

**SUPREME COURT OF NEW JERSEY
DISTRICT V-A ETHICS COMMITTEE**

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DISTRICT V-A ETHICS COMMITTEE,	:	
	:	
Complainant,	:	Docket No. VA-2014-35C
	:	
v.	:	DISCIPLINARY ACTION
	:	COMPLAINT
KENYATTA K. STEWART, ESQ.,	:	
	:	
Respondent.	:	

The District V-A Ethics Committee (the “Committee”), by way of Complaint against Kenyatta K. Stewart, Esq. (the “Respondent”), says:

GENERAL ALLEGATIONS

1. Respondent was admitted to the Bar of this State in 2007.
2. Respondent was employed by Hunt, Hamlin & Ridley and maintained a law office at 60 Park Place, Room 1602, Newark, New Jersey 07102 at all relevant times.
3. In or about March 2013, a series of motor vehicle violations (“violations”) with respect to a Ford motor vehicle (“Ford”) were issued in Woodland Park, New Jersey.
4. Brenda Gilbert (“Grievant”) owned the Ford but denies that she had any responsibility for the violations.

5. Grievant permitted her (former) husband, Monroe Gilbert (“M. Gilbert”), to use the Ford.

6. M. Gilbert retained Respondent as his attorney in connection with the violations.

7. M. Gilbert signed a formal retainer agreement with Respondent.

9. Respondent performed legal services on behalf of M. Gilbert in connection with the violations.

10. Respondent was paid for legal services rendered on behalf of M. Gilbert in connection with the violations.

11. In or about early April 2014, M. Gilbert contacted Grievant by telephone and informed her that there was a hearing on April 15, 2014 at the Woodland Park Municipal Court (“WPMC”) in connection with the violations.

12. On April 15, 2014, as per the request of M. Gilbert, Respondent appeared at WPMC.

13. When Grievant arrived at WPMC, Respondent, who she had not previously met, presented Grievant with a copy of a Request to Approve Plea Agreement (“Plea Agreement”), dated April 15, 2014, which sought to resolve all of the violations.

14. Grievant did not speak with the prosecutor on April 15, 2014.

15. When the case involving the violations was called, Respondent appeared on behalf of M. Gilbert and identified himself as M. Gilbert’s attorney.

16. During the appearance Grievant was summoned to the bench by the municipal court judge in order to determine whether she was aware of the violations and/or the proposed Plea Agreement.

17. Grievant denied any prior knowledge of the violations and, therefore, the matter was adjourned until April 22, 2014.

18. Grievant did not attend the April 22, 2014 appearance because she was informed by M. Gilbert that Respondent had the appearance adjourned until May 6, 2014.

19. Notwithstanding M. Gilbert's information, the April 22, 2014 hearing proceeded as scheduled.

20. Grievant later received a copy of a second Request to Approve Plea Agreement, dated April 22, 2014, which was signed by Respondent and the municipal prosecutor.

21. Respondent did not have a formal written retainer agreement with Grievant or any other writing documenting his representation of Grievant.

22. Grievant denies any involvement in the negotiation of the plea deal.

23. On May 6, 2014, Grievant appeared at WPMC where she observed Respondent talking to the municipal prosecutor.

24. Grievant, M. Gilbert and Respondent subsequently had a conversation in the hallway at WPMC wherein Grievant agreed to plead guilty to some of the violations.

25. Respondent, Grievant and M. Gilbert then appeared before the Honorable Toni Belford Damiano, J.M.C.

26. Respondent entered an appearance on behalf of both Grievant and M. Gilbert.

27. On May 6, 2014, Grievant pleaded guilty to N.J.S.A. 39:6B-2, *i.e.*, Driving Without Insurance, and signed a judgment of conviction confirming the guilty plea.

28. Respondent did not bill Grievant for any legal services and Grievant did not pay for such services.

29. Respondent later admitted in writing that "...it appears that there was dual representation. While I recognize that I may have violated the rules of ethics on my dual representation I did not force [Grievant] into taking the plea in question."

30. Respondent admits that he never obtained a written waiver and/or informed consent from Grievant concerning his dual representation of Grievant and M. Gilbert.

31. Judge Damiano issued a fine to Grievant (\$400 plus \$33 in court costs and \$6 assessment fee) and, in lieu of taking Grievant's license, directed Grievant to serve 30 days of community service.

32. Grievant subsequently hired Michael DeMarco, Esq. in order to file a motion for Post-Conviction Relief ("PCR"), which was heard by the Honorable Roy F. McGeady, P.J.M.C., in Bergen County.

