

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 02-428

IN THE MATTER OF
ANTHONY NWAKA
AN ATTORNEY AT LAW

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

Decided: May 5, 2003

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

Pursuant to R.1:20-4(f), the District VB Ethics Committee (“DEC”) certified the record in this matter directly to us for the imposition of discipline, following respondent’s failure to file an answer to the formal ethics complaint.

Respondent was admitted to the New Jersey bar in 1992. He maintains a law office in East Orange, New Jersey.

This matter was previously decided in April 2002. Respondent filed a petition for emergent relief with the Court. On June 7, 2002, the Court vacated its earlier order imposing a three-month suspension and summarily remanded the case to the DEC to

permit respondent to answer the formal ethics complaint. When respondent did not act on the Court's order, on September 11, 2002, the DEC mailed a copy of the complaint to him by regular and certified mail, return receipt requested. The certified mail receipt was returned, indicating delivery on September 12, 2002. The regular mail was not returned. Respondent did not file an answer. On October 9, 2002, the DEC sent him a second letter by regular and certified mail, return receipt requested, giving him five days to file an answer or be subject to the imposition of sanction. The certified mail receipt was returned indicating delivery on October 10, 2002. The regular mail was not returned.

On November 11, 2002, respondent's attorney, Stephen C. Chukumba, Jr., informed the DEC that he had been retained; acknowledged that his office was in receipt of the DEC's September 11 and October 9, 2002 letters requiring respondent to file an answer; and enclosing a consent order to extend the time in which to file an answer. Chukumba noted that an answer would be filed no later than November 18, 2002.

On November 22, 2002, the DEC returned the consent order to Chukumba and informed him that, on October 29, 2002, the matter had already been certified to the OAE as a default. (Apparently, Chukumba had not filed the answer by November 18, 2002, as he had represented.) By letter dated December 24, 2002, we afforded respondent an opportunity to file a motion to vacate the default. The letter was sent to respondent's attorney by certified mail, return receipt requested and regular mail.

Neither respondent nor his attorney replied to our letter. We then proceeded with the review of this matter as a default.

* * *

The three-count complaint charged respondent with violations of RPC 1.1(a) (gross neglect), RPC 1.4(a) (failure to communicate with client) and RPC 8.1(b) (mistakenly cited as RPC 1.8(b)) (failure to comply with a lawful request for information from a disciplinary authority).

The complaint charged that respondent was retained by Aldolfo Nogueras in October 1996 in connection with a personal injury action against his landlord. In 1997, respondent filed a suit on behalf of Nogueras. According to the ethics complaint, beginning in May 1998 and continuing for approximately eighteen months, Nogueras attempted to contact respondent about the status of his case, to no avail.

The complaint further charged that at one point respondent rejected the defendant's settlement offer of \$500 because he believed it to be inadequate. Respondent failed to convey the offer to Nogueras or to obtain his authorization to reject the offer.

In November 1998, summary judgment was entered against Nogueras. Respondent failed to inform Nogueras of the judgment until November 2, 1999.

* * *

The ethics complaint also charged that respondent violated RPC 8.1(b) for his failure to reply to the DEC's letters of May 12, June 9, June 19 and June 20, 2000, requesting information about the grievance.

Service of process was properly made. Following a review of the record, we determined that the facts recited in the complaint support a finding of unethical conduct. Because of respondent's failure to answer the complaint, the allegations are deemed admitted. R.1:20-4(f)(1).

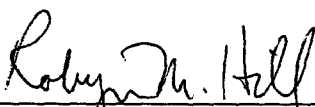
Respondent's failure to keep his client informed about the status of the matter, failure to notify his client, for more than a year, that his matter had been dismissed, and his rejection of the settlement offer without conferring with his client violated RPC 1.1(a) and RPC 1.4(a). Respondent's failure to comply with the DEC's requests for information about the grievance violated RPC 8.1(b).

In imposing the prior three-month suspension on respondent, we relied on the default cases of In re Herron, 162 N.J. 105 (1999) (three-month suspension for gross neglect, lack of diligence, failure to communicate with client and failure to cooperate with disciplinary authorities) and In re Banas, 157 N.J. 18 (1999) (three-month suspension for gross neglect, lack of diligence, failure to communicate with client, failure to provide written fee agreement and failure to cooperate with disciplinary authorities). Aggravating circumstances in Herron and Banas included their prior disciplinary histories. Herron had been suspended twice before, while Banas had a prior reprimand. Here, respondent permitted this matter to twice proceed as a default.

Respondent's repeated failure to cooperate with the DEC underscores his total disregard for the ethics process and the Court's order. We, therefore, unanimously determined to uphold our initial determination to impose a three-month suspension. Two members did not participate.

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

Disciplinary Review Board
Rocky L. Peterson, Chair

By: 
Robyn M. Hill
Chief Counsel

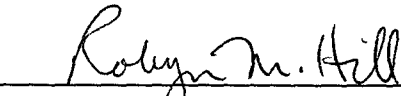
**SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD**

In the Matter of Anthony C. Nwaka
Docket No. DRB 02-428

Decided: May 5, 2003

Disposition: Three-month suspension

<i>Members</i>	<i>Disbar</i>	<i>Three-month Suspension</i>	<i>Reprimand</i>	<i>Admonition</i>	<i>Dismiss</i>	<i>Disqualified</i>	<i>Did not participate</i>
<i>Peterson</i>		X					
<i>Maudsley</i>		X					
<i>Boylan</i>							X
<i>Brody</i>		X					
<i>Lolla</i>							X
<i>O'Shaughnessy</i>		X					
<i>Pashman</i>		X					
<i>Schwartz</i>		X					
<i>Wissinger</i>		X					
Total:		7					2


Robyn M. Hill
Chief Counsel