

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 00-022

IN THE MATTER OF
CONRAD J. BENEDETTO
AN ATTORNEY AT LAW

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Decision

Argued: March 16, 2000
Decided: December 20, 2000

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

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

This matter was before us on a motion for final discipline filed by the Office of Attorney Ethics ("OAE"), based on respondent's guilty plea in the state of South Carolina to a violation of S.C.Code Ann. § 40-5-320, which section states, in relevant part:

It is unlawful for a corporation or voluntary association to hold itself out to the public as being entitled to practice law, render or furnish legal services, advise or to furnish attorneys or counsel, or render legal services in actions or proceedings. . . . A person who violates the provisions of this section is guilty

of a misdemeanor and, upon conviction, must be fined in the discretion of the Court or imprisoned not more than three years, or both.¹

Respondent was admitted to the New Jersey bar and the Commonwealth of Pennsylvania in 1981. He was privately reprimanded in 1988 for failure to maintain a bona fide office, in violation of RPC 5.5. In the Matter of Conrad J. Benedetto, Docket No. DRB 88-02 (September 2, 1988).

Respondent's conduct occurred in the first half of 1997 in Anderson County, South Carolina. Respondent had cases referred to him from the Anderson County area, involving personal injury matters. In several of the cases, respondent entered into a contingency-fee agreement with clients and represented them in the cases in the Anderson County area. His conduct occurred by and through his law firms in Philadelphia and New Jersey.

According to the Assistant Attorney General handling the South Carolina matter, respondent was in the process of notifying the clients of his conduct and was assisting them in obtaining new counsel. Respondent also agreed to assist the new attorneys handling the matters by providing his client files to them and also agreed to forego any fee in connection with work already performed. Approximately five to ten matters were involved.

Prior to the imposition of sentence, respondent made the following statement to the court:

¹ In New Jersey, a similar offense, N.J.S.A. 2C:21-22b, constitutes a fourth degree crime.

[T]he only thing I can say is when I undertook to come down here and make contact with these people, I didn't have any intention of any wrongdoing. In fact, I had represented to these people that the only thing I could do for them is probably work for them on a claims-level basis, that if these matters could be resolved amicably, I would have to have local counsel involved or be admitted pro hac vice. Before this conduct -- before it was brought to my attention that this conduct was inappropriate, I had applied for admission to the Bar to sit for the Bar, and I had made an effort to establish a relationship with local counsel. I can assure the Court that I did not attempt to defraud anyone or try to harm anyone. I was simply -- it was just a continuation of what I do in Pennsylvania and New Jersey. I just was looking for an area to expand my practice and, unfortunately, I guess I didn't look closely enough at the local rules to make sure that I wasn't doing anything inappropriate.

The court fined respondent \$1,000. Respondent paid the fine, assessments and surcharges totaling \$2,100. The court did not require respondent to serve a term of probation.

The OAE urged the imposition of a reprimand.

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Following a de novo review of the full record, we have determined to grant the OAE's motion for final discipline. The existence of a criminal conviction is conclusive evidence of respondent's guilt. R.1:20-13(c)(1); In re Gipson, 103 N.J. 75, 77 (1986). Only the level of discipline to be imposed remains at issue. R.1:20-13(c)(20); In re Lunetta, 118 N.J. 443, 445 (1989).

The purpose of discipline is to protect the public from attorneys who do not meet the standards of responsibility of their profession. In re Barbour, 109 N.J. 143 (1988). Whenever an attorney commits a crime, he or she violates his or her professional duty to uphold and honor the law. In re Bricker, 90 N.J. 6, 11 (1982).


There are no New Jersey cases directly on point. There are, however, several cases where attorneys have violated RPC 5.5(a) by practicing law while ineligible for failure to pay the annual assessment to the New Jersey Lawyers' Fund for Client Protection. Generally, reprimands have been imposed in those cases. See In re Namias, 157 N.J. 15 (1999) (reprimand for practicing law while ineligible, lack of diligence and failure to communicate); In re Alston, 154 N.J. 83 (1998) (reprimand for practicing law while ineligible, failure to maintain a bona fide office and failure to cooperate with disciplinary authorities); In re Wurth, 131 N.J. 453 (1993) (reprimand for, among other things, lack of diligence, failure to turn over a file and practicing law while ineligible) and In re Costanzo, 115 N.J. 428 (1989) (reprimand where attorney failed to advise client of the status of a matter or to carry out a contract of employment and practiced law while ineligible).

We have considered that, although respondent practiced law in a state where he was not admitted, apparently no client was harmed. We, therefore, unanimously determined to impose a reprimand.

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

Dated:

12/20/00

By:  _____

LEE M. HYMERLING

Chair

Disciplinary Review Board

SUPREME COURT OF NEW JERSEY

*DISCIPLINARY REVIEW BOARD
VOTING RECORD*

**In the Matter of Conrad J. Benedetto
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Disposition: Reprimand

| Members | Disbar | Suspension | Reprimand | Admonition | Dismiss | Disqualified | Did not Participate |
|---------------|--------|------------|-----------|------------|---------|--------------|---------------------|
| Hymerling | | | X | | | | |
| Peterson | | | X | | | | |
| Boylan | | | X | | | | |
| Brody | | | X | | | | |
| Lolla | | | X | | | | |
| Maudsley | | | X | | | | |
| O'Shaughnessy | | | X | | | | |
| Schwartz | | | X | | | | |
| Wissinger | | | X | | | | |
| Total: | | | 9 | | | | |

Robyn M. Hill 1/8/01
Robyn M. Hill
Chief Counsel