

STATE OF MICHIGAN

Attorney Discipline Board

Grievance Administrator,
State of Michigan
Attorney Grievance Commission,

Petitioner/Appellant,

v

Benjamin W. Dajos, Jr., P 12448

Respondent/Appellee.

91-26-GA; 91-41-FA

Decided: August 23, 1991

BOARD OPINION

A petition for review has been filed by the Grievance Administrator seeking an increase in the discipline imposed by the hearing panel. The panel ordered that the respondent be reprimanded for his failure to answer a Request for Investigation and his failure to answer a formal complaint. The aggravating factors which are present in this case, including the respondent's prior record of discipline and a pattern of indifference toward his obligation to answer Requests for Investigation, warrant increased discipline. The respondent's license to practice law in Michigan shall be suspended for a period of 120 days and until he has established his eligibility for reinstatement in accordance with MCR 9.123(B).

Respondent Dajos appeared before the panel at a hearing conducted in Kalamazoo on April 4, 1991. He also appeared personally in Detroit for the review hearings conducted by the Board on July 18, 1991. During these proceedings, the respondent has not denied the charges of misconduct contained in the consolidated complaints. It has been established by default that the respondent failed to answer a Request for Investigation served upon by the Attorney Grievance Commission on June 12, 1990. Thereafter, he failed to answer a formal complaint, Case No. 91-26-GA, filed by the Administrator on February 7, 1991 and served February 13, 1991.

In the absence of clearly articulated and compelling mitigation, the respondent's failure to answer both the Request for Investigation and the resulting formal complaint would appear to bring this case within the ambit of the Board's prior opinions which suggest that a reprimand may be inappropriate in such cases, depending, of course, upon the specific circumstances in each case. The Board's reasons for this policy were reiterated in Matter of David A. Glenn, DP 91/86, Brd. Opn- (2/27/87) in which the Board pointedly warned:

"Our decision to increase the discipline imposed by the hearing panel from a reprimand to a suspension of thirty days is intended to serve notice upon the

respondent and the Bar that the lawyer who ignores the duty imposed by Court Rule to answer Requests for Investigation and formal complaints does so at his or her own peril and that, absent exceptional circumstances, that attorney may expect a discipline greater than a reprimand".

Mitigation of a type or degree contemplated in Matter of David A. Glenn *supra* is absent from the record in this case. Moreover, the record is replete with factors which must be considered in aggravation.

The respondent was suspended from the practice of law in 1980 for a period of 119 days. In his testimony to the panel, respondent advised that the suspension was the result of a misdemeanor conviction for violation of the Internal Revenue Code. In 1987 and 1988, respondent Dajos was admonished by the Attorney Grievance Commission. The factual basis for those admonishments is not disclosed in the record.

At the hearing in this case, reference was made to a more recent complaint, Matter of Dajos, 90-103-GA; 90-113-FA in which respondent had been reprimanded by a hearing panel for misconduct which included failure to answer four separate Requests for Investigation. In an opinion filed May 17, 1991, the Board increased discipline in that case from a reprimand to a suspension of sixty days noting respondent's apparent neglect of legal matters entrusted to him by three separate clients, his failure to answer four separate Requests for Investigation, and his failure to answer the two formal complaints.

The concerns expressed by the Board in that opinion are magnified in this case. It is now clear that since March 1989, the respondent has been served with at least five Requests for Investigation and four formal complaints. He has answered none of them. He has failed to offer a satisfactory explanation to a panel or the Board.

An attorney whose license has been suspended for 120 days or more must, among other things, establish eligibility for reinstatement by demonstrating that "he or she has a proper understanding of and attitude the standards that are imposed on members of the Bar and will conduct himself or herself in conformity with those standard". [MCR 9.123(B)(6)]. The record in this case casts serious doubt upon the respondent's attitude toward those standards. Protection of the public, the courts and the legal profession requires that he be suspended from the practice of law for a period of 120 days and until he has met the requirements of MCR 9-123(B).

All concur.