

IN THE MATTER OF KENNETH S. KARASICK,
A Member of the State Bar of Michigan,
Respondent.
File No. DP-55/81

Decided: December 1, 1981

OPINION OF THE BOARD

Respondent was charged in a Formal Complaint with misconduct in connection with his handling of petitions for restoration of the suspended driver's licenses of two clients. The charges alleged that Respondent knowingly made false statements to the judges of the Genesee County Circuit Court. The Oakland Circuit Hearing Panel "F" suspended Respondent for one hundred twenty-one (121) days and Respondent moved for review. In light of the circumstances, we reduce discipline to a suspension of ninety (90) days.

Respondent admitted the substance of the allegations in his Answer to the Formal Complaint. he has been a sole practitioner since 1977. His practice has included many traffic cases, and especially driver's license restorations. In January, 1981, about 25% of the pending driver's license restoration petitions in the Genesee County Circuit Court were Respondent's cases. Panel Tr. at 8.

In the two cases alleged, Respondent filed petitions before the Circuit Court, but knowingly made false statements in them that no previous petitions had been filed in the particular matter. This is in violation of GCR 1963, 926.4(c), which provides that it is misconduct for an attorney to fail to notify the court that there is or was another action arising out of the same occurrence from which a present case arises. Respondent made these false statements in the hope of having the petitions assigned to a judge favorably disposed toward license restorations. Respondent also made false statements in a motion for dismissal in one of the matters. Finally, at a hearing on one of the petitions, Respondent lied to a judge when orally questioned about the dismissal of a petition for restoration. Mr. Karasick later confessed his misrepresentations, and was cited for contempt. He spent two weekends in jail for his offense, and the affair was widely publicized in the Flint area. Respondent claims he lost substantial fees due to adverse publicity.

We reduce Respondent's suspension to ninety days. Although the purpose of discipline proceedings is not to punish, but to protect the public, courts, and legal profession, GCR 1963, 954; In re Barbara, No. DP-195/80 (Mich ADB 1981), the Michigan Supreme Court has recognized that discipline proceedings are quasi-criminal in nature. In re Woll, 387 Mich 154, 194 NW2d 835 (1972). It is also true that suspension following adjudication of misconduct does have a punitive effect. In In re Posler, No. 33186-A (Mich St BG Bd 1976), our predecessor Board found that imposition of disbarment after misconduct caused by mental depression may result in an unduly punitive effect on Respondent, and that the public could be equally protected by other means. Similarly, a suspension of one hundred twenty-one days requiring lengthy reinstatement proceedings would, in the circumstances of this case, effectively have only a punitive effect on Respondent whose general ability and competence has not been questioned.

The Board notes several mitigating factors. Respondent has spent time in jail for this misconduct. He has been the subject of widespread publicity in the area of his residence and practice, and has lost a large portion of his practice. The misconduct is undeniably serious, but Respondent has no prior record of misconduct, and we are persuaded that he feels genuine and considerable remorse for his actions. In re Shirley, No. 35976-A (Mich ADB 1979). He will undoubtedly be subject to continuing and careful scrutiny by the judges of the Genesee County Circuit Court upon his return to practice there. This combination of facts leads us to conclude that a suspension of ninety days is sufficient to protect the public, courts and profession.

The findings of fact are affirmed, and discipline is reduced to a suspension of ninety days.

AFFIRMED AS MODIFIED.

ALL CONCUR.