

Supreme Court

No. 2020-52-M.P.

In the Matter of Kelly A. Carden. :

ORDER

This matter is before the Court pursuant to a petition for reciprocal discipline filed by this Court’s Disciplinary Counsel in accordance with Article III, Rule 14 of the Supreme Court Rules of Disciplinary Procedure for Attorneys. The respondent, Kelly A. Carden, was admitted to the practice of law in this state on December 11, 2008. The respondent is also admitted to the practice of law in the State of Connecticut.

On January 30, 2020, the Superior Court for the Judicial District of Hartford, Connecticut entered an Order, on the consent of the respondent, suspending her from the practice of law in the State of Connecticut for a period of five months, with the effective date of the suspension retroactive to January 1, 2020. A copy of that Order was forwarded to Disciplinary Counsel. On February 13, 2020, Disciplinary Counsel filed a certified copy of that Order with this Court, and his petition requesting that we impose reciprocal discipline of a five-month suspension. Disciplinary Counsel requested that any suspension order we may enter apply prospectively.

Article III, Rule 14(b) of the Supreme Court Rules of Disciplinary Procedure provides:

“Upon receipt of a certified copy of an order that an attorney admitted to practice in this State has been disciplined in another jurisdiction, this Court shall forthwith issue a notice directed to the respondent-attorney containing:

“(1) a copy of said order from the other jurisdiction; and

“(2) an order directing that the respondent-attorney inform this Court within thirty (30) days from service of the notice, of any claim by the respondent-attorney that the imposition of the identical discipline in this State would be unwarranted, and the reasons therefor.”

On March 6, 2020, we issued an Order to the respondent in accordance with Article III, Rule 14(b). The respondent submitted her response requesting that any suspension order we may issue give her credit for the time she was suspended in Connecticut, and/or that we consider imposing a more lenient order of discipline. We directed the parties to appear before this Court by videoconference on June 11, 2020. Having heard the representations of respondent, her attorney, and Disciplinary Counsel, we conclude that respondent has failed to show cause, and that discipline is warranted in this matter.

The facts and travel of this matter are as follows. Darin Lemire (Lemire) is the executor of his grandfather’s estate. He retained the respondent to initiate a civil action in the State of Connecticut, to obtain a prejudgment attachment to secure a potential judgment against other family members who he claimed had breached fiduciary duties owed to his grandfather and had wrongfully converted ownership of his property into their own names. On August 16, 2016, the Superior Court in Franklin County, Connecticut, granted the request for an attachment in the amount of \$125,000. Lemire repeatedly requested that the respondent record the attachment to secure any potential judgment, but she did not do so until October of 2016. She was not responsive to Lemire’s requests for information.

In April 2017, respondent obtained a second attachment from the Superior Court, but the constable respondent hired to record the attachment recorded it in the wrong town. After receiving a copy of the documentation from the respondent in June of 2017, the complainant recognized the error and notified her. However, she did not obtain a new attachment from the court until December 15, 2017, which was properly recorded on January 3, 2018. The subject property had

been sold in the meantime, making the attachment a nullity. The respondent did not notify Lemire that the property had been alienated prior to the recording of the latest attachment.

Lemire retained new counsel to represent him, and also filed a disciplinary complaint in Connecticut and then in this state.¹ The respondent did not file an answer to the Connecticut disciplinary complaint but did appear and testify at an ensuing hearing in Connecticut.

A review committee of the Statewide Grievance Committee conducted a hearing on the complaint on May 8, 2019. On September 27, 2019, the committee issued a decision wherein it concluded that respondent had violated the following Rules of Professional Conduct, as adopted in Connecticut, in her representation of Lemire: Rule 1.1, entitled “Competence”;² Rule 1.3, entitled “Diligence”;³ Rule 1.4, entitled “Communication”;⁴ and Rule 1.8, entitled “Bar Admission and Disciplinary Matters.”⁵ We note that the Rules of Professional Conduct as adopted by this state are substantially similar, but not identical to the Connecticut Rules. However, those variations are not relevant to the issues before us.

¹ As the conduct complained of occurred in the State of Connecticut, was governed by the Connecticut Rules of Professional Conduct, and was subject to a pending disciplinary proceeding in Connecticut, this Court’s disciplinary counsel deferred acting on the complaint.

² Connecticut Rule 1.1 provides: “A lawyer shall provide competent representation to a client. Competent representation requires the knowledge, skill, thoroughness and preparation reasonably necessary for the representation.”

³ Rule 1.3 provides: “A lawyer shall act with reasonable diligence and promptness in representing a client.”

⁴ Rule 1.4 provides, in pertinent part: “A lawyer shall: * * * (3) keep the client reasonably informed about the status of the matter; (4) promptly comply with reasonable requests for information * * *.”

⁵ Rule 8.1 provides, in relevant part: * * * a lawyer in connection with a disciplinary matter...shall not fail to respond to a lawful demand for information from an admission or disciplinary authority * * *.”

Based upon those findings, the grievance committee recommended that formal disciplinary proceedings be brought in the Connecticut Superior Court against the respondent. While represented by counsel, and waiving her right to a hearing, respondent acknowledged violations of the above-noted Rules and agreed to accept a five-month suspension from the practice of law, effective January 1, 2020.

The standards for our review of a petition for reciprocal discipline are set forth in Article III, Rule 14(d). That rule provides that this Court shall impose identical discipline issued by a sister jurisdiction unless the parties demonstrate, or this Court finds, one or more of the following:

“(1) that the procedure was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or

“(2) that there was such an infirmity of proof establishing the misconduct as to give rise to the clear conviction that this Court could not consistently with its duty accept as final the conclusion on that subject; or

“(3) that the imposition of the same discipline would result in grave injustice; or

“(4) that the misconduct established has been held to warrant substantially different discipline in this State.”

The respondent has not demonstrated that the proceedings in Connecticut deprived her of due process, that there was an infirmity of proof in those proceedings, or that the established misconduct would warrant substantially different discipline in this state. We do not find that the discipline requested by Disciplinary Counsel would result in a grave injustice; however, we are cognizant that several months have passed since the Connecticut discipline was imposed. Indeed, respondent’s suspension in Connecticut has been fully served and she has been reinstated. It may be harsh for us to impose a five-month suspension at this time.

However, we note this is not respondent’s first encounter with our disciplinary process. She previously has been publicly censured by this Court for making misrepresentations to

mortgage lenders regarding her professional liability insurance coverage and to Disciplinary Counsel when responding to a complaint. *See Matter of Carden*, 193 A.3d 504, 506 (R.I. 2018). Accordingly, we accept the recommendation of Disciplinary Counsel that we impose a suspension to apply prospectively, but that suspension is for a period of ninety (90) days, commencing thirty (30) days from the date of this Order.

Entered as an Order of this Court this *26th* day of *June 2020*.

By Order,

/s/
Clerk

SUPREME COURT – CLERK’S OFFICE

ORDER COVER SHEET

Title of Case	In the Matter of Kelly A. Carden.
Case Number	No. 2020-52-M.P.
Date Order Filed	June 26, 2020
Justices	Suttell, C.J., Goldberg, Flaherty, Robinson, and Indeglia, JJ.
Source of Appeal	N/A
Judicial Officer From Lower Court	N/A
Attorney(s) on Appeal	For Petitioner: David D. Curtin, Esq. Chief Disciplinary Counsel
	For Respondent: Stephen F. Del Sesto, Esq.