

SUPREME COURT OF NEW JERSEY
DISTRICT IV ETHICS COMMITTEE
CAMDEN AND GLOUCESTER COUNTIES
44 Euclid Street
Woodbury, NJ 08096
By: Wayne E. Natale, Esq., Presenter

DISTRICT IV ETHICS COMMITTEE, :

Complainant,

vs.

BRUCE L. THROCKMORTON

Respondent,

: DOCKET NO: IV-06-028E
:
:
: DISCIPLINARY ACTION
:
: COMPLAINT
:

District IV Ethics Committee, c/o Wayne E. Natale, Esquire, Presenter, Long,
Marmero & Mayer, LLP, 44 Euclid Street, Woodbury, New Jersey, 08096, by way of
Complaint against Respondent, says that:

GENERAL ALLEGATIONS

1. Bruce L. Throckmorton ("Respondent") was admitted to the Bar of the State of New Jersey in 1994.
2. Respondent's failure to cooperate with the underlying investigation prevents an understanding of whether he maintains a current law practice at the address contained in the Lawyers Diary. He did, however, last have an office practice at 143 White Horse Avenue, Trenton, New Jersey 08610.
3. Since Respondent failed to respond to any form of correspondence by Presenter, the allegations are based on the representations of the Complainant.

FIRST COUNT

**Lack of Reasonable Diligence (RPC 1.3); and
Failure in Communication (RPC 1.4).**

4. In September 2004, Respondent was retained by Thomas Giordano to represent him on an appeal from parole denial and for an application for reconsideration of sentence under N.J.R. 3:21-10b(3).

5. The fee for this representation was stated to be Five Thousand Dollars (\$5,000.00). Respondent took a \$500.00 advance to inquire of the viability of either application.

6. After such investigation, he advised Mr. Giordano that he believed that both applications would be successful and took the remainder of the \$5,000.00 fee for these services.

7. Mr. Giordano was in New Jersey State Prison at the inception of this matter and at all times thereafter.

8. Mr. Giordano requested a Fee Agreement be sent to him to memorialize the agreement between he and Respondent and was promised one would be sent though none ever was received.

9. Mr. Giordano requested copies of the materials that were filed on his behalf and was advised that they would be provided. With regard to the parole appeal, Mr. Giordano was never advised of one being filed nor received any paperwork in support thereof. He was notified by the Parole Board that the application that had previously been filed in February of 2005 was denied on March 30, 2005.

10. Respondent never presented Mr. Giordano with the appeal papers, never advised him of the filing of the appeal, and never advised that the appeal had been denied on March 30, 2005.

11. When Mr. Giordano contacted Respondent after receiving the denial letter by the Parole Board, Respondent's statement was that he was too busy to advise him of the result.

12. On April 30, 2005, Mr. Giordano spoke with Respondent asking about the status of the motion for reconsideration of sentence that was part of their retainer fee agreement. Respondent acknowledged that no motion had yet been filed on that issue. Respondent then stated that before he would complete the application for reconsideration of sentence, another \$1,000.00 for his fee would have to be provided.

13. Through May and June of 2005, there was no communication between Mr. Giordano and Respondent.

14. On July 11, 2005, Mr. Giordano spoke with Respondent and was advised that no motion had yet been filed and that he was conducting investigation relevant to that motion.

15. On or about August 15, 2005, Mr. Giordano filed an "informal grievance" with the Ethics Committee. Shortly thereafter, on August 17, 2005, a motion for reconsideration was stated to have been filed with the Court.

16. Mr. Giordano received and reviewed the motion for reconsideration of sentence filed by Respondent. After reviewing same, Mr. Giordano advised Respondent that there were numerous mistakes within the motion which were communicated to Respondent. Thereafter, a supplement to the pleadings was to be submitted to the Court on or about September 14, 2005.

17. The motion for reconsideration of sentence was denied on September 15, 2005 with no supplement having been submitted by Respondent.

18. Respondent promised to file a new motion correcting the errors previously mentioned; no such motion has been filed.

19. Respondent's actions/inactions constitute clear and convincing evidence that he:

(a) Failed to act with reasonable diligence and promptness in representing his client, including failing to handle the matters to conclusion. (RPC 1.3);

(b) Failed to keep his client reasonably informed about the status of his matters and promptly comply with requests for information. (RPC 1.4);

(c) Failed to inform his client of where and how he could continue communication with him. (RPC 1.4)

WHEREFORE, Respondent should be disciplined.