33. The PCR motion was granted by the Court and all charges against Grievant were dismissed in lieu of a guilty plea by M. Gilbert.

FIRST COUNT

Violation of R.P.C. 1.5(b)

34. The allegations in the preceding paragraphs are incorporated herein as if set forth at length.

35. Respondent performed legal services on behalf of Grievant in connection with the violations.

36. Although Respondent did not bill Grievant for any legal services, and Grievant did not pay Respondent for any such legal services, Respondent should have provided Grievant with a written instrument documenting Grievant's representation.

37. Respondent did not provide Grievant with a formal written retainer agreement or any other writing setting forth Respondent's representation of Grievant.

38. Respondent's failure to provide a written instrument documenting Grievant's representation constitutes a violation of the writing requirement contained in R.P.C. 1.5(b).

SECOND COUNT

Violation of R.P.C. 1.7

39. The allegations in the preceding paragraphs are incorporated herein as if set forth at length.

40. Respondent entered into a formal retainer agreement with M. Gilbert in order to perform legal service on M. Gilbert's behalf in connection with the violations.

41. Although Respondent did not enter into a formal retainer agreement with Grievant, Respondent performed legal service on Grievant in connection with the violations.

42. Respondent admits that his representation of M. Gilbert and Grievant constitutes a dual representation.

43. Respondent's dual representation was a concurrent conflict of interest because the representation of Grievant and/or M. Gilbert was directed adverse to the other person.

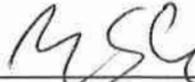
44. Respondent's dual representation was a concurrent conflict of interest because the representation of Grievant and/or M. Gilbert created a significant risk that the representation of Grievant and/or M. Gilbert will be limited by Respondent's responsibility to the other person.

45. Respondent did not obtain, in writing, informed consent from Grievant and M. Gilbert of Respondent's dual representation.

46. Because Respondent's dual representation of Grievant and M. Gilbert constituted a concurrent conflict of interest, and Respondent's failed to obtain informed consent, in writing, from Grievant and M. Gilbert, Respondent violated R.P.C. 1.7.

WHEREFORE, the Respondent should be disciplined.

DISTRICT V-A ETHICS COMMITTEE



Paul S. Danner, Esq.
Investigator

Dated: March 14, 2016



THE LAW FIRM OF
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COUNSELLORS AT LAW



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April 18, 2016

Natalie S. Watson, District VA Secretary
c/o McCarter & English, LLP
100 Mulberry Street
Newark, New Jersey 07102

Re: DISTRICT V-A-ETHICS COMMITTEE vs. KENYATTA K. STEWART
Docket No.: VA-2014-35C

Dear Ms. Watson:

As you know, I am the respondent in the above captioned matter. It is my understanding that the above allegations stem from my representation of a client in Woodland Park Municipal Court. I was surprised when I learned about the details of the investigation/ complaint filed against me. I am even more surprised by the statement that Mrs. Gilbert did not know me prior to the case in question.

I have known the Gilbert family for more than 15 years. I met the family many years ago when my best friend Gemar Mills was in a 3year relationship with their daughter Christina Gilbert. I have been to their home on several occasions. I have a great relationship with numerous members of the family. I represented their nephew Antwan Seegers on a several occasions. In 2014 I met with Ivory Davis, the brother of Brenda Gilbert to discuss the facts of his case. I have hired Tyrone Davis, who is the nephew of the Gilberts on several occasions. He has played music for a number of my events including my Alumni Basketball Tournament, King of the Court Summer Basketball League and Peace in Paterson Block Party. It is important to note that both Monroe Gilbert Jr. and Malcolm Gilbert, who are the children of the Gilbert family has also participated and played basketball in my events. I also remember speaking to the John F. Kennedy High School Football team where their son Cornelius Kinchen was the star quarterback.

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In 2014 I walked out of my office after a long day of work. I recall being met by Mr. Gilbert as he walked on to the sidewalk. I then reentered my office with Mr. Gilbert because he wanted to discuss his legal issues. He and I talked about a number of things during our 30-minute consultation. As a result, I gave Mr. Gilbert a reduce fee.

