

IN RE: SARAH J. HUNT**NO. BD-2015-038****S.J.C. Order of Term Suspension entered by Justice Botsford on November 13, 2015. ¹****Page Down to View Memorandum of Decision**

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

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPREME JUDICIAL COURT
FOR SUFFOLK COUNTY
DOCKET NO. BD-2015-038

IN RE: SARAH J. HUNT

MEMORANDUM OF DECISION

The Board of Bar Overseers (board) has filed an information recommending the suspension of the respondent, Sarah J. Hunt, for three months, with a requirement that the respondent undergo a hearing before reinstatement. See Rules of the Supreme Judicial Court, Rule 4:01, § 18 (5). The respondent opposes the board's recommendation, and argues that in all the circumstances, the appropriate disposition here is an order of remand to the board for a hearing on the underlying petition for discipline, accompanied by an order to the respondent to file a rule-compliant answer to the petition.

Background.¹ The respondent was admitted to the Massachusetts bar in June, 1988, and is also admitted to practice in three Federal Circuit Courts of Appeal, the United States District Court for the District of Massachusetts, and the Supreme Court of the United States. On August 29, 2014, bar counsel served a petition for discipline on the respondent. The petition concerned the respondent's representation of a client, Tassy Jesse Justin, in connection with

¹ The background facts included here are taken from the petition for discipline. Because the respondent did not file an answer to the petition that complied with the board's rules, the factual allegations of the petition ultimately were deemed admitted. See Rules of the Board of Bar Overseers, § 3.15.

deportation proceedings based on his 1994 conviction for armed robbery.² According to the facts alleged in the petition, the respondent: failed to keep Justin reasonably informed of the status of the motion for reconsideration, including its denial, in violation of Mass. R. Prof. C. 1.4 (a); requested her client to amend their flat fee agreement during the representation to provide an additional flat fee for the same work, thereby entering improperly into a business transaction with the client and also charging a clearly excessive fee, in violation of Mass. R. Prof. C. 1.8 (a) and 1.5 (a), respectively; failed to appear for scheduled court hearings in the Norfolk Superior Court and to comply with a judge's order to appear, in violation of Mass. R. Prof. C. 1.1, 1.2 (a), 1.3, and 3.4; failed to file a timely notice of appeal and take other action to pursue an appeal, in violation of Mass. R. Prof. C. 1.1, 1.2 (a), and 1.3; threatened to withdraw from representation if Justin did not notify bar counsel that he was withdrawing his grievance, in violation of Mass. R. Prof. C. 8.4 (d) and (h), and S.J.C. Rule 4:01, § 10; and withdrew from representation without notifying Justin and failed to take steps to protect her client's interests upon withdrawal, in violation of Mass. R. Prof. C. 1.4 (b) and 1.16 (d).

The respondent's answer to the petition for discipline was due in twenty days, or by September 19, 2014. No answer was filed, and on September 23, 2014, the board notified the respondent that she had been defaulted and the allegations of the petition for discipline were deemed admitted, but the respondent could move for relief from the default along with a

² Justin is from Haiti. In 1994, he pleaded guilty in the Superior Court to one count of armed robbery, for which he was sentenced to three to five years, suspended on the condition that he participate in intensive probation for two years. Justin successfully completed his intensive probation and sentence. Thereafter, he continued to live in the United States, was gainfully employed, married, and had children. In 2010, he was detained by Immigration and Customs Enforcement (ICE), and in November, 2010, after a hearing, he was ordered deported by Federal authorities on the basis of the 1994 Superior Court conviction. A motion to vacate that conviction was denied by a Superior Court judge in January, 2011, and the respondent was retained in February, 2011, to prepare, file, and argue in the Superior Court a motion to reconsider that denial.

