

IN RE: NZENWA AUGUSTINE CHIMA

NO. BD-2012-125

S.J.C. Order of Term Suspension entered by Justice Cordy on December 27, 2012, with an effective date of January 28, 2013.¹

(S.J.C. Judgment of Reinstatement entered by Justice Cordy on April 5, 2013)

SUMMARY²

The respondent was admitted to the bar in 2006. In July 2009, a woman retained him to represent her in a divorce. The client asked the respondent to secure her share of marital property and her interest in her husband's 401K plan.

A trial was eventually scheduled in the matter for May 27, 2010. The client appeared, but the respondent failed to appear due to his preoccupation with a family emergency in his home country of Nigeria .

On May 28, 2010, the respondent left the country for Nigeria without making arrangements to cover the client's case. That same day, the husband's lawyer filed a motion for attorney's fees. The court issued an order requiring the respondent to pay the plaintiff's attorney's fees and costs in the amount of \$950. The respondent received this order in due course, but he failed either to file a timely appeal or to pay the attorney's fees and costs.

On June 2, 2010, the court rescheduled the trial for June 24, 2010, and sent notice of the date to the respondent. The respondent received notice of the trial date but was still out of the country. He failed to file a motion to continue the trial or to inform his client of the trial date.

On June 24, 2010, neither the client nor the respondent appeared in court, and the probate court entered a judgment of divorce nisi. The respondent's client was not awarded any portion of her husband's 401K plan, and the client was ordered to pay her husband's attorney's fees due to the respondent's failure to appear on May 27, 2010.

The respondent received the judgment, but he failed to file a motion for new trial within ten days or a timely appeal. Instead, on August 3, 2010, he filed a motion to vacate the judgment that did not satisfy the standing orders of the probate court. The respondent did not pay opposing counsel the fees and costs originally assessed to him.

The divorce became final in September, 2010, at which time the ex-husband's attorney filed a complaint for contempt against the respondent's client for her failure to pay the \$950. The respondent replied to this complaint by another motion to vacate the judgment of divorce that had no legal support or effect. The client was found in contempt on October 26, 2010, and was ordered to pay the \$950 in installments, with the first payment

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.

due on November 15, 2010.

The respondent failed to file a timely appeal from the finding of contempt. The client did not pay the first installment, and on November 29, 2010, opposing counsel filed a complaint for contempt against the respondent's client. On December 28, 2010, the court issued a summons to the client for her appearance on January 25, 2011. In January 2011, the respondent informed his client that he would again be out of the country and that she would have to appear by herself. The respondent took no action of substance to assist his client, and he did not pay the judgment.

On January 25, 2011, the respondent's client appeared alone at the court and entered her appearance *pro se*. On February 18, 2011, she paid her husband's attorney \$950. On July 26, 2011, the respondent reimbursed these funds to his client.

By failing to appear at trial on May 27, 2010, the respondent violated Mass. R. Prof. C. 1.1 and 1.3. By failing to notify his client of the re-scheduled trial date and that he would not appear on that day, the respondent violated Mass. R. Prof. C. 1.4. By failing to file a motion to continue the trial date or appear at trial on June 24, 2010, the respondent violated Mass. R. Prof. C. 1.1 and 1.3. By failing to comply with the court's order to pay attorney's fees entered against him personally or to take a timely appeal from that order, the respondent violated Mass. R. Prof. C. 3.4(c) and 8.4(d). By failing to file a timely motion for a new trial in proper form and for failing to file a timely appeal, the respondent violated Mass. R. Prof. C. 1.1, 1.3 and 3.1.

In aggravation, the client was held in contempt and forced to pay attorney's fees that were attributable to the respondent's lack of diligence. The respondent's misconduct also deprived her of an opportunity to be heard on the property settlement in her divorce. In mitigation, the respondent was required to deal with a family emergency out of the country in May 2010, and he was relatively inexperienced in the practice of law.

This matter came before the Board of Bar Overseers on a stipulation of facts and rule violations and a joint recommendation for a two-month suspension. On December 10, 2012, the board voted to accept the stipulation and joint recommendation.

An information was filed with the Supreme Judicial Court for Suffolk County on December 21, 2012. On December 27, 2012, the county court (Cordy, J.) entered an order suspending the respondent from the practice of law for two months.