

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 15-291
District Docket No. XIV-2015-0200E

IN THE MATTER OF :
ARTURO S. SUAREZ-SILVERIO :
AN ATTORNEY AT LAW :

Decision

Argued: February 18, 2016

Decided: May 26, 2016

Steven J. Zweig appeared on behalf of the Office of Attorney Ethics.

Lee A. Gronikowski 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, based on respondent's one-year suspension imposed by the Third Circuit Court of Appeals (Third Circuit).

The OAE contends that respondent's conduct equated to violations of RPC 1.1(a) (gross neglect), RPC 1.1(b) (pattern of neglect), RPC 1.3 (lack of diligence), RPC 3.4(c) (knowingly disobeying an obligation under the rules of a tribunal), RPC

8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation), and RPC 8.4(d) (conduct prejudicial to the administration of justice). The OAE requests that respondent receive a suspension of six months or one year. We determined to grant the OAE's motion and recommend a one-year prospective suspension.

Respondent was admitted to the Florida bar in 1990, the New York bar in 1996, and the New Jersey bar in 2002.¹

On November 10, 2009, respondent received an admonition for agreeing to represent a client in an asylum case before the Board of Immigration Appeals (BIA), despite knowing he was not qualified to do so. He prepared pleadings but failed to make changes requested by the client, and never filed any documents on his client's behalf. In the Matter of Suarez-Silverio, DRB 09-185 (November 10, 2009).

We now turn to the facts in this matter. On May 3, 2012, the Third Circuit issued an order in five immigration cases, directing respondent to show cause why he should not be referred to the court's Standing Committee on Attorney Discipline (the "Committee") for consideration of disciplinary sanctions, based

¹ Respondent was reciprocally disciplined in New York as a result of the Third Circuit proceedings and findings. Specifically, by order of the Appellate Division of the Supreme Court for the First Judicial Department of New York, dated October 20, 2015, respondent was suspended for one year, retroactive to March 27, 2015, the effective date of the Third Circuit suspension order.

on his long history of allowing cases to be procedurally terminated for failing to meet the court's filing requirements. The order recited that, of the twenty-nine immigration appeals respondent had handled since 2002, twelve had been procedurally terminated for failure to file case opening forms, pay fees, or file a brief and appendix, and two additional cases had been dismissed for failure to file case opening forms and to file a brief and appendix. These cases, however, were reopened upon respondent's correction of the deficiencies. The order further recited that "five additional cases are presently on the verge of procedural dismissal."

The five cases specified in the show cause order were on the brink of dismissal for various reasons, including respondent's failure to file a brief and appendix and/or the filing of a noncompliant motion to withdraw as counsel. The court ordered respondent to file a response on or before June 11, 2012. A hearing was scheduled for June 21, 2012. Respondent waited until minutes before the hearing to file his response. Additionally, by that date, a sixth case had edged toward procedural dismissal.

At the hearing, respondent claimed that the delay arose because of "an inordinate volume of work" due to his having recently opened a new office with "new staff that require

supervision". Nonetheless, the court imposed a public reprimand, directed respondent to pay a monetary sanction of \$2,500, and ordered that he correct the specified deficiencies in the client matters at issue. The court also warned respondent that his failure to comply fully with the order and to meet filing deadlines, or otherwise to comply with court orders or rules in the future, would expose him to more serious disciplinary sanctions. Respondent paid the monetary sanction and corrected the specified deficiencies.

The following year, in 2013, despite the court's warning, respondent filed two petitions that were procedurally terminated. On April 18, 2013, the Chief Deputy Clerk (the Clerk) dismissed one petition because respondent failed to timely file case opening forms. On October 15, 2013, the Clerk dismissed a second petition because respondent failed to file a petitioner's brief.

