

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket Nos. DRB 96-497 and 96-498

IN THE MATTER OF
SHIRLEY WATERS-CATO
AN ATTORNEY AT LAW

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

Decided: July 14, 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 VB Ethics Committee ("DEC") certified the record in this matter directly to the Board for the imposition of discipline, following respondents' failure to file an answer to the formal ethics complaint. Service of the complaint in DRB 96-497 was attempted by both certified and regular mail. Proof of receipt of the certified mail was not received by the DEC. However, the regular mail was not returned to the DEC. Service of process was, therefore, presumed to have been made.

The complaint in DRB 96-498 was also sent by both certified and regular mail. While the certified mail was returned "unclaimed," the regular mail was not returned to the DEC. Service of process was presumed to have been made, inasmuch as the regular mail was not returned.

Respondent was admitted to the New Jersey bar in 1977. She has an extensive disciplinary history. In December 1991, she received a private reprimand for recordkeeping violations. In 1995,

she was suspended for three months for failure to safeguard client property, recordkeeping violations and failure to cooperate with ethics authorities. That same year, she received a one-year suspension for improper handling of escrow funds, gross neglect and failure to cooperate with the disciplinary authorities.

The formal complaint charged respondent in DRB 96-497 with violations of RPC 1.1(a) (gross neglect) and RPC 1.1(b) (pattern of neglect). In addition, the Board found violations of RPC 1.3 (lack of diligence), RPC 1.4(a) (failure to keep client reasonably informed), RPC 1.16(d) (failure to return file to client upon termination of representation) and RPC 8.1(b) (failure to cooperate with ethics investigation).

In DRB 96-498, the formal complaint charged respondent with violations of RPC 1.4(a) (failure to keep client reasonably informed), RPC 1.16 (failure to return file to client upon termination of representation), RPC 8.1(b) (failure to cooperate with ethics investigation), and RPC 8.4(c) (conduct involving misrepresentation). In addition, the Board found violations of RPC 1.1(a) (gross neglect) and RPC 1.3 (lack of diligence).

DRB 96-497

In or about June 1985, Dorothy Gould retained respondent to institute a foreclosure on her behalf in connection with real property that she owned in Newark, New Jersey. Respondent failed to take any action on behalf of Ms. Gould at any time after receiving the retainer. In addition, Ms. Gould's attempts to contact respondent went unanswered. Respondent has also refused to return any documents belonging to Ms. Gould. Finally, respondent has failed to reply to the grievance, as requested by the DEC.

DRB 96-498

Respondent was retained by April Ashe-Artis and Candace Ashe to represent them in connection with injuries sustained in an automobile accident. On or about June 22, 1994, they asked respondent about the status of their case and were told to expect their settlement "any day now." Subsequently, from about December 1994 through May 1995, the clients made numerous inquiries to respondent to obtain information about the progress of their matters. Respondent failed to reply to their requests for information. On or about May 22, 1995, the clients went to respondent's office and demanded the return of their files, as they had retained new counsel and had learned that respondent was suspended from the practice of law. Respondent denied that she was suspended and never returned the files to either the clients or their new counsel.

* * *

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. Similar misconduct has resulted in a three-year suspension. See In re Beck, 143 N.J. 135 (1996) (where attorney was suspended for three years for multiple violations of ethics rules, including pattern of neglect, lack of diligence, failure to communicate with clients, improperly terminating client representation, lack of truthfulness, unauthorized practice of law, and conduct involving fraud, dishonesty or misrepresentation).

In light of the foregoing, the Board unanimously determined that a three-year suspension is the appropriate discipline. Upon reinstatement, respondent must practice under the supervision of a proctor for two years. In addition, respondent must retake the skills and method courses offered by the Institute for Continuing Legal Education.

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

Dated: 7/14/17



LEE M. HYMERLING
Chair
Disciplinary Review Board