

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 89-200

IN THE MATTER OF :
:
FREDERICK MARGULIES, :
:
AN ATTORNEY AT LAW :

Decision and Recommendation
of the
Disciplinary Review Board

Argued: October 18, 1989

Decided: February 5, 1990

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

Respondent waived appearance before the Board.

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

This matter is before the Board based on a Motion for Reciprocal Discipline filed by the Office of Attorney Ethics. R. 1:20-7. The motion is based on respondent's public censure by the District of Columbia Court of Appeals. In re Frederick Margulies, Respondent, Docket No. 88-1032 (January 26, 1989).

Respondent was admitted to the practice of law in New Jersey in 1987. He was admitted to the District of Columbia (D.C.) bar in 1984 and practiced there until moving to New Jersey in April 1986. On September 26, 1984, respondent was appointed to represent Thomas Grady on drug-related charges. Following conviction, Mr. Grady was sentenced to twenty months' imprisonment, the minimum sentence he could have received. On January 2, 1985, after the

In response to the court's order of October 16, 1986, Bar Counsel contacted respondent requesting that he explain the order vacating his appointment. In his letter dated January 12, 1987, respondent stated that it was his opinion that there was no basis for the appeal and that he had typed a motion to withdraw the appeal. He believed he had filed the motion, although the court apparently never received it.

Bar Counsel sent a second letter of inquiry to respondent, who answered by way of a letter dated March 27, 1987. In this second letter, respondent indicated the date of his move to New Jersey, and listed his three New Jersey addresses. He explained that he "did notify the Superior Court Criminal Division as well as the Court of Appeals of my address change . . . I didn't feel it was necessary to notify the Courts of my subsequent changes since I believed all my cases were closed."

In his March 27, 1987 letter, respondent also stated that he believed there were no material issues on which to base the appeal. He indicated that he had met with Mr. Grady to discuss the appeal and that they had mutually decided not to pursue it. Mr. Grady testified that he never intended not to appeal his conviction and that he believed respondent was representing him until October 22, 1986, when he received a letter from subsequent counsel.

CONCLUSION AND RECOMMENDATION

Upon a review of the full record, the Board recommends that the Office of Attorney Ethics' motion be granted. Respondent

The D.C. authorities also found a violation of DR 1-102(A)(4), in that respondent was guilty of two instances of misrepresentation to Bar Counsel. In the first instance, respondent stated in his letter to Bar Counsel that he had notified the Court of Appeals of his change of address. Respondent claimed at the D.C. ethics hearing that, at the time he wrote the letter to Bar Counsel, he believed that he had informed the Court of his change of address. The Board agrees with the D.C. authorities, finding that the record did not support respondent's claim. In light of the fact that three orders from the Court of Appeals were sent to respondent's D.C. address and forwarded to him, it is incredible that he would have continued to hold the belief that he had notified the Court of his change of address. In addition, no records were found to support respondent's claim that such notice was given.

In the second instance, respondent indicated, in the same letter to Bar Counsel, that his client had agreed not to pursue the appeal. The Board agrees with the D.C. authorities' finding that Mr. Grady and his mother -- both of whom testified on this point -- were credible and firm in their contentions that no such agreement was reached. The D.C. Hearing Committee rejected respondent's claim that he had been instructed not to appeal and concluded that respondent had made false statements to Bar Counsel. The Board agrees with this conclusion and finds that respondent violated RPC 8.4(c).

The purpose of discipline, however, is not the punishment of the offender, but "protection of the public against an attorney,

basis of respondent's misrepresentations to Bar Counsel only.

The Board further recommends that respondent be required to reimburse the Ethics Financial Committee for administrative costs.

Dated:

2/5/1990

By:



Raymond R. Trombadore

Chair

Disciplinary Review Board