In 2014, in a third matter,² respondent failed to timely file an appellee's brief, which was due on May 29, 2014. On June 25, 2014, the Clerk's office sent a letter to respondent, informing him that the appellee's brief must be filed on or before July 10, 2014. No brief was filed. On October 6, 2014, the Clerk again contacted respondent regarding his failure to

² This brought the total number of cases respondent had mishandled to twenty-three.

file a brief. Respondent replied that the matter was essentially settled and that a motion to reopen was pending before the BIA. The Clerk directed respondent to file a status letter and a copy of the pending BIA motion. Respondent failed to do so.

On October 30, 2014, the court issued an order directing respondent to file a written response, on or before November 3, 2014, regarding the status of the BIA proceeding and an explanation for his failure to file an appellee's brief. Respondent did not file a response. Accordingly, a show cause order was issued on November 12, 2014, directing respondent to appear for a hearing on November 18, 2014.

On November 18, 2014, the date of the hearing, respondent filed a written response to the court's October 30, 2014 order. Contrary to his prior representations to the Clerk, respondent admitted that a motion to reopen had not been pending before the BIA. Rather, the motion to reopen was filed with the BIA on November 18, 2014 - the same day as the response and hearing. Respondent attributed his delayed filing of the motion to having "simply lost my way in this case" and acknowledged that he should have reached out to counsel for the United States Department of Homeland Security (DHS) sooner.

On November 24, 2014, the court issued an order concluding that respondent had failed to provide adequate justification for

his failure to comply with the directives of the Clerk, and the court. The court further determined that respondent's conduct, with respect to both the present action, and other proceedings before it, as well as his perceived lack of candor, warranted referral to the Committee.

On December 10, 2014, respondent was ordered to show cause, in writing, why discipline, including suspension or disbarment, should not be imposed. On January 8, 2015, respondent filed a timely response to the order to show cause. He contested the imposition of discipline but did not request a hearing.

In his written submission to the Committee, respondent asserted that he "never meant" to imply in earlier communications with court staff that he had filed with the BIA a motion to reopen, explaining that he had filed "proposed joint motions" with the DHS's Newark field office. Further, he filed those motions with the expectation that the government would execute and file them "because over the years I have filed countless numbers of joint motions to reopen in cases that I have handled in Immigration Court" and "because the government attorney in the appellate proceedings had indicated that her client had agreed to reopen those proceedings by means of a joint motion." He was unaware of any process by which he could himself file the joint motion. He further explained that he was

surprised to learn that he simply could have served his adversary with the proposed joint motion, and that she would have then been able to file it.

In respect of his repeated refusals to comply with filing deadlines in a separate client matter, respondent expressed regret for not having reopened the BIA matter earlier, which would have obviated the appeal and thereby the necessity to comply with appellate filing deadlines. He again claimed that he did not have "the roadmap to file the joint motion until the Court had grown vexed about what had been happening procedurally in the case."

On February 25, 2015, the Committee issued its report, finding respondent's repeated assertions in his January 8, 2015 response (that he "filed" a draft proposed motion by simply sending it to DHS) reflected "a fundamental misunderstanding about court procedures," as well as "a disturbing degree of confusion for a seasoned immigration practitioner who has been an active member of this Court's bar for more than ten years." The Committee also faulted respondent's written response for not discussing or explaining his "failure to make more prompt efforts to correct or clarify any misleading statements he previously made about filing a motion with the BIA."

The Committee further criticized respondent's "failure to respond to the [Clerk's] October 6, 2014 direction to file a

copy of the BIA motion" and to "discuss the delay in responding to the Court's October 30, 2014 order directing him to file a status report concerning the BIA proceeding". Finally, the Committee took issue with respondent's failure to "address in any respect the history of dilatory behavior generally or, more in particular, the dilatory behavior exhibited in the years since the Court's 2012 public reprimand and monetary sanction".

The Committee concluded that the imposition of discipline was warranted and recommended respondent's suspension. The Committee further recommended that, during the period of suspension, respondent be required to complete at least twenty hours of continuing legal education (CLE) pertaining to ethics, immigration law and/or federal practice and procedure, with reinstatement being conditioned on his filing of a certification that the CLE requirement had been completed. Finally, the Committee recommended that the Court consider reinstatement only if respondent identified an experienced immigration practitioner acceptable to the Court, to counsel him on court procedure and the necessity to comply with court orders and deadlines, for a probationary period of one year after readmission.

