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SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. 02-345

IN THE MATTER OF :
DOROTHY S. TAMBONI :
AN ATTORNEY AT LAW :
:

Decision

Argued: November 21, 2002

Decided: March 5, 2003

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

John B. Sogliuzzo appeared on behalf of respondent.

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 disbarment in New York.

Respondent was admitted to the New Jersey bar in 1991. On April 12, 2000, she was temporarily suspended, pending the final resolution of this matter. In re Tamboni, 163 N.J. 293 (2000).

Respondent was disbarred in New York following her federal conviction on one count of witness tampering, in violation of 18 U.S.C.A. § 1512(b). She is presently in the federal witness-protection program.

During the March 1999 plea hearing, respondent testified that, between January and April 1995, she helped Theresa Castranova hide from government agents who were attempting to serve a grand jury subpoena on her, by passing information between Castranova and "other people." The court did not elicit any other details of the crime. Respondent received five-years' probation.

The report of the New York disciplinary referee is more enlightening. In 1995, respondent had an extra-marital affair with Andrew Russo, a "major crime figure." Andrew's son, Joe-Joe Russo, was in federal prison, serving a life term for "heinous crimes related to the Columbo family war." At Andrew's request, respondent carried innocent-sounding messages and letters between Andrew and Joe-Joe, as well as between Castranova and Joe-Joe. In fact, Andrew was hiding Castranova because she was a witness to his attempt to tamper with a juror in Joe-Joe's trial.

During respondent's prison visits, she met a prisoner named Larry.¹ Larry had been diagnosed HIV-positive, had overcome a heroin habit and had spent much of his life in jail. Respondent and Larry married in 1996.

¹ Larry's last name was redacted from the referee's report.

In 1998, respondent went to the Federal Bureau of Investigation ("FBI") because she believed that her and Larry's lives were in danger. As a result of her cooperation and testimony, Andrew and a "henchman," Dennis Hickey, were convicted of attempting to tamper with the juror in Joe-Joe's earlier trial.

As of March 2001, respondent and Larry remained married but were living apart, in "an unnamed city within the witness protection program." Respondent was working in a department store and completing her thesis for a master's degree in industrial and occupational psychology.

The New York disciplinary hearing focused solely on the issue of mitigation. Respondent presented a report from an unnamed treating psychiatrist and the testimony of another psychiatrist, Dr. James J. Lynch, who met with respondent for two hours on the day of the hearing. Respondent, her parents and two character witnesses also testified.

According to the referee's report, respondent presented evidence that she suffered from bipolar disorder, which was not diagnosed until her sentencing, when the U.S. Marshal's office took her to a doctor. However, her doctors believed that her bipolar disorder may have "actively contributed" to her earlier actions. They described respondent as suffering from obsessive behavior, grandiosity and poor judgment. Respondent's mother had also been treated for bipolar disorder, "a disease which frequently is hereditary."

Dr. Lynch testified that, with proper medication, eighty-five to ninety percent of patients with bipolar disorder are able to control it. He opined that, based on his observations

of respondent and the report of the treating psychiatrist, medication seemed to be helping respondent. Both psychiatrists indicated that retention of respondent's law license was "integral to the way she sees herself" and is vital "to her self esteem."

Respondent also presented fourteen character letters that depicted her as a "good-hearted, warm individual."

The Supreme Court of New York, Appellate Division, rejected respondent's contention that she should not be disbarred because of her bipolar disorder, her expressed remorse and the letters from family members and long-term acquaintances attesting to her good character and the aberrant nature of her misconduct. Instead, the New York court determined that she should be disbarred because of the seriousness of the crime, her willing affiliation with criminals and her participation in a scheme to subvert "a legitimate governmental process."

* * *

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 Court of New York, Appellate Division.

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 subsection (E) is applicable here, namely, that respondent's misconduct warrants substantially different discipline in New Jersey. In New York, disbarment is not permanent. An attorney can apply for reinstatement seven years after being disbarred. However, as correctly pointed out by the OAE, respondent's actions would not result in a seven-year suspension in New Jersey. The OAE urged the imposition of a three-year suspension, citing In re Marotta, 167 N.J. 595 (2000) (two-year suspension following a guilty plea to one count of obstruction of justice; the attorney had advised grand jury witnesses not to comply with a federal grand jury subpoena and to destroy records); In re

Van Dam, 140 N.J. 78 (1995) (three-year suspension, following a guilty plea to making a false statement to a savings and loan institution and obstruction of justice; the attorney concealed his partner's involvement as a shareholder of a company that had obtained a loan from a financial institution of which the partner was director and general counsel); In re Power, 114 N.J. 540 (1989) (three-year suspension, following a guilty plea to one count of obstruction of justice; the attorney advised a client not to disclose any information to law-enforcement authorities regarding a stock-fraud investigation and assisted the client in filing a false insurance claim); and In re Verdiramo, 96 N.J. 183 (1984) (seven-year "time-served" suspension, following a guilty plea to one count of obstruction of justice; the attorney attempted to persuade a prospective witness to testify falsely before a grand jury).

Respondent agreed that a three-year suspension is appropriate.

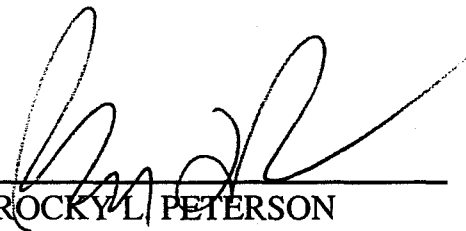
Respondent knowingly associated with criminals and participated in a scheme to subvert the administration of justice. However, according to her treating psychiatrist, she was suffering from a bipolar disorder and, at the time, was "acutely manic and not receiving treatment." Furthermore, her cooperation with the FBI led to the conviction of a "major crime figure" and his "henchman." Finally, respondent has been cut off from her family and friends and placed in the federal witness protection program.

Based on the foregoing, we unanimously determined to impose a three-year suspension, retroactive to April 12, 2000, the date of her temporary suspension in New

Jersey. We further determined to require respondent to submit, prior to reinstatement, proof of fitness to practice law, as attested by a mental health professional approved by the OAE.

Two members did not participate.

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

By: 
ROCKYL PETERSON
Chair
Disciplinary Review Board

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

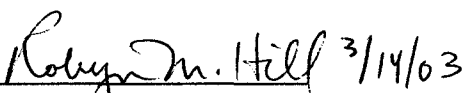
In the Matter of Dorothy S. Tamboni
Docket No. DRB 02-345

Argued: November 21, 2002

Decided: March 5, 2003

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					
Total:		7					2


Robyn M. Hill
Chief Counsel