

IN RE: DAVID J. COFFEY

S.J.C. Order of Term Suspension entered by Justice Cordy on September 13, 2010.¹

SUMMARY²

On September 13, 2010, the Supreme Judicial Court for Suffolk County ordered that the respondent, David J. Coffey, be suspended for one year and one day for misconduct in one case and for failure to cooperate with bar counsel's investigation resulting in an administrative suspension.

In February 2006, the client paid the respondent a \$2,000 retainer to represent him in a criminal matter. Thereafter, the respondent deposited the client's retainer to his law office account, thereby commingling trust property with his own property.

The respondent appeared on behalf of the client and filed motions for discovery. These motions were never acted upon and the respondent failed to request a hearing or to file a motion to compel discovery. The respondent never received the discovery he was seeking.

The respondent failed to appear at a scheduled pretrial conference in April 2007, and he failed to appear for a hearing on discovery in June 2007. In May 2007, the respondent filed a motion to suppress statements with an affidavit. After a hearing in July 2007, the motion to suppress was denied. Thereafter, the respondent did little work of substance on the case.

Between the fall of 2007 and early 2008, the client repeatedly attempted to contact the respondent about the status of his case. The respondent failed to respond to the client's request for information.

Just prior to trial in April 2008, the respondent sought a continuance to obtain discovery from the Commonwealth and filed motions to obtain the alleged victim's DSS and hospital records. The court denied the respondent's last minute motions because the respondent was "dilatory and unreasonable in this very old case."

At the trial date in April 2008, the client changed his plea to guilty. The client received two and one half years in the House of Corrections on the first count and two and one half years on and after on the second count with twenty years probation and conditions.

After his sentence, the client repeatedly attempted to contact the respondent regarding his sentence and his jail credits, but the respondent did not return telephone calls or reply to the client's written requests to visit him. In September and October 2008, the client sent two certified letters to the respondent requesting his file. The respondent received these requests but did not reply and did not return the file.

In March 2009, the client filed a *pro se* motion to remove the respondent as counsel and to compel the respondent to hand over his file. In June 2009, the Superior Court ordered the respondent removed as counsel and ordered the respondent to return all documents pertaining to the client's case. The respondent did not comply with the court order. In September 2009, the Superior Court scheduled a hearing and ordered the respondent to appear and show cause why he should not be held in contempt for his failure to comply with the previous court order. The respondent did not appear and no further action was taken.

By failing to deposit the client's retainer to his IOLTA account and commingling the client's funds with his own, the respondent violated Mass. R. Prof. C. 1.15(b)(1). The respondent's failure to act with reasonable diligence and promptness on his client's case, to appear for scheduled court dates and to compel discovery violated Mass. R. Prof. C. 1.3. The respondent's failure to promptly comply with reasonable requests for information from the client violated Mass. R. Prof. C. 1.4.

By failing to promptly return the client's file as requested, the respondent violated Mass. R. Prof. C. 1.16(d) and (e). By failing to comply with the court's order to produce his client's file, the respondent violated Mass. R. Prof. C. 3.4(c) and Mass. R. Prof. C. 8.4(d).

Finally, the respondent failed without good cause to respond to bar counsel's requests for information made in the course of investigating the respondent's conduct in this matter, for which he was administratively suspended on March 2, 2010. The respondent knowingly failed without good cause to comply with the order of administrative suspension.

The respondent's repeated failures to cooperate with bar counsel's investigation violated Mass. R. Prof. C. 8.4 (d), (g), and (h). The respondent's failure to file an affidavit of compliance with the Office of Bar Counsel and a copy with the Supreme Judicial Court per the Court's order violated Supreme Judicial Court Rule 4:01, § 17(5), and Mass. R. Prof. C. 8.4(d).

In aggravation, the respondent failed to file an answer to the petition for discipline and was defaulted.

On August 16, 2010, the Board of Bar Overseers voted unanimously to recommend that the respondent be suspended from the practice of law for one year and one day, and on September 13, 2010, the Supreme Judicial Court for Suffolk County (Cordy, J.) so ordered.

FOOTNOTES:

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 filed with the Supreme Judicial Court.

Please direct all questions to webmaster@massbbo.org.