On March 27, 2015, the court adopted the Committee's recommendation in its entirety and entered an order, suspending respondent for one year. Respondent failed to timely notify the

OAE of either his June 22, 2012 public reprimand and monetary sanction or his 2015 one-year suspension.

On October 6, 2015, respondent, through his counsel, filed a motion with the Office of Board Counsel (OBC), to hold this ethics matter in abeyance, pending the outcome of a motion for early reinstatement that he had filed, or would soon be filing, with the Third Circuit. In support of his adjournment request, respondent argued that, should the court reduce or vacate his current suspension, it would significantly change the factual underpinnings of this matter. Respondent relied on that reinstatement petition in lieu of a brief to us.

In his reinstatement petition, respondent readily acknowledged that the suspension he received had merit because he "clearly engaged in a series of procedural blunders and fundamental misunderstandings about the practices and procedures in the Third Circuit." He contended, however, that none of his clients had been harmed or prejudiced by these procedural errors. Simply put, respondent argued to the court that he had satisfied all of the conditions imposed on him in its order of suspension and requested that he be reinstated to practice in the Third Circuit prior to the expiration of the one-year suspension. According to the court's March 27, 2015 order, respondent would not be eligible to apply for reinstatement until March 27, 2016.

Respondent also urged the court to consider several factors in mitigation. Specifically, he explained that, beginning in 2009, and through his suspension, his professional and personal life were in turmoil. His marriage had become contentious and was close to breaking down. The resultant stress, coupled with a heavy volume of legal work and no professional support, crippled him. Unfortunately, respondent explains, he turned to alcohol and began drinking heavily on a daily basis. Since then, however, he has hired nine employees to assist his practice, he and his wife are working towards reconciliation, and he remains in recovery from his drinking problem.

On October 27, 2015, prior to our opportunity to rule on respondent's motion to hold this matter in abeyance, respondent's counsel informed the OBC that the Third Circuit had denied respondent's reinstatement motion, with the option to renew it on March 27, 2016, the date on which the one-year suspension would expire.

Reciprocal discipline proceedings in New Jersey are governed by R. 1:20-14(a)(4), which provides:

The 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 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;

(E) the unethical conduct established warrants substantially different discipline.

A review of the record does not reveal any conditions that would fall within the ambit of subparagraphs (A) through (E). Accordingly, a one-year suspension, the same discipline that the Third Circuit imposed, is warranted here.

On review of the full record, we determined to grant the OAE's motion for reciprocal discipline. Pursuant to R. 1:20-14(a)(5), "a final adjudication in another court, agency or tribunal, that an attorney admitted to practice in this state ... is guilty of unethical conduct in another jurisdiction as an attorney or otherwise in connection with the practice of law, shall establish conclusively the facts on which it rests for purposes of a disciplinary proceeding in this state." Thus, the

"sole issue to be determined...shall be the extent of final discipline to be imposed." R. 1:20-14(b)(3).

Respondent severely neglected and lacked diligence in a myriad of cases over the course of many years, even allowing some of those matters to be administratively terminated because he failed to comply with procedural deadlines. In fact, the record indicates that, over the course of thirteen years, respondent neglected, twenty-three immigration matters allowing fourteen of them to be procedurally terminated for failing to file proper forms, pay fees, or file briefs. This pervasive neglect clearly establishes a pattern, a violation of RPC 1.1(a) and (b), and RPC 1.3.

