

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 03-165

IN THE MATTER OF :
 :
THOMAS M. MURRAY, JR. :
 :
AN ATTORNEY AT LAW :
 :

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

Decided: September 17, 2003

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 IIB Ethics Committee (“DEC”) certified the record directly to us for the imposition of discipline, following respondent’s failure to file an answer to the formal ethics complaint.

On January 15, 2003, the DEC mailed a copy of the complaint to respondent’s address listed in the New Jersey Lawyers’ Diary and Manual, 69 Kansas Street, Hackensack, New Jersey 07601, by certified mail and regular mail. The certified mail return receipt was signed, indicating delivery on January 16, 2003. Respondent’s signature on the green return receipt card appears to have been made by a stamp. The regular mail was not returned.

On April 9, 2003, the DEC sent a second letter to respondent, advising him of his potential temporary suspension if he failed to answer the complaint within five days. The letter also served to amend the complaint to charge respondent with a violation of RPC 8.1(b), based on his failure to file an answer. The letter appears to have been sent only by regular mail. The DEC secretary's certification is silent as to whether that letter was returned to the DEC.

Respondent did not file an answer to the complaint.

Respondent was admitted to the New Jersey bar in 1971. During the relevant time he maintained an office in Hackensack, Bergen County. At the Board's April 2003 meeting, we voted to impose a reprimand in In the Matter of Thomas M. Murray, Jr., Docket No. DRB 03-045, based on our determination that respondent had demonstrated gross neglect, failure to communicate, failure to expedite litigation, and misrepresentation. Respondent advanced "compelling" mitigating circumstances and we questioned his current ability to practice law.¹ We required respondent to submit, within thirty days of the Court's order, proof of his fitness to practice law, as attested by a mental health professional approved by the OAE. That matter was recently transmitted to the Court.

¹ As noted in our Decision, respondent's problems included major depression, coronary artery surgery and resulting complications, a divorce and his son's suicide.

Count One (The Paolino Matter)

In or about 1999, Dr. Charles M. Paolino retained respondent in connection with the prosecution of personal injury protection benefit claims. Respondent was retained to file suit against insurance carriers and/or patients to ensure collection of outstanding bills for professional services rendered by Dr. Paolino. Respondent failed to file suit in Dr. Paolino's behalf and failed to properly prosecute approximately ten cases. The statute of limitations in the matters has expired. The complaint further alleged that respondent misrepresented the status of the matters to Dr. Paolino.

Count Two (The Errichetti Matter)

In or about August 1997 John Errichetti retained respondent to represent him in connection with a matrimonial proceeding. Thereafter, respondent failed to adequately represent Errichetti's interests and neglected significant matters in the case, including failing to attend court appearances and to participate in telephone conferences. In addition, respondent failed to adequately pursue an appeal of the matrimonial matter.

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

The complaint charged respondent in both the Paolino and Errichetti matters with a violation of RPC 1.1(a) (gross neglect), RPC 1.1(b) (pattern of neglect), RPC 3.2

(failure to expedite litigation), RPC 1.4(a) (failure to communicate), and RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation). Respondent also violated RPC 8.1(b) (failure to cooperate with disciplinary authorities).

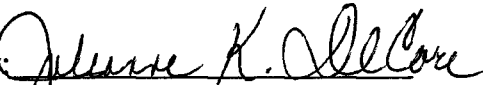
Generally, reprimands are imposed in matters involving similar violations. See In re Rein, 164 N.J. 563 (2000) (reprimand for gross neglect, lack of diligence, failure to communicate with client, and misrepresentation); and In re Porwich, 159 N.J. 511 (1999) (reprimand for misconduct in four matters, including gross neglect, lack of diligence, failure to communicate with client, and failure to cooperate with ethics authorities; in one of the matters, the attorney misrepresented the status of the case). See, also In re Cervantes, 118 N.J. 557 (1990), where a public reprimand was imposed when the attorney failed to pursue two workers' compensation matters, exhibited lack of diligence and failed to keep the clients reasonably informed about the status of the matters. In one matter, Cervantes misrepresented the status of the case.

In default proceedings, we generally elevate the level of discipline imposed. Thus, a three-month suspension would typically be imposed here. Respondent's misconduct, however, in at least the Errichetti matter, covered the same time period as that under review in respondent's prior appearance before us. As noted above, in that earlier matter, we expressed concern about respondent's mental health and ability to practice law. We have again considered the "compelling" mitigating factors and unanimously determined to impose only a reprimand.

Two members did not participate.

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 Thomas M. Murray
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Disposition: Reprimand

<i>Members</i>	<i>Disbar</i>	<i>Suspension</i>	<i>Reprimand</i>	<i>Admonition</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:			7				2


Julianne K. DeCore
Acting Chief Counsel