

SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 96-161

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IN THE MATTER OF  
ALTHEAR A. LESTER  
AN ATTORNEY AT LAW

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

Decided: December 4, 1996

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 VA 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 regular mail and certified mail. Thereafter, a letter serving as an amendment to the complaint and adding the charge of willful violation of RPC 8.1(b) by reason of respondent's failure to answer was again sent by both regular mail and certified mail. On both occasions the certified mail receipt was returned signed by D. Hill, accepting the deliveries at respondent's office address.

The formal ethics complaint charged respondent with violations of RPC 1.1(a) (gross neglect); RPC 1.1(b) (pattern of neglect); RPC 1.3 (lack of diligence); RPC 1.4(a) (failure to keep client reasonably informed); RPC 1.16(d) (failure to surrender papers); RPC 4.1(a) (knowingly making a false statement of material fact); RPC 8.1(b) (failure to cooperate with disciplinary authorities) and RPC 8.4(c) (conduct involving dishonesty, fraud, and misrepresentation). Respondent's misconduct encompassed seven matters.

Respondent was admitted to the New Jersey Bar in 1969. On July 13, 1990, respondent was publicly reprimanded for gross neglect in two matters, at which time the Court also noted respondent's recalcitrant and cavalier attitude towards the ethics committee. On May 26, 1992, respondent was privately reprimanded for failure to keep three clients informed of the status of their cases. Most recently, in January 1996, respondent was again publicly reprimanded for his failure to communicate, failure to supervise office staff and failure to release a file to a client.

Here, the nine-count complaint charged respondent with, among other things, multiple violations of RPC 1.1(a), RPC 1.3 and RPC 1.4(a). In six of the matters, respondent failed to keep the client reasonably informed, failed to act with due diligence and grossly neglected files. Additionally, in one of those cases respondent failed to turn over files to a client, despite numerous requests that he do so. Finally, in the seventh matter, respondent sent a letter to his adversary, Paul G. Kostro, Esq., stating that Mr. Kostro's secretary had consented on his behalf to a thirty-day extension of time to file an answer. In fact, Mr. Kostro had no secretary or any support staff. Nor had he consented to any such extension. Consequently, the DEC charged respondent with violations of RPC 4.1(a) (knowingly making a false statement of material fact to a third person) and RPC 8.4(c) (engaging in conduct involving fraud, deceit, and

misrepresentation). Moreover, consideration of the similarity of respondent's conduct in the cases under review by the DEC resulted in charges of pattern of neglect and failure to cooperate.

In a written response to the Figueira grievance, respondent did indicate that he had appeared twice in Southern New Jersey on behalf of the client. He stated that, thereafter, in February 1993, he suffered a heart attack, leaving him incapable of continuing his representation. However, many of the other matters preceded respondent's heart attack.


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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, as charged.

This leaves only the issue of appropriate discipline. In the past, similar conduct has resulted in a six-month suspension. See, e.g., In re Bosies, 138 N.J. 169 (1994) (attorney suspended for six months for engaging in a pattern of neglect, lack of communication, and misrepresentation in four matters); In re Balsam, 142 N.J. 550 (1995) (six-month suspension for gross neglect, failure to communicate, improper withdrawal from representation, failure to cooperate with disciplinary authorities, and failure to comply with an order imposing conditions on his practice, coupled with two prior private reprimands).

In light of the foregoing, the Board unanimously determined to suspend respondent for six months. Two members did not participate.

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

Dated: 12/4/96 By:   
Lee M. Hymerling  
Chair  
Disciplinary Review Board