Respondent compounded his misconduct by knowingly disobeying two Third Circuit orders and one directive by its Clerk, a violation of RPC 3.4(c). Specifically, on May 3, 2012, the court ordered respondent to file a written response to its order to show cause on or before June 11, 2012. Respondent did not file his response until June 21, 2012, just minutes before the scheduled hearing on the matter. Subsequently, respondent failed to comply with the Clerk's October 6, 2014 directive that he file a status letter and a copy of the pending BIA motion he previously had represented had been filed. Hence, on October 30, 2014, the court ordered respondent to file a written response,

on or before November 3, 2014, regarding the status of the BIA proceeding and explaining why the appellee's brief had not been filed. Once again, he disobeyed the order, requiring the court to issue yet another order, this time requiring respondent to appear before the court to explain his actions and for the possible imposition of sanctions. Respondent filed his response on November 18, 2014, the date of the scheduled hearing, two weeks after its due date.

As previously stated, respondent earlier had made a stark misrepresentation to the Clerk of the court regarding the status of proceedings in a particular matter. The impetus for the Clerk's October 6, 2014 directive was respondent's claim that a motion was pending before the BIA. Respondent made this assertion as an explanation for not having filed an appellate brief in a particular client matter. Respondent later admitted to the court, however, that he had not filed a motion to reopen with the BIA until over a month later, on November 18, 2015, the very date of his written response and the hearing before the court. Respondent's misrepresentation to the Clerk constitutes a violation of RPC 3.3(a)(1) (making a false statement of material fact or law to a tribunal), which is a more specific form of misrepresentation than RPC 8.4(c), the rule that the OAE cited in its brief. A misrepresentation to the Clerk is a

misrepresentation to the court, by proxy. Therefore, we find that this conduct violated RPC 3.3(a)(1).

Finally, respondent's repeated failures to meet procedural deadlines and to pay fees on time; his neglectful handling of matters, allowing them to be procedurally terminated; and his out-of-time filings with the court caused a waste of judicial resources; amounting to conduct prejudicial to the administration of justice and a violation of RPC 8.4(d).

In sum, respondent violated RPC 1.1(a) and (b), RPC 1.3, RPC 3.3(a)(1), RPC 3.4(c), and RPC 8.4(d). The only remaining issue is the appropriate discipline for respondent's misconduct.

Attorneys who mishandle multiple client matters generally receive a term of suspension. See, e.g., In re Tarter, 213 N.J. 423 (2013) (three-month suspension for attorney who mishandled four matters, exhibiting a pattern of neglect and a lack of diligence, failing to protect clients' interests, and failing to withdraw from representation due to a material impairment in all four matters; in one of those matters the attorney was also guilty of gross neglect; in mitigation, most of the attorney's behavior occurred over the course of only several months and at the height of his alcoholism); In re Bowman, 179 N.J. 367 (2004) (three-month suspension imposed on an attorney who, in six separate matters, engaged in gross neglect, made

misrepresentations to clients, settled one matter without a client's authorization, and forged a client's signature; the Court took into consideration that, during the applicable time, the attorney was an alcoholic and was materially impaired in his ability to represent clients); In re LaVerqne, 168 N.J. 410 (2001) (six-month suspension for attorney who mishandled eight client matters; the attorney exhibited a lack of diligence in six of them, failed to communicate with clients in five, displayed gross neglect in four, and failed to turn over the file upon termination of the representation in three; in addition, in one of the matters, the attorney failed to notify medical providers that the cases had been settled and failed to pay their bills; in one other matter, the attorney misrepresented the status of the case to the client; the attorney was also guilty of a pattern of neglect and recordkeeping violations); In re Pollan, 143 N.J. 305 (1996) (attorney suspended for six months for misconduct in seven matters, including gross neglect, pattern of neglect, failure to communicate with clients, failure to deliver a client's file, misrepresentation, recordkeeping improprieties, and failure to cooperate with ethics authorities; clinical depression alleged); In re Chamish, 128 N.J. 110 (1992) (six-month suspension imposed for misconduct in six matters, including failure to communicate

