

IN RE: PATRICK S. GUARNIERI

S.J.C. Order of Term Suspension entered by Justice Cordy on August 26, 2003, with an effective date of September 25, 2003.¹

SUMMARY²

In October of 2000, the respondent and his wife began divorce proceedings. In March of 2001, the respondent's wife filed a complaint for contempt and in June of 2001, the Middlesex Probate Court issued a judgment of contempt that ordered the respondent to pay the wife approximately \$1,151. Thereafter, the wife filed a second complaint for contempt, alleging that the respondent had failed to make temporary alimony payments in a timely manner.

The respondent failed to appear for a contempt hearing in August of 2001 and, as a result, a *capias* issued. The *capias* was never served, but the respondent was aware that it had issued. In October 15, 2002, the respondent voluntarily appeared in the Middlesex Probate Court to answer the *capias*. At that time, he had paid all but \$151 to the wife. He was found in contempt and ordered held until he paid the \$151.00, which he did. On October 16, 2002, the *capias* was discharged and the court continued the contempt with respect to temporary alimony payments.

On October 28, 2002, the respondent again appeared in court and the parties entered into a stipulation to resolve outstanding financial and other issues. The contempt hearing was continued to December 30, 2002. The respondent at that time was financially unable to make the alimony payments required by the October 28th stipulation. The contempt hearing was continued again from December 30, 2002 to January 13, 2003.

On January 13, 2003, the respondent failed to appear for the contempt hearing in the Middlesex Probate Court and a second *capias* issued on that date. The second *capias* was not served, although the respondent was aware that it had issued. The respondent did not appear voluntarily in court to answer or respond to the second *capias* and is financially unable to make the alimony payments required by the October 28th stipulation.

The respondent's conduct in failing to appear for scheduled court hearings in his personal divorce and failing promptly to appear and answer a *capias* on two occasions constitutes conduct adversely reflecting on his fitness to practice law in violation of

Mass. R. Prof. C. 8.4(h) and conduct that is prejudicial to the administration of justice in violation of Mass. R. Prof. C. 8.4(d). The respondent was admitted to the Bar of the Commonwealth on June 19, 1984 and has no history of prior discipline.

This matter came before the Board on a stipulation of facts and disciplinary violations and a joint recommendation for a suspension with reinstatement being conditioned upon the respondent purging all contempt citations. On July 14, 2003, the Board of Bar Overseers voted to recommend to the Supreme Judicial Court that the respondent be suspended for one month with the agreed upon-condition for reinstatement. The Court so ordered on August 26, 2003.

¹ The complete Order of the Court is available by contacting the Clerk of the Supreme Judicial Court for Suffolk County.

² Compiled by the Board of Bar Overseers based on the record before the Court.

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