SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 01-323

IN THE MATTER OF

DAVID BRANTLEY

AN ATTORNEY AT LAW

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

Decided: December 27, 2001

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

Pursuant to R.1:20-4(f), the District IIB 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.

On March 14, 2001 the DEC forwarded a copy of the formal ethics complaint to respondent at his last known address, 177 South Clinton Street, East Orange, New Jersey, by both certified and regular mail. A certified mail receipt was returned, indicating delivery on March 15, 2001 and bearing the signature of a "Jason Jones." The regular mail was not returned. On April 10, 2001 the DEC sent respondent a letter by regular and certified mail,

advising him that, unless he filed an answer to the complaint within five days of the date of the letter, the allegations of the complaint would be deemed admitted and the record would be certified directly to us for the imposition of discipline. It is not clear from the record if respondent received this additional notice.

Respondent did not file an answer to the formal ethics complaint. Therefore, the record was certified directly to us for the imposition of discipline, pursuant to R. 1:20-4(f).

On October 9, 2001 respondent timely filed a motion to vacate default. Respondent advanced a defense to the underlying charges in the complaint. However, we found that the reasons given by respondent for his failure to timely file an answer to the complaint were without merit. In essence, respondent alleged that, from March 27, 2001 through April 23, 2001, he was on doctor's orders not to work, due to headaches. The answer to the complaint was due twenty-one days after he was served with the complaint on March 14, 2001. Between March 14 and March 27, 2001, when respondent presumably was not yet under doctor's orders, he did not file an answer or request an extension of time to do so. Likewise, after his return to work on April 27, 2001, respondent did not alert the DEC to his plight.

Respondent also asserted that a series of events from May 2001 through September 2001 rendered him incapable of filing an answer. Those events include an illness of his wife, the death of his dog, illnesses in his wife's family and the death of a relative in Florida. None of those admittedly tragic events, either alone or in concert, should have prevented respondent from either taking steps to answer the complaint or, at a minimum, requesting

more time to do so.

Finally, respondent also claimed that another ethics proceeding, which is ongoing at the DEC level, took up much of his time this year. Although that may well be true, respondent knew the importance of dealing with ethics authorities on a timely basis. Simply put, respondent had no valid excuse for his failure to timely file an answer to the complaint. Therefore, we denied the motion to vacate the default and proceeded with our review of this matter.

Respondent was admitted to the New Jersey bar in 1970. He has had six prior encounters with the disciplinary system. On March 29, 1982 he was privately reprimanded for failure to represent a client zealously. On February 29, 1988 he was again privately reprimanded for driving with a suspended license and failing to pay the fines associated with the violations. On May 25, 1988 he received his third private reprimand for grossly neglecting a personal injury matter. Three years later, on April 15, 1991, he was suspended for one year for misconduct in four matters, including gross neglect, pattern of neglect, lack of diligence, failure to communicate, misrepresentation of the status of the case to a client and failure to cooperate with disciplinary authorities. He was suspended again on May 1, 1995, this time for three months, for gross neglect in two matters and failure to cooperate with disciplinary authorities in three matters. Lastly, on April 23, 1999 he was reprimanded for lack of diligence in the handling of an estate matter.

A matter heard by us in December 2000 is now pending Supreme Court review.

There, we recommended respondent's disbarment for a continuing pattern of misconduct, including pattern of neglect, failure to communicate with the client and failure to cooperate with disciplinary authorities.

* * *

In or about 2000 respondent represented Ada Griffin in a guardianship matter titled I/M/O Sophie McDonald, Adjudicated Incapacitated Person. Ada was Sophie's guardian as well as the owner of "the remainder estate" in a parcel of real estate in which Sophie had a life estate.

At issue in the case were the relative responsibilities of Ada and Sophie for real estate taxes, repairs and other expenses associated with the property. On this issue, respondent wrote to the court sometime in 2000, stating that, in a 1995 proceeding before a prior judge in the same matter, the prior judge had ruled in favor of his client. "She specifically ruled that Sophie shall be responsible for the repairs and the real estate taxes during [Ada's] life estate." The judge who heard the case in 2000 is the complainant herein.

In fact, the prior judge had ruled against respondent's client. At the underlying hearing in 1995, Ada's then-attorney – and respondent's wife, S. Dorell King – had agreed in court, on the record, that Ada would not be reimbursed for any repairs because, by virtue of the life estate, Ada would derive a benefit from those repairs.

The complaint alleged that respondent's written statement to the court in 2000 – that the original judge had ruled in his client's favor – was false and, thus, in violation of RPC

3.3(a)(1) (knowingly making a false statement of fact to a tribunal).

* * *

Service of process was proper. Following a de novo review of the record, we found that there is sufficient factual basis in the complaint to support a charge of a violation of RPC 3.3(a)(1). Pursuant to R. 1:20-4(f)(1), the allegations of the complaint are deemed admitted.

Discipline in cases involving lying to a court varies greatly, ranging from an admonition to a three-year suspension. See In re Lewis, 138 N.J. 33 (1994) (admonition imposed where the attorney attempted to deceive a court by introducing into evidence a document falsely showing that a heating problem in an apartment of which he was the owner/landlord had been corrected prior to the issuance of a summons); In re Mazeau, 122 N.J. 244 (1991) (public reprimand imposed where the attorney made a false statement of material fact in a brief submitted to a trial judge); In re Johnson, 102 N.J. 504 (1986) (three-month suspension imposed where the attorney misrepresented to a trial judge that the attorney's associate was ill, in order to obtain an adjournment of a trial); In re Kernan, 118 N.J. 361 (1990) (three-month suspension imposed where the attorney filed a false certification in the attorney's own matrimonial matter); and In re Kornreich, 149 N.J. 346 (1997) (three-year suspension imposed where the attorney falsely accused her babysitter of being involved in an automobile accident, which actually involved the attorney; the attorney lied to several parties, including a municipal court judge). This case, however, has an

additional aspect to it that the cited cases do not – a deplorable disciplinary history and a default nature. We issued respondent a stern warning in January 1997 that we might recommend his disbarment for further acts of misconduct. Indeed, we recently recommended that this respondent be disbarred. In a recent matter involving another attorney, we also recommended disbarment for the cumulative effect of the attorney's misconduct. In the Matter of Arthur N. Martin, Docket Nos. DRB 98-265, 99-391, 99-021, 00-024 and 00-071 (November 29, 2000). Here, because of respondent's refusal to conform his behavior to professional standards – this is now his eighth brush with the disciplinary system – we unanimously reaffirmed our decision to disbar him. Three members did not participate.

We also required respondent to reimburse the Disciplinary Oversight Committee for administrative expenses.

ROCKY L. PETERSON
Chair
Disciplinary Review Board

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of David Brantley
Docket No. DRB 01-323

Decided: December 27, 2001

Disposition: disbar

Members	*Disbar*	*Suspension*	*Reprimand*	*Admonition*	*Dismiss*	*Disqualified*	*Did not participate*
Peterson	X						
Maudsley	X						
Boylan							X
Brody	X						
Lolla	X						
O'Shaughnessy	X						
Pashman							X
Schwartz							X
Wissinger	X						
Total:	6						3

Robyn M. Hill 1/9/02
Robyn M. Hill
Chief Counsel