

B

SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 02-182

---

IN THE MATTER OF  
ERIC J. BRUNING  
AN ATTORNEY AT LAW

---

:  
:  
:  
:  
:  
:  
:  
:  
:

Decision

Argued: June 20, 2002

Decided: October 7, 2002

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

Respondent did not appear for oral argument, despite proper notice by publication.

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 resignation from the Florida bar.

Respondent was admitted to the New Jersey bar in 1981. He has no history of discipline. On February 22, 2001, the Supreme Court of Florida entered an order

accepting his resignation, effective March 23, 2001, with leave to seek readmission three years after the effective date of the resignation.

Respondent had executed a petition for disciplinary resignation on January 5, 2001. In the petition, he acknowledged that there were sixteen separate disciplinary charges pending against him involving allegations of gross neglect of client matters and pattern of neglect, failure to communicate with clients, failure to pay medical providers, failure to diligently represent his client's interests, failure to properly maintain all records required for his trust account and failure to respond to the Florida bar inquiries, in violation of rules corresponding to New Jersey RPC 1.1(a) (gross neglect) and RPC 1.1(b) (pattern of neglect), RPC 1.3 (lack of diligence), RPC 1.4(a) (failure to communicate with client), RPC 1.15 (failure to safekeep property) and RPC 8.1(b) (failure to respond to a lawful demand for information from a disciplinary authority).

Because of respondent's disciplinary resignation, none of the sixteen grievances against him ever reached the formal complaint stage. However, two of them provide some insight into the problems confronted by respondent.

Both grievances were referred to the Florida disciplinary authorities by members of the Judiciary. A November 27, 2000 letter from Circuit Judge Ben L. Bryan, Jr. to the executive director of the Florida bar states as follows:

I am aware of a situation with a lawyer who practices in Martin County that I believe merits the immediate attention of the The Florida Bar. There may already be some involvement by the Bar. The lawyer is Eric J. Bruning. . . .

I advised Mr. Bruning in open court that I was reporting my concerns to The Florida Bar. I have handled civil matters in Martin County for nearly two years. Mr. Bruning does not handle his files professionally and

efficiently. I have more motions to compel responses to discovery, to dismiss for lack of prosecution and other similar motions that are well founded involving him than all the other lawyers cumulatively who practice in Martin County Circuit Civil Court. There are currently matters in dispute between him and other attorneys who have taken over his cases relative to whether or not files and materials have been furnished. It is my opinion that there is serious probability of prejudice to Mr. Bruning's clients.

I want to report on Mr. Bruning's behalf that I believe he will cooperate completely with The Florida Bar. He concedes he has problems, both personal and business. He assured me he is not handling the trial of any cases without associating other counsel. He is amenable to suggestions and is concerned himself about his situation.

I have had this concern for several months, but am not sure of the process. I finally concluded that I had to do something, and that if there is a process to address this problem you would implement it.

[Exhibit L to the OAE's motion]

On November 30, 2000, Circuit Judge Robert A. Hawley wrote to the Florida Bar Department of Lawyer Regulation stating that he had been experiencing problems with respondent and that reporting the matter to the bar was in the best interest of all parties involved, including respondent. The judge stated that on the second day of a trial respondent "started crying and advised me that he was having problems with his medication and was emotionally unable to continue the trial." The judge continued that, in another case, respondent did not appear at case management conferences, resulting in the dismissal of the actions. He concluded that "Mr. Bruning also has two pending cases on my January 2, 2001 Trial Docket and six pending cases on my February 2, 2001 Trial Docket. I do not believe that Mr. Bruning is emotionally capable of handling, let alone trying, these cases on behalf of his clients." Exhibit M to the OAE's motion.

While respondent is currently in good standing with the New Jersey Lawyers' Fund for Client Protection, he did not report his Florida discipline to the OAE, as required by R.1:20-14(a)(1).

The OAE argued that in effect, respondent consented to a three-year suspension in Florida. The OAE urged us to impose a three-year suspension, with the condition that respondent not be permitted to apply for reinstatement until he is reinstated in Florida. In support of this sanction, the OAE relied on In re Gaffney, 146 N.J. 522 (1996) (three-year suspension for misconduct in eleven matters that included gross neglect, failure to communicate with clients, failure to cooperate with disciplinary authorities, failure to return client files or other property, misrepresentation, conduct prejudicial to the administration of justice, conduct intended to disrupt a tribunal, knowingly disobeying obligation under rules of a tribunal and lack of written fee agreement); In re Beck, 143 N.J. 135 (1996) ( three-year suspension for multiple violations of various ethics rules in eleven separate cases, including pattern of neglect, lack of diligence, failure to communicate with client, improperly terminating representation, lack of candor towards a tribunal, lack of truthfulness in statements to others, unauthorized practice of law and conduct prejudicial to the administration of justice); and In re Ternier, 120 N.J. 706 (1990) (three-year suspension for attorney who engaged in pattern of neglect, failure to communicate with clients and lack of diligence in representing sixteen separate clients over several years; attorney also failed to maintain appropriate trust and business accounting records).

\* \* \*

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 order of the Supreme Court of Florida.

Reciprocal disciplinary proceedings in New Jersey are governed by R.1:20-14(a), which directs that

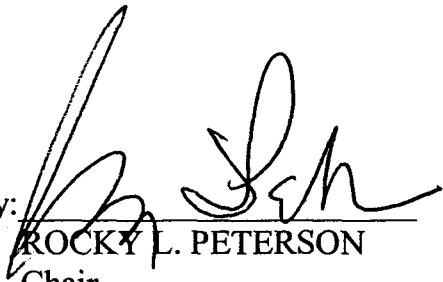
[t]he Board shall recommend the imposition of the identical action or discipline unless the respondent demonstrates or the Board finds on the face of the record upon which the discipline in another jurisdiction was predicated that it clearly appears that:

- (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 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 a review of the record does not reveal any conditions that would fall within the ambit of subparagraphs (A) through (E).

After considering the extent and severity of respondent's conduct in sixteen matters, we determined that a significant period of suspension is required to address the seriousness of the transgressions. We, therefore, unanimously determined to impose a three-year prospective suspension. Two members did not participate. We also determined that respondent should not be reinstated in New Jersey until he is reinstated in Florida.

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

By:   
ROCKY L. PETERSON  
Chair  
Disciplinary Review Board

---

---

**SUPREME COURT OF NEW JERSEY  
DISCIPLINARY REVIEW BOARD  
VOTING RECORD**

In the Matter of Eric J. Bruning  
Docket No. DRB 02-182

---

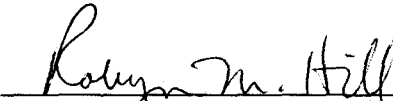
---

Argued: June 20, 2002

Decided: October 7, 2002

Disposition: Three-year suspension

<i>Members</i>	<i>Disbar</i>	<i>Three-year Suspension</i>	<i>Reprimand</i>	<i>Admonition</i>	<i>Dismiss</i>	<i>Disqualified</i>	<i>Did not participate</i>
<i>Peterson</i>		X					
<i>Maudsley</i>		X					
<i>Boylan</i>		X					
<i>Brody</i>		X					
<i>Lolla</i>		X					
<i>O'Shaughnessy</i>		X					
<i>Pashman</i>							X
<i>Schwartz</i>							X
<i>Wissinger</i>		X					
<b>Total:</b>		7					2

  
Robyn M. Hill  
Chief Counsel