

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 03-266

IN THE MATTER OF
ANTHONY NWAKA
AN ATTORNEY AT LAW

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Decision

Argued: October 16, 2003

Decided: December 5, 2003

Richard J. Engelhardt appeared on behalf of the Office of Attorney Ethics.

Respondent did not appear for oral argument.

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

This matter was before us on a motion for reciprocal discipline filed by the Office of Attorney Ethics (“OAE”) pursuant to R.1:20-14, following respondent’s default disbarment in New York for abandoning a client in a personal injury matter, and failing to cooperate with disciplinary authorities.

Respondent was admitted to the New Jersey and New York bars in 1992. He completed the conditions of an agreement in lieu of discipline pursuant to R.1:20-3(i)(2)(B)(i) for failing to record a mortgage following a closing until after a grievance was filed, and failing to send fees to the title company for ten months, a violation of RPC 1.15(b). In 2003, the Court suspended respondent for a three-month period for gross neglect, failure to communicate with a client, and failure to cooperate with ethics authorities. Respondent twice defaulted in the matter. In re Nwaka 176 N.J. 516 (2003).

In March 1999, a New York Supreme Court Justice referred respondent's conduct to the Departmental Disciplinary Committee for the First Judicial Department ("Committee") in a matter where respondent abandoned a client, the plaintiff in a personal injury case. Respondent had violated conditional orders of preclusion, and failed to appear for a scheduled client's conference.

The Committee forwarded a copy of the justice's referral to respondent, but he failed to provide an answer. Thereafter, a subpoena was served upon him, and he appeared at the Committee's office in November 1999. Respondent did not file an answer to the complaint, nor did he provide other information requested by the Committee. Based on his failure to cooperate, on May 25, 2000, respondent was temporarily suspended from the practice of law in New York.

As a result of respondent's continued failure to cooperate, on November 21, 2002, the Committee filed a motion seeking his disbarment. Respondent failed to appear or to interpose a response to the motion. Therefore, on February 27, 2003, the Supreme Court

of New York Appellate Division, First Judicial Department, imposed a default disbarment on respondent.¹

The OAE urged us to impose a three-month suspension for respondent's abandonment of a client in a personal injury matter, and failure to cooperate with disciplinary authorities, analogous to our RPC 1.1(a) (gross neglect), RPC 1.3 (lack of diligence), and RPC 8.1(b) (failure to cooperate with disciplinary authorities).

Upon a de novo review of the full record, we determined to grant the OAE's motion for reciprocal discipline. Pursuant to R.1:20-14(a)(5) (another jurisdiction's finding of misconduct shall establish conclusively the facts on which the Board rests for purposes of disciplinary proceedings), we adopt the findings of the New York Supreme Court.

Reciprocal disciplinary proceedings in New Jersey are governed by R.1:20-14(a)(4), which directs that

[t]he Board shall recommend the imposition of the identical action or discipline unless the respondent demonstrates, or the Board finds on the face of the record on which the discipline in another jurisdiction was predicated that it clearly appears that:

(A) the disciplinary or disability order of the foreign jurisdiction was not entered;

(B) the disciplinary or disability order of the foreign jurisdiction does not apply to the respondent;

(C) the disciplinary or disability order of the foreign jurisdiction does not remain in full force and effect as the result of appellate proceedings;

¹ Respondent failed to notify the Office of Attorney Ethics ("OAE") of his New York disbarment required pursuant to R.1:20-14(a).

(D) the procedure followed in the foreign disciplinary matter was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or

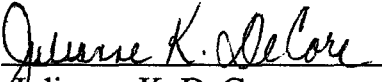
(E) the misconduct established warrants substantially different discipline.

We agree with the OAE that misconduct of a similar nature in New Jersey would not result in either disbarment, or a seven-year suspension, which is the equivalent of a New York disbarment. A New Jersey attorney who has engaged in gross neglect, lack of diligence, and failure to cooperate with disciplinary authorities in one matter, with a prior disciplinary record in a default matter, would generally receive a short-term suspension. See In re Kubulak, 172 N.J. 318 (2002) (three-month suspension where attorney grossly neglected a collection matter, failed to communicate with the client, and failed to cooperate with disciplinary authorities; attorney had two prior three-month suspensions), In re Clemmons, 169 N.J. 477 (2001) (three-month suspension for gross neglect, lack of diligence, failure to communicate with a client, and failure to cooperate with disciplinary authorities; attorney had a prior six-month suspension); In re Daily, 166 N.J. 24 (2001) (three-month suspension for lack of diligence, and failure to communicate with a client; attorney had prior three-month suspension); In re Davis, 163 N.J. 563 (2000) (attorney grossly neglected a client matter, failed to keep the client informed about the status of the case, and failed to reply to disciplinary authorities; prior discipline included an admonition and a three-month suspension).

Based on respondent's disciplinary record and the violations in this matter, six members voted to impose a three-month suspension. Three members believed that a six-month suspension more properly addressed respondent's transgressions.

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

Disciplinary Review Board
Mary J. Maudsley, Chair

By: 
Julianne K. DeCore
Acting Chief Counsel

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

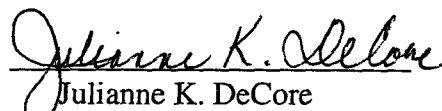
In the Matter of Anthony C. Nwaka
Docket No. DRB 03-266

Argued: October 16, 2003

Decided: December 5, 2003

Disposition: Three-month suspension

<i>Members</i>	<i>Disbar</i>	<i>Three-month Suspension</i>	<i>Reprimand</i>	<i>Six-month Suspension</i>	<i>Dismiss</i>	<i>Disqualified</i>	<i>Did not participate</i>
<i>Maudsley</i>		X					
<i>O'Shaughnessy</i>		X					
<i>Boylan</i>		X					
<i>Holmes</i>		X					
<i>Lolla</i>				X			
<i>Pashman</i>		X					
<i>Schwartz</i>				X			
<i>Stanton</i>		X					
<i>Wissinger</i>				X			
Total:		6		3			


Julianne K. DeCore
Chief Counsel