

FILED

MAY 10 1985

Stephen D. ...

CLERK OF THE SUPREME COURT
OF APPEALS OF WEST VIRGINIA

Per Curiam

IN RE: ROBERT BROWNING, JR.,
a member of the West Virginia State Bar

No. 16601

This is a disciplinary proceeding instituted by the Committee on Legal Ethics of the West Virginia State Bar against Robert Browning, Jr., a member of the Bar. Mr. Browning is charged with neglecting the affairs of two clients in violation of Disciplinary Rules 6-101(A) and 7-101(A) of the West Virginia Code of Professional Responsibility. Since Mr. Browning concedes that he did neglect the affairs of the clients, the sole question before the Court is whether he should be suspended from the practice of law or whether he should be reprimanded for his inaction.

On January 25, 1981, the first client involved in this proceeding retained Mr. Browning to collect a judgment rendered in a Federal court on January 30, 1979. Although Mr. Browning recorded an abstract of the judgment, and thus perfected a judgment lien against the real estate of one judgment debtor, he did not take diligent action to convert the judgment into money. He also failed to respond to telephone and letter inquiries regarding the matter.

In October, 1982, almost two years after accepting the client's business, Mr. Browning appeared before the Committee on Legal Ethics and indicated that he would take prompt action toward collecting the judgment. Subsequently, he proposed an offer of settlement which was rejected by the client. From October 21, 1982, until March, 1984, when he was replaced by

another attorney, he took no further action toward collecting the judgment or toward advising his client of progress in the matter.

On September 22, 1980, the second client, an Illinois attorney, retained Mr. Browning to handle problems connected with a West Virginia estate. After accepting the assignment, Mr. Browning failed to respond to letters from the Illinois attorney until April, 1982, when he forwarded a completed tax form to the attorney. The form was promptly signed and returned. Mr. Browning, however, failed to file it. Subsequently, little action was taken on the estate until ethics charges were filed.

It appears that, since the institution of the legal ethics proceedings, the judgment matter has been transferred to another attorney and the judgment is still collectible and secured by a judgment lien. Mr. Browning has also completed work on the estate and has personally paid \$584.66 to rectify problems connected it. He has received no fee or other payment from either client.

With regard to the severity of the disciplinary measures to be taken against an attorney who violates the provisions of the Code of Professional Responsibility, "[t]his Court has refused to establish a uniform standard of disciplinary action and has stated that it will consider the facts and circumstances in each particular case in determining whether suspension or disbarment is indicated." Committee on Legal Ethics v. Mullins, 159 W.Va. 647, 652, 226 S.E.2d 427, 430 (1976).

It appears that, although Mr. Browning did not promptly proceed with the work assigned to him, he did take some action in each matter. There is no indication that either client has been permanently harmed, and since the filing of ethics proceedings

Mr. Browning, at his own expense, has attempted to further their interests.

While we do not condone delay of the type involved in this proceeding, we do not believe that it is sufficiently serious, given the particular facts of the case, to warrant suspension of Mr. Browning's license to practice law. We do conclude, however, that Mr. Browning should pay the costs of the proceedings before the Committee on Legal Ethics and that he should be reprimanded for his inaction.

Accordingly, it is Adjudged and Ordered that Robert Browning, Jr. be, and he hereby is, reprimanded for his inattentiveness to the affairs of his clients. It is further Ordered that Mr. Browning pay the Committee on Legal Ethics of the West Virginia State Bar \$1,104.16, the costs incurred by the Committee on Legal Ethics in its pursuit of this matter.