

SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 18-111  
District Docket No. XIV-2017-0162E

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In The Matter Of  
Cheri S. Williams Robinson  
An Attorney At Law

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Decision

Decided: September 19, 2018

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

This matter was before us by way of default filed by the Office of Attorney Ethics (OAE), pursuant to R. 1:20-4(f). The complaint charged respondent with violations of RPC 8.1(b) (failure to cooperate); and RPC 8.4(d) (conduct prejudicial to the administration of justice). For the reasons set forth below, we determine to impose a one-year suspension.

Respondent was admitted to the New Jersey and the Pennsylvania bar in 2001. She is currently suspended from the practice of law both in Pennsylvania and in New Jersey. She has an extensive disciplinary history.

On August 25, 2014, the Court declared respondent ineligible to practice law for failure to pay the annual attorney assessment to the New Jersey Lawyers' Fund for Client Protection (the Fund). Subsequently, on June 4, 2015, she was temporarily suspended from the practice of law in New Jersey, effective July 6, 2015, and ordered to pay a monetary sanction for failing to comply with the determination of a fee arbitration committee. In re Robinson, 222 N.J. 312 (2015).

On October 21, 2015, respondent received a reprimand for gross neglect, pattern of neglect, lack of diligence, failure to communicate, and failure to cooperate, based on conduct that occurred in 2013. In re Robinson, 223 N.J. 289 (2015).

On November 2, 2016, respondent received a three-month suspension, in two combined default matters, for her failure to communicate with her clients in 2009 and 2013, respectively. In re Robinson, 227 N.J. 45 (2016).

Finally, on May 22, 2017, respondent received a one-year suspension in a motion for reciprocal discipline, following Pennsylvania's suspension of respondent for one year and one day, for gross neglect, lack of diligence,

failure to communicate, unreasonable fee, failure to safeguard funds, failure to promptly deliver funds, failure to segregate disputed funds, and failure to expedite litigation. In re Robinson, 229 N.J. 131 (2017). As noted, she remains suspended to date.

Service of process was proper. On January 3, 2018, the OAE sent a copy of the complaint, in accordance with R. 1:20-4(d) and R. 1:20-7(h), by both regular and certified mail, return receipt requested, to respondent's last known office address, home address listed with the Fund, and an additional out-of-state home address. The certified mail sent to respondent's office address was returned marked "Not Deliverable As Addressed." The regular mail sent to this address was not returned.

The United States Postal Service tracking of the certified mail sent to respondent's home address indicated that it was "In Transit to Destination." The regular mail sent to this address was returned to the OAE marked "Not Deliverable As Addressed."

The certified mail return receipt for the letter sent to respondent's additional out-of-state home address was returned to the OAE, indicating delivery on January 9, 2018; however, the signature is illegible. The regular mail to this address was not returned to the OAE.

On February 14, 2018, the OAE sent a second letter to respondent's out-of-state home address, by regular and certified mail, return receipt requested, informing her that, if she failed to file a verified answer to the complaint within five days of the date of the letter, the allegations of the complaint would be deemed admitted, the record would be certified directly to us for the imposition of discipline, and the complaint would be deemed amended to include a violation of RPC 8.1(b). The signed certified mail receipt was returned to the OAE; however, the signature is illegible. The regular mail sent to this address was not returned to the OAE.

The time within which respondent may answer has expired. As of March 28, 2018, the date of the certification of the record, no answer had been filed by or on behalf of respondent.

We now turn to the facts alleged in the complaint. On June 4, 2015, November 2, 2016, and May 22, 2017, the Court ordered respondent to comply with R. 1:20-20 in connection with the respective suspensions issued on those dates. Those Orders required her, among other things, to "within 30 days after the date of the order of suspension (regardless of the effective date thereof) file with the Director the original of a detailed affidavit specifying by correlatively numbered paragraphs how the disciplined attorney has complied with each of

the provisions of this rule and the Supreme Court's order." Respondent failed to comply with R. 1:20-20.

On November 28, 2017, the OAE wrote to respondent, by certified and regular mail, to her office address and her home address listed with the Fund, reminding her of the responsibility to file the affidavit, and requesting a response by December 12, 2017. The certified mail to each of these addresses was returned to the OAE marked "Not Deliverable As Addressed." The regular mail to these addresses was not returned to the OAE.

Respondent neither replied to the OAE's letter nor filed the required affidavit.

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The complaint alleges sufficient facts to support the charges of unethical conduct. Respondent's failure to file an answer is deemed an admission that the allegations of the complaint are true and that they provide a sufficient basis for the imposition of discipline. R. 1:20-4(f)(1).

Respondent received three separate Orders suspending her from the practice of law. Each Order required her to comply with Rule 1:20-20, governing suspended attorneys. Respondent violated the Court's Orders and failed to take the steps required of all suspended or disbarred attorneys,

including notifying clients and adversaries of the suspension and providing clients with their files.

Rule 1:20-20 provides that the failure to fully and timely comply with the obligations thereunder constitutes violations of RPC 8.1(b) and RPC 8.4(d). Thus, respondent's failure to file the required affidavit is a violation of these Rules.

The threshold measure of discipline for an attorney's failure to file a R. 1:20-20(b)(15) affidavit is a reprimand. In re Girdler, 179 N.J. 227 (2004); In the Matter of Richard B. Girdler, DRB 03-278 (November 20, 2003) (slip op. at 6). The actual discipline imposed may differ, based on the presence of aggravating or mitigating circumstances.

