

GRIEVANCE ADMINISTRATOR

v

C. FREDERICK ROBINSON,

Respondent

File Nos. DP-113/82; 206/82

Review Hearing: May 11, 1984

Decided: August 16, 1984

OPINION OF THE BOARD

Respondent was charged with neglecting four separate probate matters in the Genesee County Probate Court. Petitions for Administration of probate were commenced in 1966, 1975, 1976 and 1978 but were not closed until 1982. The Hearing Panel found that Respondent's neglect of these files was the cause of the delays and ordered a 90-day suspension. Respondent appealed to the Board with the argument that the Hearing Panel findings were not supported by the record.

Each of the probate estate matters involved very similar circumstances. Apparently, all of the property in these estates was ultimately distributed to the proper heirs. The neglect charges here arose neither out of failure to initiate court processing nor any mishandling of estate property, but are the result of Respondent's failure to take the very final steps to close each estate within a reasonable time. Respondent did eventually close one of the estates, but the Probate Court appointed a special Administrator and charged costs to Respondent before the other estates were finally closed.

Upon review of the testimony and pleadings, it is clear that Respondent failed to timely respond to notices from the Probate Court while the estates were pending and also failed to comply with a subpoena from the Probate Court, which led to a show-cause hearing.

While the Board is persuaded that Respondent is not solely responsible for the timely processing of these matters, it is the Board's opinion that Respondent could have pursued closing of the files much more diligently; certainly he was a key factor in the delays by his failure to comply with the several Probate Court notices and orders. The fact that there is no property left in the estate to administer and no money to be made by the attorney is no excuse for neglecting to close an estate.

However, in this particular case it is considered relevant and mitigating evidence that no client suffered any loss or damage by Respondent's inaction at the point of final closure. The record discloses no dishonesty, moral turpitude or personal gain to Respondent as a result of his neglect of these estates. Furthermore, the testimony and statements of the Probate Judge and other observations tend to support Respondent's argument that the nature of the probate court procedures, during the years in question, was a contributing factor in these delays. Finally, Respondent's circumstances as a sole, general practitioner serving lower income clientele has some measure of mitigating effect, particularly where the availability, cooperation and responsiveness of the clients play a role in the timely and thorough handling of legal affairs.

Based on the pleadings and testimony in this matter, the Board hereby modifies the discipline

of suspension of 90 days to a reprimand.