

Book

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 96-160

IN THE MATTER OF
DAVID J. ORTOPAN
AN ATTORNEY AT LAW

:
:
:
:
:
:
:
:
:
:

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

Decided: October 15, 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 VIII Ethics Committee ("DEC") certified the record in this matter directly to the Board for imposition of discipline, following respondent's failure to file an answer to the formal ethics complaint. Service of the complaint was made by regular mail and certified mail. The certified mail was returned as "refused." The regular mail was not returned to the secretary of the DEC. Thereafter, a letter dated March 19, 1996 was sent to respondent by regular and certified mail, return receipt requested. As of the date of the DEC certification (March 17, 1996), the DEC secretary had not received a signed return receipt card. The regular mail was not returned, and receipt was therefore presumed.

The ethics complaint charged respondent with violations of RPC 1.4(a) (failure to communicate); RPC 1.3 (lack of diligence); RPC 1.15 and RPC 1.16(d) (failure to surrender property) and RPC 8.1 (b) (failure to cooperate with disciplinary authorities).

Respondent was admitted to the New Jersey bar in 1977. He is currently temporarily suspended. In 1995, he was suspended for three months for violations of RPC 1.3, RPC 1.4(a), RPC 1.16(d) and RPC 8.1(b). In re Ortopan, 143 N.J. 486 (1996).

According to the complaint, respondent was introduced to Juan Cruz by Charles M. Arakelian, Esq. in late May or early June 1992. Arakelian turned over Cruz' file to respondent to handle a reopener on a workers' compensation claim. Respondent neither filed the reopener nor replied to telephone calls or correspondence from Cruz. In November 1994, after Cruz contacted Arakelian regarding his inability to reach respondent, Arakelian, too, was unsuccessful in contacting respondent. Thereafter, Cruz retained a new attorney, who was also unsuccessful in obtaining Cruz' file from respondent. Respondent never replied to the inquiries of the DEC.

* * *

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.

This leaves only the issue of appropriate discipline. In the past, conduct similar to that displayed by respondent has resulted in a reprimand. In re Carmichael, 139 N.J. 390 (1995) (reprimand for an attorney who failed to handle two client matters with diligence, failed to

communicate with the clients and had an ethics history); In re Dreier, 131 N.J. 157 (1993) (reprimand for lack of diligence in an estate matter, failure to cooperate with disciplinary authorities and past ethics history).

A five-member majority of the Board determined to impose a reprimand. Two members would have remanded the matter to the DEC, voicing concern as to whether service of process had been properly made. Two members did not participate.

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

Dated: 10/15/96



LEE M. HYMERLING
Chair
Disciplinary Review Board