eight checks totaling \$2,050 in payment for those services. Respondent failed to deposit the checks into his attorney business account, as required by R. 1:21-6(a)(2).

Respondent also failed to appear on behalf of his client and failed to render any legal services in the case. Furthermore, beginning in October 1992 the client repeatedly attempted to communicate with respondent, to no avail. The complaint charges that respondent "has abandoned his clients."

The DEC investigator was unable to locate respondent. The complaint alleges that he has not maintained an office for the practice of law, as required by R. 1:21-1.

* * *

Following a de novo review of the record, the Board deemed the allegations contained in the complaint admitted. The record contains sufficient evidence of respondent's unethical conduct.

However, while the complaint contains sufficient factual basis to support a finding of violation of RPC 1.1(a), RPC 1.4 and RPC 1.15(d), the allegations regarding failure to maintain a bona fide office are not supported. There is no evidence in the record that respondent continued to practice law during the time in question. Without proof that he did so, he cannot be found guilty of failure to maintain a bona fide office.


This leaves only the issue of appropriate discipline. Similar misconduct, where gross neglect rises to the level of abandonment, has resulted in a term of suspension. See In re Hurwitz, 135 N.J. 181 (1994) (where attorney was suspended for three years for abandonment in five cases and failure to cooperate with the disciplinary system); In re Mintz, 126 N.J. 484 (1992) (where attorney was suspended for two years for abandonment in four cases, failure to maintain a bona fide office and failure to cooperate with the disciplinary system). But see In re Blake, 126 N.J. 286 (1991) (where, in light of mitigating factors, an attorney was publicly reprimanded and placed on disability inactive status after he abandoned one client).

Here, like Blake, only one case is at issue. Respondent, however, has not presented any mitigating factors and indeed failed to communicate in any way with the ethics authorities.

In light of the foregoing, the Board unanimously determined that a one-year suspension, prospective to respondent's current suspension, is the appropriate discipline. Prior to reinstatement, respondent must make full restitution to the New Jersey Lawyers' Fund For Client Protection in the amount of \$4,550. In addition, respondent must successfully complete the Skills and Methods courses offered by the Institute for Continuing Legal Education. Two members did not participate.

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

Dated: 9/2/97


LEE M. HYMERLING
Chair
Disciplinary Review Board

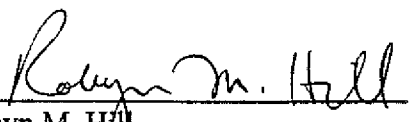
SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Edward C. Thomas
Docket No. DRB 97-090

Decided: September 2, 1997

Disposition: One-Year Suspension

Members	Disbar	One-Year Suspension	Reprimand	Admonition	Dismiss	Disqualified	Did not Participate
Hymerling		x					
Zazzali		x					
Brody		x					
Cole		x					
Lolla		x					
Maudsley							x
Peterson		x					
Schwartz							x
Thompson		x					
Total:		7					2


Robyn M. Hill 8/27/97
Chief Counsel