

STATEWIDE GRIEVANCE COMMITTEE

Michael S. Knybel, Jr.
Complainant

:

vs.

:

Grievance Complaint #09-0534

Robert D. Swartout
Respondent

:

CORRECTED DECISION

Pursuant to Practice Book §2-35, the undersigned, duly-appointed reviewing committee of the Statewide Grievance Committee, conducted a hearing at the Superior Court, 1061 Main Street, Bridgeport, Connecticut on February 3, 2010. The hearing addressed the record of the complaint filed on June 5, 2009, and the probable cause determination filed by the Hartford Judicial District Grievance Panel for Geographical Area 13 and the town of Hartford on September 21, 2009, finding that there existed probable cause that the Respondent violated Rules 1.3, 1.4, 1.5 and 8.1(b)¹ of the Rules of Professional Conduct as well as Practice Book §2-32(a)(1).

Notice of the hearing was mailed to the Complainant, to the Respondent and to the Office of the Chief Disciplinary Counsel on December 29, 2009. Pursuant to Practice Book §2-35(d), Assistant Disciplinary Counsel Karyl Carrasquilla pursued the matter before this reviewing committee. The Complainant did not appear at the hearing. The Respondent did not appear at the hearing. No exhibits were received into evidence at the hearing.

This reviewing committee makes the following findings of fact by clear and convincing evidence:

In July of 2007, the Complainant's father paid the Respondent a retainer to represent the Complainant in a criminal matter. The Complainant was incarcerated. The Respondent never visited the Complainant in prison. The Complainant made telephone calls to the Respondent. The Respondent failed to return the Complainant's telephone calls. The Respondent represented the Complainant at some court hearings. The Respondent failed to appear on behalf of the Complainant at other court hearings.

¹ It is clear from the Grievance Panel's decision finding probable cause that the Grievance Panel was referring to Rule 8.1(2) of the Rules of Professional Conduct when it referenced the subsection.

The Respondent has not answered this grievance complaint. Certified and regular mail, regarding this grievance complaint, sent to the Respondent at the home and office address he last registered in 2007 with the Statewide Grievance Committee was returned to the Statewide Grievance Committee by the post office marked "not deliverable as addressed unable to forward." On May 15, 2009, the Respondent was suspended from the practice of law for not less than three years and until further order of the court.

This reviewing committee concludes by clear and convincing evidence that the Respondent violated Rules 1.3, 1.4, 1.5 and 8.1(2) of the Rules of Professional Conduct as well as Practice Book §2-32(a)(1). The Respondent's failure to appear at court hearings on behalf of the Respondent constitutes a violation of Rule 1.3 of the Rules of Professional Conduct. The Respondent's failure to communicate with the Complainant in prison or to return his telephone calls constitutes a violation of Rule 1.4 of the Rules of Professional Conduct. The Respondent's failure to provide the legal services he was paid a retainer to perform constitutes an unreasonable fee in violation of Rule 1.5 of the Rules of Professional Conduct. Finally, the Respondent's failure to respond to this grievance complaint constitute violations of Rule 8.1(2) of the Rules of Professional Conduct and Practice Book §2-32(a)(1).

Pursuant to Practice Book §§2-26 and 2-27(d) and (f), the Respondent was required to register annually and keep his address current with the Statewide Grievance Committee. There is clear and convincing evidence that the Respondent failed to register or provide the Statewide Grievance Committee with a current address. We conclude there is clear and convincing evidence that the Respondent violated Practice Book §§2-26 and 2-27(d) and (f).

Accordingly, this reviewing committee directs the Disciplinary Counsel to file a presentment against the Respondent in the Superior Court for the imposition of whatever discipline the court deems appropriate. Since a presentment is a de novo proceeding, we further direct the Disciplinary Counsel to include a charge in the presentment that the Respondent violated Practice Book §§2-26 and 2-27(d) and (f).

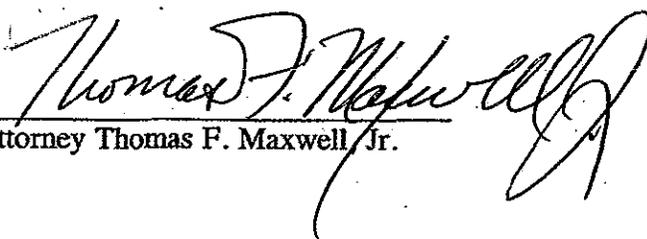
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CORRECTED DECISION DATE: 10/1/10

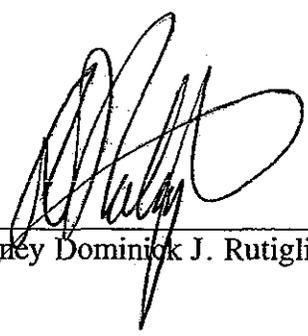
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Attorney Thomas F. Maxwell, Jr.

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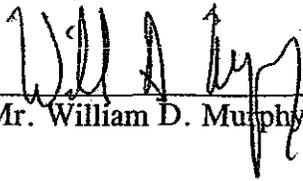


Attorney Dominick J. Rutigliano

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Mr. William D. Murphy