with clients and lack of diligence; in one of the matters, the attorney represented both driver and passenger in a motor vehicle case and then filed suit on behalf of the driver through the unauthorized use of another attorney's name and forgery of the attorney's signature on the complaint); In re Brown, 167 N.J. 611 (2001) (one-year suspension for attorney who, as an associate in a law firm, mishandled twenty to thirty files by failing to conduct discovery, to file pleadings, motions and legal briefs, and to generally prepare for trials; the attorney also misrepresented the status of cases to his supervisors and misrepresented his whereabouts, when questioned by his supervisors, to conceal the status of matters entrusted to him; the disciplinary matter proceeded as a default; prior reprimand); In re Marum, 157 N.J. 625 (1999) (attorney suspended for one year for serious misconduct in eleven matters, including lack of diligence, gross neglect, failure to communicate with clients, failure to explain the matter to clients in detail to allow them to make informed decisions about the representation, misrepresentation to clients and to his law partners, which included entering a fictitious trial date on the firm's trial diary, and pattern of neglect; the attorney also lied to three clients that their matters had been settled and paid the "settlements" with his own funds; the attorney's misconduct

spanned a period of eleven years; in aggravation, the attorney had two prior admonitions, failed to recognize his mistakes, and blamed clients and courts therefor); In re Lawnick, 162 N.J. 113 (1999) (one-year suspension for attorney who agreed to represent clients in six matters and took no action, despite having accepted retainers in five of them; the attorney also failed to communicate with the clients and to cooperate with the investigation of the ethics grievances; the matter proceeded on a default basis; on the same date that the attorney was suspended for one year, the Court suspended him for three months for lack of diligence, failure to communicate with the client, failure to surrender documents and failure to cooperate with disciplinary authorities; that disciplinary matter also proceeded as a default); and In re Herron, 140 N.J. 229 (1995) (one-year suspension for attorney who engaged in unethical conduct in seven matters; the attorney either grossly neglected them or failed to act with diligence, failed to keep the clients informed of the progress of their matters and, in two cases, misrepresented their status to the clients; the attorney also failed to cooperate with disciplinary authorities; in a subsequent matter, In re Herron, 144 N.J. 158 (1996), the Court suspended the attorney for one year, retroactive to the starting date of the first one-year suspension, for misconduct in two

matters, including gross neglect, lack of diligence, failure to communicate with clients and failure to cooperate with disciplinary authorities; the attorney's conduct in that subsequent matter occurred after he was on notice that his conduct in the prior seven matters was under scrutiny by ethics authorities).

Attorneys who fail to obey court orders have been reprimanded. See, e.g., In re Cerza, 220 N.J. 215 (2015) (attorney failed to obey a bankruptcy court's order compelling him to comply with a subpoena, which resulted in the entry of a default judgment against him; violations of RPC 3.4(c) and RPC 8.4(d); the attorney also violated RPC 1.15(b) in a related real estate transaction when he disbursed a \$100 survey refund to the wrong party, failed to refund the difference between the estimated recording costs and the actual recording costs, and failed to disburse the mortgage payoff overpayment, which had been returned to him and held in his trust account for more than five years after the closing; prior admonition for recordkeeping violations and failure to promptly satisfy tax liens in connection with two client matters, even though he had escrowed funds for that purpose); In re Cooper, 218 N.J. 162 (2014) (attorney was required to disburse half of the net proceeds from the sale of a liquor license in accordance with a final divorce

decree as ordered by the court; instead, he disbursed the entire amount); In re Mason, 197 N.J. 1 (2008) (with information he had gathered during his representation of Marx Toys, the attorney switched sides to represent a competing entity; he was found guilty of having violated a court order entered after the switch, directing him "not [to] perform any legal work which involves Marx Toys and [not to make] any disclosures regarding Marx;" conflict of interest also found); In re Gourvitz, 185 N.J. 243 (2005) (attorney repeatedly disregarded several court orders requiring him to satisfy financial obligations to his former secretary, an elderly cancer survivor who sued him successfully for employment discrimination; the attorney had refused to allow her to return to work after her recovery from cancer surgery, because the medical condition had disfigured her face); In re Carlin, 176 N.J. 266 (2003) (attorney failed to comply with two court orders and with mandatory trust and business recordkeeping requirements; gross neglect, lack of diligence, failure to communicate with the client, and failure to promptly deliver funds to a third person also found); In re Kersey, 170 N.J. 409 (2002) (motion for reciprocal discipline; attorney failed to comply with orders of a Vermont family court in his own divorce matter); and In re Holland, 164 N.J. 246 (2000) (attorney who was required to hold in trust a fee in

which she and another attorney had an interest took the fee, in violation of a court order).

