STATE OF MAINE

Before the Grievance Commission
Grievance Commission Files Nos.
84-170, 85-46, 85-76, 86-233, and
87-K-132

BOARD OF OVERSEERS OF THE BAR

v.

JAMES G. PALMER

REPORT OF FINDINGS,
DETERMINATIONS, AND
ACTIONS OF PANEL D

Bar Counsel filed a Petition in these cases dated June
12, 1987, and, with due notification, Panel D of the Griev-
ance Commission convened a hearing open to the public on the

The Respondent appeared personally at the hearing and
was represented by counsel, and Bar Counsel presented the
evidence with respect to the Petition, including the testi-
mony of several witnesses and numerous documents. Case No.
85-46 was dismissed by agreement. At the conclusion of the
hearing, the Panel took note that the allegations in the
Petition had been admitted, or largely so, by the Respondent,
and also amply substantiated by the evidence presented by Bar
Counsel. The Respondent advanced a number of statements on
his own behalf by way of mitigation and explanation for his
conduct. Respondent and his counsel advanced a plan for the
rehabilitation of Respondent's practice if final disposition could be deferred.

The Panel concluded the proceedings by finding that violations of the Maine Bar Rules had occurred as alleged in the Petition based upon the Petition, the Answer, and the evidence presented at the hearing. The Panel continued the matter for disposition for three months, in order to permit the Respondent, with the assistance of another member of the Bar and under the oversight of his attorney and of Bar Counsel, to pursue a number of remedial measures that would, it was hoped, enable the Respondent to continue his practice with assurances that there would be no neglect or similar problem in the interim, and under procedures calculated to assure that all pending matters in the cases related to this Petition be attended to promptly and properly. The parties were advised by the Panel that Bar Counsel would have the ability, in her discretion, to request that the Panel reconvene prior to the deferment date.

At the request of the Respondent and without objection from Bar Counsel, final disposition of the hearing was continued until until April 26, 1988.

On April 26, 1988, the Panel conducted its final hearing in this matter, and by agreement Case No. 87-K-132 was also taken up. The case is now in order for a final disposition by the Grievance Commission of all pending matters.
Based upon all of the evidence presented to the Panel, based upon its findings that all of the violations alleged have been shown to have occurred, based upon the evidence in mitigation presented by the Respondent and the apparently successful pursuit of significant remedial measures by the Respondent, and having duly considered all of the relevant standards implicated in this case, the Panel has determined that the Respondent should be reprimanded for his misconduct. The Panel's findings and analysis are more fully set forth in the remainder of this report.

FINDINGS

On September 22, 1987, the Panel found that all of the allegations contained in the Petition (other than those regarding the dismissed case) had been established or admitted. On April 26, 1988, similar findings were reached with regard to Case No. 87-K-132. Without repeating all of those allegations in this report, the Panel adopts those allegations as findings of fact and incorporates them herein by reference.

Nonetheless, it might be useful for this report to contain some discussion of the underlying facts. The Petition sets forth a number of instances of serious neglect by the Respondent of cases entrusted to his care.
In one case, for example, one of Respondent's clients suffered financial and personal hardships as a result of Respondent's neglect of a divorce matter. This included an award of alimony in proceedings Respondent failed to cover or inform the client (a naval serviceman who had been transferred out of state) were going to take place.

In another instance, the Respondent neglected to handle a case appropriately, resulting in adverse results to the client, after which Respondent failed to inform the client of those results or to respond to repeated requests from both the client and other counsel as to the status of the client's legal matters.

There was evidence of a number of other instances of neglect on Respondent's part and of his failure to return phone calls, reply to letters, or otherwise keep his clients fully informed. When complaints began to come to Bar Counsel, the Respondent also failed repeatedly to respond timely or properly to Bar Counsel's investigatory queries.

Respondent, to his credit, acknowledged his misconduct and took responsibility for his own actions. By way of explanation and mitigation, however, Respondent advised the Panel that his busy practice had recently overwhelmed him and caused a growing inability on his part to attend to his professional commitments fully and punctually.
Respondent sought out assistance in coming to grips with his problems, and sought the assistance of other members of the Bar in his effort to reorganize his practice. He modified his case intake practices and restricted his practice to certain areas of the law. As he explained it, he learned to say no. He was assisted throughout this process, which continued from the date of his original hearing and continues at the present, by his own counsel, Peter J. DeTroy, Esq., and by attorney Duane D. Fitzgerald of Bath, whose efforts on the Respondent's behalf deserve commendation.

The Respondent, in short, presented evidence tending to a degree to mitigate his misconduct and has, in good faith and with considerable success, pursued remedial measures calculated to prevent the recurrence of such misconduct. In a number of instances the Respondent has made efforts, without further compensation, to repair the damage done by his own misconduct, and he also provided evidence of restitution made by him in appropriate circumstances. Respondent has clearly suffered much personally through this long ordeal.

While the Panel finds that the Respondent engaged in a pattern of serious and substantial neglect over a long period of time, the Panel also finds that to some extent that misconduct can be explained (although not justified) by personal circumstances affecting Respondent's ability to keep up with his practice. The Respondent had found it difficult to
decline work where he thought people needed his help, and ultimately lost control of his caseload. The Panel also finds that the Respondent ultimately accepted responsibility for his misconduct when called to task, that he attempted to repair the damage he had done or to make restitution when necessary, and that he has diligently and successfully pursued remedial measures to prevent the recurrence of similar misconduct in the future. Insofar as possible, the harm done to Respondent's clients appears to have been addressed.

CONCLUSIONS

Normally a pattern of neglect as substantial and serious as that established here would be the basis for the imposition of severe disciplinary sanctions, both to prevent similar misconduct in the future by the Respondent and to protect the public interest. Attorneys have an obligation to the courts and their clients not to permit their workload to overwhelm them and not to neglect those matters they undertake. Under the circumstances of this case, however, in light of the factors in mitigation that are present and the successful rehabilitation efforts that have been pursued by the Respondent, the Panel feels that discipline more severe than a reprimand is unnecessary to protect the public interest. Consequently, the Panel determines that the appro-
priate disposition in this case is that the Respondent be, and he hereby is, reprimanded for his misconduct as established in the cases addressed by this report.

DATED the 23rd of June, 1988.

PANEL D OF THE GRIEVANCE COMMISSION

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