

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 01-017

IN THE MATTER OF
GEORGE E. KERSEY
AN ATTORNEY AT LAW

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Decision

Argued: March 15, 2001

Decided: August 6, 2001

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

Respondent appeared pro se.

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 three-month suspension in the State of Massachusetts for failure to comply with orders of the Vermont Family Court in his own divorce matter.

Respondent was admitted to the New Jersey bar in 1963 and the Massachusetts bar in 1966. He has no history of discipline.

* * *

Respondent's conduct violated Massachusetts DR 1-102(A)(5) and (6) and DR 7-106(A), which correspond to New Jersey's RPC 8.4(b) (committing a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer) and RPC 8.4(d) (conduct prejudicial to the administration of justice), respectively.

The Supreme Judicial Court for the Commonwealth of Massachusetts, County of Suffolk, set forth respondent's conduct in its August 15, 2000 decision:

In May, 1991, the respondent's wife filed a complaint for divorce in the Vermont Family Court. During the course of the divorce and related proceedings, the court adjudicated the respondent in contempt on three occasions for wilful violations of court orders. On April 20, 1993, the court ordered the respondent to provide his wife with various financial records and transfer ownership of certain stock to her in order to purge the contempt. The respondent has failed to comply with this order; a warrant for his arrest was outstanding at the time of the disciplinary hearings, and remains outstanding.

The Massachusetts Supreme Judicial Court affirmed the decision below to suspend respondent for three months. The Court found that respondent (1) engaged in conduct prejudicial to the administration of justice, in violation of Massachusetts DR 1-102(A)(5); (2) engaged in conduct that adversely reflected on his fitness to practice law, in violation of DR 1-102(A)(6) and (3) disregarded the ruling of a tribunal, in violation of DR 7-106(A).

The OAE urged us to impose a reprimand.

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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 a disciplinary proceeding), we adopted the findings of the Supreme Judicial Court of Massachusetts.

Reciprocal disciplinary proceedings in New Jersey are governed by R.1:20-14(a) 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 the appellate proceedings;

(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

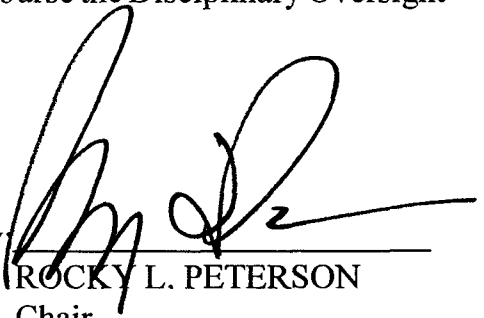
(E) the misconduct established warrants substantially different discipline.

We agree with the OAE that subsection (E) is applicable here, that is, that respondent's misconduct warrants substantially different discipline in New Jersey. Here, attorneys who fail to comply with court directives usually are reprimanded. See In re Skripek, 156 N.J. 399 (1998) (reprimand imposed where attorney was held in contempt for failing to pay court-ordered spousal support and for failing to appear at the hearing); In re Hartmann, 142 N.J. 587 (1995) (reprimand where attorney repeatedly ignored court orders to pay opposing counsel a fee, which resulted in a warrant for his arrest); and In re Haft, 98 N.J. 1 (1984) (reprimand where attorney failed to file a brief for a death row client, after the court held him in contempt three times for failing to do so). Furthermore, until this incident respondent's thirty-eight-year professional career has been unblemished.

Based on the foregoing, we unanimously determined to reprimand respondent.

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

Dated: 8/6/01

By 
ROCKY L. PETERSON
Chair
Disciplinary Review Board

SUPREME COURT OF NEW JERSEY

**DISCIPLINARY REVIEW BOARD
VOTING RECORD**

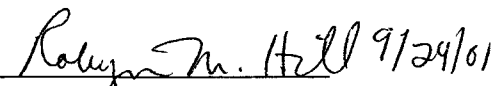
**In the Matter of George E. Kersey
Docket No. DRB 01-017**

Argued: March 15, 2001

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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
Chief Counsel