Lack of candor to a tribunal has resulted in discipline ranging from an admonition to a long-term suspension. See, e.g., In the Matter of Richard S. Diamond, DRB 07-230 (November 15, 2007) (admonition for attorney who filed certifications with the family court making numerous references to attached psychological/medical records, which were actually mere billing records from the client's medical provider; although the court was not misled by the mischaracterization of the documents, the conduct nevertheless violated RPC 3.3(a)(1)); In re Schiff, 217 N.J. 524 (2014) (reprimand for attorney who filed inaccurate certifications of proof in connection with default judgments; specifically, at the attorney's direction, his staff prepared signed, but undated, certifications of proof in anticipation of defaults; thereafter, when staff applied for a default judgment, at the attorney's direction, staff completed the certifications, added factual information, and stamped the date; although the attorney made sure that all credits and debits reflected in the certification were accurate, the signatory did not certify to the changes, after signing, a practice of which the attorney was aware and directed; the attorney was found guilty of lack of candor to a tribunal and failure to supervise non-lawyer employees); In re

Manns, 171 N.J. 145 (2002) (attorney reprimanded for misleading the court, in a certification in support of a motion to reinstate the complaint, as to the date the attorney learned of the dismissal of the complaint; the attorney also lacked diligence in the case, failed to expedite litigation, and failed to properly communicate with the client; prior reprimand); In re Duke, 207 N.J. 37 (2011) (attorney received a censure for failure to disclose his New York disbarment on a form filed with the Board Of Immigration Appeals; the attorney also failed to adequately communicate with the client and was guilty of recordkeeping deficiencies; prior reprimand; the attorney's contrition and efforts at rehabilitation justified only a censure); In re Clayman, 186 N.J. 73 (2006) (censure imposed on attorney who misrepresented the financial condition of a bankruptcy client in filings with the bankruptcy court to conceal information detrimental to the client's Chapter 13 bankruptcy petition; although the attorney had made a number of misrepresentations in the petition, he was one of the first attorneys to be reported for his misconduct by a new Chapter 13 trustee who had elected to enforce the strict requirement of the bankruptcy rules, rather than permit what had been the "common practice" of bankruptcy attorneys under the previous trustee; the attorney also had an unblemished disciplinary record, was not motivated by personal gain, and did not act out of

venality); In re Perez, 193 N.J. 483 (2008) (on motion for final discipline, three-month suspension for attorney guilty of false swearing; the attorney, then the Jersey City Chief Municipal Prosecutor, lied under oath at a domestic violence hearing that he had not asked the municipal prosecutor to request a bail increase for the person charged with assaulting him); In re Hasbrouck, 186 N.J. 72 (2006) (attorney suspended for three months for, among other serious improprieties, failing to disclose to a judge his difficulties in following the judge's exact instructions about the deposit of a \$600,000 check in an escrow account for the benefit of the parties to a matrimonial action; instead of opening an escrow account, the attorney placed the check under his desk blotter, where it remained for eight months); In re D'Arienzo, 157 N.J. 32 (1999) (three-month suspension for attorney who made multiple misrepresentations to a judge about his tardiness for court appearances or failure to appear; mitigating factors considered); In re Cillo, 155 N.J. 599 (1998) (one-year suspension for attorney who, after misrepresenting to a judge that a case had been settled and that no other attorney would be appearing for a conference, obtained a judge's signature on an order dismissing the action and disbursing all escrow funds to his client; the attorney knew that at least one other lawyer would be appearing at the conference and that a trust agreement

required that at least \$500,000 of the escrow funds remain in reserve); and In re Kornreich, 149 N.J. 346 (1997) (three-year suspension for attorney who had been involved in an automobile accident and then misrepresented to the police, to her lawyer, and to a municipal court judge that her babysitter had been operating her vehicle; the attorney also presented false evidence in an attempt to falsely accuse the babysitter of her own wrongdoing).