SECOND COUNT

Declining or Termination of Representation (RPC 1.16(d))

20. Complainant hereby repeats the allegations of the First Count and incorporates those allegations into this Count as if set forth more fully herein.

21. During all times relevant to this proceeding, Respondent has been in possession of original documents necessary for Mr. Giordano to pursue his claims through other counsel.

22. There have been numerous requests by Mr. Giordano and this Presenter to have those documents returned to Mr. Giordano so that he could present them to new counsel for effective representation.

23. Notwithstanding requests by Mr. Giordano and this Presenter, no response has been received from Respondent and the papers have never been returned to Mr. Giordano.

24. Respondent simply stopped communicating with Mr. Giordano, effectively ending the representation without notification to client.

25. Respondent's actions/inactions constitute clear and convincing evidence that he:

(a) Failed to give reasonable notice to his client to allow for the employment of new counsel to protect the client's interests;

(b) Failed to surrender papers and property to which the client is entitled, which papers and property have been demanded to be returned by the client and by this Presenter on numerous occasions as provided herein; and

(c) Failed to return to his client that portion of the retainer fee paid by his client and not earned through this representation.

WHEREFORE, Respondent should be disciplined.

THIRD COUNT
Failure to Cooperate (RPC 8.1)

26. Complainant hereby repeats the allegations of the First and Second Counts and incorporates those allegations into this Count as if set forth more fully herein.

27. On September 7, 2006, Respondent was advised of a grievance having been filed against him and requested to provide information to the investigator charged with evaluating the grievance. No response was received to that letter.

28. The matter then was transferred to this Presenter. On October 13, 2006, Respondent was sent a second letter with attachment of the first one written by the previous investigator. On that same date, the letter of October 13, 2006 with attachments was attempted to be faxed to Respondent's office, however, the fax number listed in the Lawyers Diary was not in service.

29. On November 9, 2006, a third letter was sent to Respondent by certified mail, return receipt requested. The certified mailing receipt card was returned as received by Respondent.

30. The letter dated November 9, 2006 required Respondent to respond by November 22, 2006 and to include a copy of his file and the personal materials of Mr. Girodano referenced above.

31. No response has ever been received to the letter dated November 9, 2006.

32. On November 28, 2006, this Presenter left a telephone message on the answering machine at Respondent's office describing the pattern above. No response has ever been received.

33. Respondent has never personally acknowledged receipt of any letters sent or telephone messages left on his answering machine.

34. Respondent has never requested extension of time to respond or offer any explanation for failing to respond.

35. Respondent's actions/inactions constitute clear and convincing evidence that he failed to respond and cooperate with a lawful demand for information from a disciplinary authority, in particular the New Jersey District Ethics Committee. (RPC 8.1).

WHEREFORE, Respondent should be disciplined.

WHEREFORE:

28. By virtue of Respondent's above actions/inactions, Respondent committed the following violations of the Rules of Professional Conduct:

(a) Failed to act with reasonable diligence and promptness in representing his client, including failing to handle the matters to conclusion. (RPC 1.3);

- (b) Failed to keep his client reasonably informed about the status of his matters and promptly comply with requests for information. (RPC 1.4);
- (c) Failed to inform his client of where and how he could continue communication with him. (RPC 1.4)
- (d) Failed to give reasonable notice to his client to allow for the employment of new counsel to protect the client's interests. (RPC 1.16(d);
- (e) Failed to surrender papers and property to which the client is entitled, which papers and property have been demanded to be returned by the client and by this Presenter on numerous occasions as provided herein. (RPC 1.16(d);
- (f) Failed to return to his client that portion of the retainer fee paid by his client and not earned through this representation. (RPC 1.16(d); and
- (g) Respondent's actions/inactions constitute clear and convincing evidence that he failed to respond and cooperate with a lawful demand for information from a disciplinary authority, in particular the New Jersey District Ethics Committee. (RPC 8.1).

DISTRICT IV ETHICS COMMITTEE

By /s/ Wayne E. Natale, Esq.

Dated: April 24, 2007