Girdler received a three-month suspension after we considered, in aggravation, (1) the fact that he had been "prodded" by the OAE to file the affidavit, had obtained an extension to file it, and had given his assurances to the OAE that he would hand-deliver it, but never did; and (2) his ethics history, consisting of a private reprimand, a reprimand, and a three-month suspension. Ibid.

Since Girdler, the discipline for failing to file a R. 1:20-20 affidavit, in default matters, has ranged from a censure to a lengthy or an indefinite suspension, based on the extent of the attorney's ethics history. See, e.g., In re

Boyman, 217 N.J. 360 (2014) (censure for attorney who failed to file the affidavit after his temporary suspension for failure to pay assessed administrative costs in connection with a 2010 censure); In re Terrell, 214 N.J. 44 (2013) (censure for attorney who failed to file the affidavit following a temporary suspension; no history of final discipline); In re Saint-Cyr, 210 N.J. 254 (2012) (Saint-Cyr I) (censure for attorney who was temporarily suspended for failure to comply with a fee arbitration determination; no history of discipline); In re Palfy, 221 N.J. 208 (2015) (three-month suspension for attorney who exhibited a pattern of failure to cooperate with disciplinary and fee arbitration officials; he was twice temporarily suspended for non-compliance with five separate fee arbitration matters and was temporarily suspended for failure to cooperate with an OAE investigation; we determined that the baseline for attorneys who failed to file R. 1:20-20 affidavits, defaulted, and had only temporary suspensions on their record was a censure; we enhanced the discipline because of the attorney's "pattern of obstinacy toward ethics and fee authorities"); In re Rak, 214 N.J. 5 (2013) (three-month suspension; aggravating factors included the attorney's failure to file the affidavit, even after the OAE physically left correspondence at his office about his duty to do so, and the fact that it was his third default matter in three years; prior reprimand and a three-month suspension); In re Swidler, 210 N.J. 612

(2012) (Swidler I) (three-month suspension for attorney who failed to file the affidavit after receiving two suspensions, and after the OAE had requested that he do so; it was the attorney's fourth default; ethics history included a reprimand, a three-month suspension, and a six-month suspension); In re Rosanelli, 208 N.J. 359 (2011) (six-month suspension for attorney who failed to file the affidavit after receiving a temporary suspension and a three-month suspension; prior six-month suspension); In re Sharma, 203 N.J. 428 (2010) (six-month suspension; we considered the attorney's failure to comply with the OAE's specific request to file the affidavit and his ethics history: a reprimand, a censure for misconduct in two default matters, and a three-month suspension); In re Wargo, 194 N.J. 166 (2008) (one-year suspension for attorney whose ethics history included a temporary suspension for failure to cooperate with the OAE, a censure, and a one-year suspension for misconduct in two combined matters; all of the matters proceeded as defaults); In re Saint-Cyr, 222 N.J. 6 (2015) (Saint-Cyr II) (two-year suspension; ethics history included a temporary suspension for failure to pay a sanction to the Disciplinary Oversight Committee based on her failure to comply with a fee arbitration determination, a censure in a default (also for failure to comply with R. 1:20-20), and a two-year suspension for conduct in three combined default matters); In re Brekus, 208 N.J. 341 (2011) (Brekus I) (two-year




suspension; ethics history included an admonition, a reprimand, a censure, and two one-year suspensions, the second suspension was by default); In re Brekus, 220 N.J. 1 (2014) (Brekus II) (three-year suspension, same ethics history as above, plus the two-year suspension for failure to file the R. 1:20-20 affidavit); and In re Swidler, 221 N.J. 62 (2015) (Swidler II) (indefinite suspension; ethics history included a reprimand, a temporary suspension for failure to comply with a fee arbitration determination, two three-month suspensions (one for failure to file the R. 1:20-20 affidavit in 2012), and one six-month suspension; the indefinite suspension was imposed to avoid taxing disciplinary authorities with the repetitious filings of complaints for the attorney's continuing failure to file a R. 1:20-20 affidavit).

Based on the foregoing, and, more specifically, on Wargo, we determined to impose a one-year suspension on respondent. We based our determination on respondent's significant ethics history and the principles of progressive discipline, as well as the default posture of this matter. See, In re Kivler, 193 N.J. 332, 342 (2008) ("a respondent's default or failure to cooperate with the investigative authorities operates as an aggravating factor, which is sufficient to permit a penalty that would otherwise be appropriate to be further enhanced"). We further determine that the one-year suspension be consecutive to the one-year suspension ordered by the Court on May 22, 2017.

Members Clark, Joseph, and Singer voted for a six-month suspension. Member Gallipoli voted for disbarment and filed a separate dissent. Member Hoberman did not participate.

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

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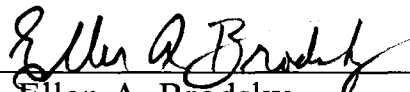
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Decided: September 19, 2018

Disposition: One-Year Consecutive Suspension

<i>Members</i>	One-Year Consecutive Suspension	Six-month Suspension	Disbar	Recused	Did Not Participate
Frost	X				
Clark		X			
Boyer	X				
Gallipoli			X		
Hoberman					X
Joseph		X			
Rivera	X				
Singer		X			
Zmirich	X				
Total:	4	3	1	0	1

  
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Ellen A. Brodsky  
Chief Counsel