

SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB02-299

IN THE MATTER OF  
PATRICK M. CASEY  
AN ATTORNEY AT LAW

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

Decided: March 12, 2003

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

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

The two-count complaint alleged that respondent neglected a divorce matter.

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We originally reviewed this matter on a motion for discipline by consent (six-month suspension). We denied the motion on the basis that the discipline was too severe and remanded the matter for either the execution of a new stipulation – with the measure of discipline left for our determination – or a formal hearing. Unfortunately, during negotiations

for the execution of a new stipulation, respondent, an admitted alcoholic, dropped out of sight. Therefore, after discussions with the Office of Attorney Ethics ("OAE"), the DEC prepared and filed a new complaint.

In the certification of the record, the DEC secretary, Frank Corrado, stated that, after our remand, negotiations for a new stipulation stalled when respondent's whereabouts became unknown. Corrado learned that respondent had relocated to Pittsburgh, Pennsylvania, and "was essentially living as a homeless person in the 'skid row section' of the city."

Corrado retained a private investigator, who was able to locate respondent in Pittsburgh. Thereafter, Corrado spoke to respondent by telephone. At Corrado's urging, respondent telephoned his New Jersey ethics counsel on January 26, 2002 to discuss the stipulation. Thereafter, respondent, who was still in the Pittsburgh area, again fell out of sight and has not been in contact with either his attorney or Corrado.

On March 14, 2002 Corrado sent a copy of the complaint to a private investigator in Pittsburgh, in an attempt to obtain personal service on respondent. The private investigator was unable to locate respondent. Corrado then arranged for service by publication in both the Pittsburgh Post Gazette and the Atlantic City Press.

Respondent did not answer the complaint.

\* \* \*

Respondent was admitted to the New Jersey bar in 1987. On October 29, 2001 he was suspended from the practice of law for three months for gross neglect, pattern of neglect,

failure to communicate with the client, failure to expedite litigation and pattern of misrepresentation. In re Casey, 170 N.J. 6 (2001).

The first count of the complaint alleged that, on or about November 26, 1997, Carol Ostroski, the grievant, retained respondent to file a divorce action in her behalf. Respondent took a \$2,000 retainer, but did not prepare a fee agreement. After their initial meeting, respondent contacted Ostroski only once – to obtain her social security number. Because Ostroski believed that respondent was not pursuing her case, in October 1999 she retained new counsel, who obtained a judgment of divorce in June 2000.

On or about December 7, 1999 Ostroski filed a fee arbitration claim seeking the return of her retainer. The fee arbitration committee ordered respondent to refund the \$2,000 retainer to Ostroski and later referred the matter to ethics authorities. It is not known if respondent ever returned the retainer.

The first count alleged that respondent violated RPC 1.1(a) (gross neglect), RPC 3.2 (failure to expedite litigation), RPC 1.4(a) (failure to communicate with client) and RPC 1.1(b) (pattern of neglect), mistakenly cited as RPC 1.6.

The second count of the complaint charged that respondent's conduct, combined with past instances of gross neglect, constituted a pattern of neglect, in violation of RPC 1.1(b).

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Service of process was properly made. Following a review of the record, we found that the facts recited in the complaint support the charges 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).

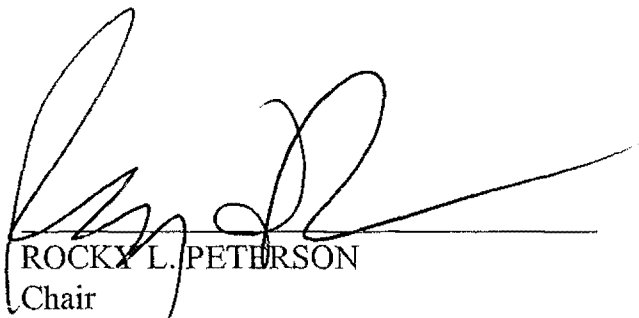
Respondent violated RPC 1.1(a) by his failure to file a divorce complaint or take any other action in Ostroski's behalf. In addition, he failed to communicate with his client, thereby violating RPC 1.4(a). When respondent's misconduct in this matter is combined with past instances of gross neglect, a pattern of neglect emerges, in violation of RPC 1.1(a). We dismissed, however, the charge of a violation of RPC 3.2, since that rule applies to situations where the attorney fails to expedite litigation. Here, there is no evidence that respondent had filed the complaint. RPC 1.1(a) is the more applicable rule.

Ordinarily, misconduct of this sort in default matters results in either a reprimand or a short-term suspension. See, e.g., In re Cubberly, 164 N.J. 532 (2000) (default; reprimand for pattern of neglect, lack of diligence and failure to cooperate with disciplinary authorities; two separate matters were involved; the attorney had been previously admonished in 1996 for failing to reply to the district ethics committee investigator's request for information); In re King, 157 N.J. 548 (1999) (three-month suspension imposed in a default matter for gross neglect, pattern of neglect, lack of diligence, failure to communicate with client and failure to cooperate with disciplinary authorities during the investigation of the case; the attorney had been previously reprimanded for gross neglect, pattern of neglect, lack of diligence, failure to communicate with client and failure to return an unearned fee); and In re Vnenchak, 156 N.J. 548 (1999) (three-month suspension imposed in a default matter for gross neglect, pattern of

neglect, lack of diligence, failure to communicate with client, failure to expedite litigation, failure to cooperate with disciplinary authorities and misrepresentations to clients; the attorney had been temporarily suspended from the practice of law in New Jersey since September 1997 for failure to appear at a demand audit by the Office of Attorney Ethics).

As previously noted, this matter was originally before us as a motion for discipline by consent (six-month suspension). We found that a suspension was too severe for the infractions committed. Unfortunately, the matter came back to us in a default posture. As a result, we are constrained to impose enhanced discipline. Therefore, we unanimously determined to impose a three-month suspension. We also required respondent to submit, prior to reinstatement, proof of fitness to practice law, as attested by a mental health professional approved by the Office of Attorney Ethics. 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 Patrick M. Casey  
Docket No. DRB 02-299

Decided: March 12, 2003

Disposition: Three-month suspension

<i>Members</i>	<i>Disbar</i>	<i>Three-month 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>		6					3

*Robyn M. Hill* 3/14/03  
Robyn M. Hill  
Chief Counsel