

STATEWIDE GRIEVANCE COMMITTEE

David McNichol :
Complainant
vs. : Grievance Complaint #07-0471
Richard T. Kelly :
Respondent

DECISION

Pursuant to Practice Book §2-35, the undersigned, duly-appointed reviewing committee of the Statewide Grievance Committee, conducted a hearing at the Superior Court, 80 Washington Street, Hartford, Connecticut on November 8, 2007. The hearing addressed the record of the complaint filed on May 16, 2007, and the probable cause determination rendered by the New Haven Judicial District Grievance Panel for Geographical Area 7 and the Towns of Branford, East Haven, Guilford, Madison & North Branford on June 21, 2007 finding that there existed probable cause that the Respondent violated Rule 1.4(a) of the Rules of Professional Conduct.

Notice of the November 8, 2007 hearing was mailed to the Complainant, to the Respondent and to the Office of the Chief Disciplinary Counsel on October 1, 2007. Pursuant to Practice Book §2-35(d), Assistant Disciplinary Counsel Patricia A. King pursued the matter before this reviewing committee. The Respondent was represented by Attorney Raymond J. Plouffe, Jr. The Complainant and the Respondent appeared and testified. No exhibits were admitted into evidence. Reviewing committee member Dr. Frank Regan was not available for the hearing. Assistant Disciplinary Counsel and the Respondent waived the participation of Dr. Regan in this matter and agreed to have the undersigned render this decision.

This reviewing committee finds the following facts by clear and convincing evidence:

The Respondent represented the Complainant as a special public defender. He and another public defender helped to negotiate a plea bargain with the State's Attorneys in separate courts for two separate criminal matters. In the matter he handled, the Respondent negotiated a concurrent sentence for the Complainant. In October of 2006, after the Complainant was incarcerated, he wrote to the Respondent requesting the answer to four questions. The Respondent did not respond to the Complainant. The Complainant wrote to the Respondent in November of 2006 asking for a copy of his file. The Respondent did not respond to the Complainant. In April of 2007, the Complainant filed a grievance complaint against the Respondent. The Respondent then sent the Complainant his entire file except for certain restricted documents. The Respondent also contacted the State's Attorney Office and the clerk's office to obtain the necessary information to answer

the Complainant's initial questions and he wrote to the Complainant answering those questions.

This reviewing committee also considered the following:

In his answer to the complaint, the Respondent admitted that he placed the Complainant's requests on the "back burner" and ultimately overlooked the Complainant's requests. The Respondent apologized for responding in an untimely manner. The Respondent testified that he did not believe there was any urgency associated with the requests. The Respondent offered to take a CLE class on legal ethics during the winter. Respondent's counsel argued there was no prejudice to the Complainant, the Respondent's actions were not intentional or willful, and the Respondent had no prior disciplinary history. The Complainant argued that the Respondent was not untimely in responding to the requests, he ignored the requests. The Complainant testified that he had tried to obtain the information from other sources, but he was unsuccessful.

This reviewing committee concludes by clear and convincing evidence that the Respondent violated the Rules of Professional Conduct.

Rule 1.4(a) requires an attorney to keep a client reasonably informed and promptly comply with reasonable requests for information. In this case, the Respondent received a letter from the Complainant asking for information from his file. The Respondent failed to answer the letter. The Complainant wrote a second time to the Respondent who again failed to answer the letter. The Respondent did not answer the letter until after the Complainant filed a grievance against him. The Respondent admitted that he overlooked the Complainant's requests for information and failed to answer the letters in a timely fashion.

Since we conclude that the Respondent violated Rule 1.4(a) of the Rules of Professional Conduct, we order the Respondent to attend in-person a continuing legal education ("CLE") course in legal ethics. The CLE course is to consist of a minimum of three credit hours, and is to be taken, at the Respondent's own expense, within six months of the issuance of this decision. The Respondent is further ordered to provide the Statewide Grievance Committee with written confirmation of his compliance with this condition within thirty days of completion of the CLE course.

(D)
EMR

DECISION DATE: 2/15/08

Attorney Geoffrey Naab

Attorney Evelyn Gryk Frolich