Here, over the last thirteen years, respondent neglected twenty-three matters before the Third Circuit, many of which ended by procedural termination. Notwithstanding the three-month suspension imposed in Tarter, the discipline typically imposed for such misconduct, when also accompanied by other violations such as misrepresentation (LaVergne, Pollan), forgery (Chamish) and settling cases without the client's consent (Martin), is a six-month suspension. Here, in addition to the lack of diligence, gross neglect, and pattern of neglect, respondent, like the above attorneys, has committed other, significant, violations. These infractions include disobeying court orders and making a misrepresentation to the court Clerk. Indeed, we would have imposed a short-term suspension based solely on respondent's misrepresentations to the Clerk. See D'Arienzo, supra, 157 N.J. 32.

In aggravation, in 2009, respondent was admonished in New Jersey for his neglect in an asylum matter before the BIA. There, respondent agreed to represent the client and, although he immediately began preparing pleadings in the matter, he neither incorporated his client's proposed changes nor filed any pleadings on the client's behalf. Further, eight months after he had been retained, he informed his client that he was not qualified to represent the client and withdrew from the matter. In the Matter of Suarez-Silverio, DRB 09-185 (November 10, 2009). Respondent's conduct there was similar to his conduct that led to both his reprimand in 2012 and his suspension in 2015 in the Third Circuit. Hence, respondent clearly has failed to learn from his past mistakes.

In further aggravation, respondent failed to notify the OAE of either the June 22, 2012 order imposing a reprimand and monetary sanctions, or his one-year suspension from practicing before the Third Circuit on March 27, 2015, as required by R. 1:20-14(a)(1).

In mitigation, beginning in 2009 and through his suspension, respondent's professional and personal life were in turmoil. Additionally, he was handling a heavy volume of legal work, with no professional support. These personal and professional stressors led to discord in his marriage and to

heavy drinking on a daily basis. Since then, however, he has hired nine employees to assist in his practice, he and his wife are working towards reconciliation, and he remains in recovery from his drinking problem.


In our view, the aggravating factors far outweigh the mitigation respondent has offered. Although respondent's personal difficulties may explain, to some extent, his failure to learn from his past mistakes and his continued pattern of neglect both after his first admonition and again, after his reprimand, those difficulties cannot explain or justify respondent's blatant misrepresentation to the Clerk. Nor can respondent justify his failure to report both his reprimand and suspension in the Third Circuit, to New Jersey disciplinary authorities, as he is required to do. Respondent's failure to do so allowed him to continue to practice in New Jersey State courts, uninterrupted, while he served his suspension in the Third Circuit. He should not benefit by those omissions. Thus, under the totality of the circumstances, we determine that a one-year prospective suspension is warranted for respondent's serious misconduct.

Member Boyer would have imposed a six-month suspension.

We further determine to require respondent to reimburse the Disciplinary Oversight Committee for administrative costs and

actual expenses incurred in the prosecution of this matter, as provided in R. 1:20-17.

Disciplinary Review Board
Bonnie C. Frost, Chair

By: 
Ellen A. Brodsky
Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD


In the Matter of Arturo S. Suarez-Silverio
Docket No. DRB 15-291

Argued: February 18, 2016

Decided: May 26, 2016

Disposition: One-year suspension

<i>Members</i>	Disbar	One-year Suspension	Six-month Suspension	Dismiss	Disqualified	Did not participate
Frost		X				
Baugh		X				
Boyer			X			
Clark		X				
Gallipoli		X				
Hoberman		X				
Rivera		X				
Singer		X				
Zmirich		X				
Total:		8	1			


Ellen A. Brodsky
Chief Counsel