proposed answer within twenty days. See Rules of the Board of Bar Overseers, § 3.15 (e), (g), and (h). The respondent did not file a motion or proposed answer within that time. Thereafter, the respondent filed a series of motions for relief from default and to extend the time for filing her answer. In October and November, 2014, respectively, the chair of the board allowed two such motions and ordered the respondent to file her answer by extended dates. The respondent did not file an answer by those dates, and on December 31, 2014, the board chair denied any further extensions and directed the parties to submit briefs on disposition. Bar counsel filed a brief on disposition on January 20, 2015, recommending a term suspension of six months and a day; the respondent did not submit a brief. After providing notice to the parties, the board put the matter on its agenda for its February, 2015, meeting. At that meeting, the board voted (1) to permit the respondent to file a proper answer to the petition for discipline within two weeks after notice of the board's vote was provided to her; and (2) if no answer were timely filed, to recommend to this court that the respondent be suspended for three months with a requirement that she undergo a hearing before any reinstatement. The board sent a copy of its vote to the respondent and bar counsel on February 27, 2015, by certified mail as well as first-class mail. Delivery of the certified-mail letter to the respondent was attempted, but the letter was not picked up. The first-class letter, however, was not returned to the board as undeliverable or undelivered. The respondent's answer was due on or before March 16, 2015, but no answer was filed by that date. The respondent filed an answer to the petition on March 26, 2015. Bar counsel moved to strike the answer on the grounds that it was late-filed and did not comply with the board's rules. The respondent did not file an opposition or an amended answer. On April 24, 2015, the board chair determined that the respondent had not shown good cause for not complying with the deadline set out in the board's vote at its February meeting. An order defaulting the respondent

entered, and bar counsel's motion to strike was allowed. Thereafter, the board's information was filed in the county court, recommending, in accordance with the board's vote, a three-month suspension with an added requirement that the respondent undergo a hearing before any reinstatement.

At the hearing before me on this matter, the respondent was represented by counsel; up to that point, it appears that the respondent had been representing herself.³ The respondent's counsel argued in part that, as some of the respondent's motions and communications to the board had indicated, at the time the petition for discipline was served and for months thereafter, the respondent, who is approximately seventy-two years old, was afflicted with devastating medical problems including recurrent, severe rheumatoid arthritis as well as influenza, viral pharyngitis, and other medical conditions; and that the respondent's medical status rendered her incapable of working as usual, caused her enormous financial difficulties, and also made timely responses to the board impossible.

Discussion. I accept and appreciate, as the respondent's counsel has argued, that the respondent has practiced law for many (twenty-seven) years in the Commonwealth, representing in large part individuals who can afford to pay very little or not at all. I accept as well that in the past few years, the respondent has suffered very significant medical problems that have caused her substantial difficulties in many dimensions of her life. But the respondent seeks to continue to practice law, and has not suggested her medical issues and their sequelae have disabled her from doing so. The record indicates that the board repeatedly gave the respondent yet one more chance to bring herself into compliance with its rules governing answers to petitions for

³ Bar counsel initially sent the petition for discipline as well as later pleadings and communications to the respondent and separately to an attorney, John F. Coffey, Esq. I see nothing in the record, however, to suggest that Mr. Coffey represented the respondent in connection with this matter at any point.

discipline, but the respondent failed to do so. Moreover, there is no question that the allegations set forth in the petition for discipline concerning the respondent's conduct with respect to her client Justin are very serious, and, given the respondent's failure to answer, those allegations are deemed admitted.⁴

In the circumstances presented, I do not agree with the respondent that a remand to the board for hearing, accompanied by an order to the respondent to file a proper answer by a certain date, would be appropriate. There can be no real question that it is necessary for the board to adopt and enforce procedural rules to govern the disciplinary process, and the time requirements contained in the board's rules are reasonable -- especially when, as this case illustrates, the board's willingness to be flexible about rule deadlines is taken into account. The respondent's opportunity -- or, more accurately, opportunities -- to file an answer to the petition for discipline that complies with the board's rules has (or have) passed.

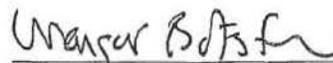
I accept the board's recommendation that a suspension in this case is appropriate.⁵ At the same time, I am not persuaded that it is necessary for the respondent to undergo a hearing before the board as a condition of reinstatement. My view is that the respondent, and her clients, would be better served if she were to work with a mentor for six months following her readmission.⁶ Accordingly, the discipline to be imposed is a four-month suspension but with the final two months of the suspension stayed for a period of six months on the condition that the respondent

⁴ It should be noted, however, that at the hearing before me, bar counsel stated that the respondent's client Justin, represented by other counsel after the respondent, ultimately was not ordered deported, and all charges against him were dropped.

⁵ The respondent has received two admonitions in the past. The second of which, in 2007, was for conduct with some similarities (failing to appear at court hearings when ordered; withdrawing without permission from the court) to the alleged misconduct in this case.

⁶ The record suggests that the respondent would benefit if the mentor were selected and if she were to work with the mentor even before her readmission.

during that time work with a mentor, the choice of mentor to be approved by bar counsel, who will report to bar counsel as directed by her.



Margot Botsford
Associate Justice

Dated: November 10, 2015