

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 00-287

IN THE MATTER OF :
PATIENCE R. CLEMMONS :
AN ATTORNEY AT LAW :

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

Decided:

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 VA 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 May 31, 2000, the DEC mailed a copy of the complaint to respondent's office by regular and certified mail. The certified mail envelope was returned as unclaimed. The regular mail was not returned. When respondent did not file an answer, on July 5, 2000, the

DEC forwarded to respondent a second letter, informing her that, unless she filed an answer within five days, the allegations of the complaint would be deemed admitted, pursuant to R. 1:20-6(c)(1) and R. 1:20-4(f). Again, the certified mail was returned as unclaimed, while the regular mail was not returned.

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

Respondent was admitted to the New Jersey bar in 1987. At the relevant times she maintained an office in Newark, New Jersey.

On November 21, 2000, the Supreme Court ordered a six-month suspension for respondent's conduct involving gross neglect, pattern of neglect, lack of diligence, failure to communicate, failure to return a client's funds and documents, and failure to cooperate. That matter was also a default case.

The first count of the complaint concerned respondent's representation of James Johnson ("Johnson") in a personal injury claim. On or about October 31, 1997, respondent took Johnson's case when his prior attorney, Alberta Foster, closed her law office due to ill health. Johnson's personal injury claim, which resulted from a November 21, 1994 automobile accident, was scheduled for trial on March 13, 1998. On that day, respondent appeared and advised the court that an agreement had been reached to send the case to Uninsured Motorist Arbitration. Based on respondent's representations, the court dismissed the complaint without prejudice on March 18, 1998.

Respondent took no further action on the case. In addition, respondent did not keep Johnson reasonably informed about the status of the matter and did not comply with his requests for information. On March 11, 1999, a stipulation of dismissal with prejudice was filed with the court. Count one of the complaint charged respondent with violations of RPC 1.3 (lack of diligence) and RPC 1.4(a) (failure to communicate).

According to count two of the complaint, respondent assumed the handling of a speeding ticket matter on behalf of Joan Embry Johnson, Johnson's wife. Foster had handled the matter initially and had entered a not guilty plea. On the scheduled trial date, August 31, 1998, respondent neither appeared nor requested an adjournment. Nevertheless, the matter was adjourned and rescheduled for trial on January 11, 1999. Again, respondent did nothing. Thereafter, on January 27, 1999, a warrant was issued for Joan Johnson's arrest. Joan Johnson made numerous attempts to contact respondent to no avail. Ultimately, Joan Johnson's daughter helped settle the matter with the court. Respondent was again charged with violations of RPC 1.3 (lack of diligence) and RPC 1.4(a) (failure to communicate).

Finally, the third count of the complaint alleged that, in connection with its investigation of the grievance, the OAE attempted to contact respondent on numerous occasions to obtain her reply to the grievance. In fact, on July 13, 1999, a copy of the grievance and an OAE business card were hand-delivered by an OAE investigator to respondent's New Jersey law office. Despite these attempts, respondent failed to reply to

the grievance. Count three charged respondent with a violation of RPC 8.1(b) (failure to cooperate with disciplinary authorities).

* * *

Service of process was properly made in this matter. Following a de novo review of the record, we determined that the facts recited in the complaint support a finding 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)(1).

In the first matter, after filing the stipulation of dismissal respondent took no further action on behalf of Johnson and did not keep him informed of the status of his case. Moreover, in the second matter, respondent failed to appear in court to represent Joan Johnson on two occasions. The second absence led to a warrant for Joan Johnson's arrest. By failing to perform the legal work for which she was retained, respondent violated both RPC 1.1(a) (gross neglect) and RPC 1.3 (lack of diligence) in both matters. Although the complaint did not specifically cite RPC 1.1(a), the facts as therein stated did put respondent on notice of a possible finding of this violation. In re Logan, 70 N.J. 222, 232 (1976).

Respondent also failed to keep her clients informed about the status of the two matters, in violation of RPC 1.4(a).

Lastly, respondent never submitted a reply to the grievance, despite numerous contacts from the OAE. Respondent was given every opportunity to reply to the grievance, but chose not to cooperate with the ethics authorities, in violation of RPC 8.1(b).

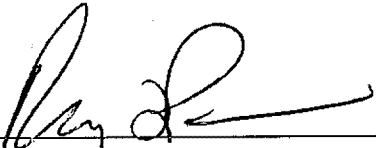
Conduct involving violations of this nature, encompassing both gross neglect and failure to cooperate, generally results in a three-month suspension. See, e.g., In re Hoffmann, 156 N.J. 579 (1999) (default case; three-month suspension where the attorney failed to reply to five motions to dismiss a case, resulting in its dismissal, and lied to the client about the status of the case; the attorney also failed to reply to the DEC's investigator's request for information); In re Kubulak, 157 N.J. 74 (1999) (default case; three-month suspension for lack of diligence, gross neglect, failure to communicate, failure to cooperate with ethics authorities and lying to the OAE); and In re Dudas, 162 N.J. 101 (1999) (default case; six-month suspension where the attorney failed to timely file a claim on his client's behalf, misled his client regarding this failure, and refused to cooperate with DEC investigators; attorney's prior ethics history, involving two periods of suspension, mandated an increased quantum of discipline).

Accordingly, a five-member majority of the Board determined to impose a three-month suspension, consecutive to the six-month suspension imposed on November 21, 2000. Four members dissented and voted for a consecutive six-month suspension. The dissenters gave greater weight to respondent's previous six-month suspension, as well as the fact that the default nature of that matter, together with the default in the case now before

us, reflects disdain for her obligations to her clients and to the disciplinary system.

We further directed that respondent reimburse the Disciplinary Oversight Committee for administrative costs.

Dated: May 29 2001

By: 
ROCKY L. PETERSON
Chair
Disciplinary Review Board

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Patience Clemmons
Docket No. DRB 00-287

Decided: May 29, 2001.

Disposition: three-month suspension

| Members | Disbar | Three-month Suspension | Reprimand | Admonition | Dismiss | Disqualified | Six-month Suspension |
|---------------|--------|---------------------------|-----------|------------|---------|--------------|-------------------------|
| Hymerling | | x | | | | | |
| Peterson | | x | | | | | |
| Boylan | | x | | | | | |
| Brody | | | | | | | x |
| Lolla | | | | | | | x |
| Maudsley | | x | | | | | |
| O'Shaughnessy | | x | | | | | |
| Schwartz | | | | | | | x |
| Wissinger | | | | | | | x |
| Total: | | 5 | | | | | 4 |

Robyn M. Hill 6/19/01
Robyn M. Hill
Chief Counsel