On or about April 15, 2014 I met the parties in the Woodland Park Municipal Court. While talking to Mr. Gilbert, Mrs. Gilbert indicated that she would look for the party's old insurance documents. As a result, the matter was rescheduled for another date. On or about April 22, 2014, I met with the parties in the Woodland Park Municipal Court. Both parties praised me on my accomplishments as a lawyer. They also indicated that they were proud of the fact that I give back to the kids in the Paterson New Jersey community. They asked me to go speak to the prosecutor about a resolution that would help the family. As a result, I spoke to the prosecutor who indicated that he would suspend Mr. Gilbert's license and consider dismissing the tickets filed against Mrs. Gilbert if Mr. Gilbert exculpate her. As a result, I spoke to my client Mr. Gilbert about the possible outcome. It is important to note that Mr. Gilbert asked Mrs. Gilbert to walk over to where the two of us were standing so that she can hear the substance of our conversation. Both members of the Gilbert family indicated that they did not want Mr. Gilbert to have his license suspended. Mrs. Gilbert would be forced to driver Mr. Gilbert around during the time of his suspension. As a result, both parties asked that I go and speak to the prosecutor about a better resolution that would not have such a negative impact on the family.

I assumed that the parties were still lawfully married because of their body language. The parties were sitting in court next to each other on both occasions that I appeared in connection with this matter. Mrs. Gilbert followed Mr. Gilbert to the hallway when I asked him to step out of the courtroom. The parties both stayed outside of the courtroom as I spoke with the prosecutor for more than five minutes. It is important to note that it is my understanding that the parties left the court together on both occasions that I appeared in Court.

The prosecutor indicated that he would dismiss the complaints filed against Mr. Gilbert, if Mrs. Gilbert pleads guilty to the complaint filed against her. As a result, I informed the parties. I gave the parties an opportunity to discuss the possible resolution out of my presence. I overheard Mr. Gilbert ask Mrs. Gilbert "what are you going to do". Soon thereafter the parties asked me to return to the area. Mrs. Gilbert indicated that she would take responsibility for her infraction. I asked Mrs. Gilbert on several occasion if she was sure about making this decision. I also told her that she had the right to put the case off because she did not have an attorney. Mrs. Gilbert said she wanted to take responsibility for her infractions and she did not want to return back to court. I recall her stating that she wanted to get this over with. She indicated that she did not want to be forced to drive Mr. Gilbert around for the period of his suspension.

*HUNT, HAMLIN &
RIDLEY
COUNSELLORS AT LAW*

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Mrs. Gilbert reminded me that she worked for the probation department. She also indicated that she would be able to put herself on community service with her church. It is important to note that both parties are educated people who have experience with the criminal justice system. Mrs. Gilbert has worked for the New Jersey State Probation Department for more than 10 years. At this time the parties confirmed that they understood the possible penalties that they faced. I asked them if they had any questions. In which they both explained that they did not. I also informed Mrs. Gilbert that I could only act as a friend of the Court by representing her on the record. She asked that I put the factual basis on the court record, as she did not want to stay in the Woodland Park Municipal Court for much longer.

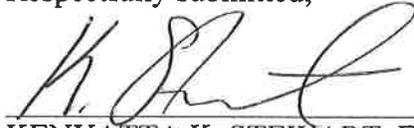
I was confident that both parties were aware of their possible penalties and wanted to go forward as mentioned above. Soon thereafter, the parties appeared on the record before the Woodland Park Municipal Court Judge. I recognize that I put my name on the record as counsel for Mrs. Gilbert without indicating that I was doing it as a friend of the Court. However, it is important to note that the Judge questioned Mrs. Gilbert about her possible penalty. At no time did I force or convince Mrs. Gilbert into help her husband of many years. She was fully aware of the possible penalty and explained that she would be able to accommodate herself because of her connection with her job and her church. It is my understanding that she began the process of paying the necessary fine and made an attempt to begin her community service. However, I learned that she changed her position after she learning that she could not put herself on community service.

I pride myself on being an advocate for good people who may have may have been misunderstood or made a mistake in life. However, I have never and will never force or convince someone to do something that they do not want to do. I am ashamed and embarrassed about being accused of the allegations made in the complaint. However, I have learned from this experience. Please accept this cover letter and the attached answer to the complaint filed against me in this matter. I also ask that you scheduled this matter for an in person hearing in the near future. Enclosed please find a copy of my answer in this matter. Feel free to contact my office if you should have any questions or concerns. Thank you in advance for your attention in this matter.

*HUNT, HAMLIN &
RIDLEY
COUNSELLORS AT LAW*

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Respectfully submitted,



KENYATTA K. STEWART, ESQ.

Cc: David M. Dugan, Esq., Chiesa, Shahinian & Giantomasi, 1 Boland Drive, West Orange,
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Office of Attorney Ethics, Post Office Box 963, Trenton, New Jersey 08625

OAE Statewide Ethics Coordinator, Post Office Box 963, Trenton, New Jersey 08625

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DISTRICT V-A-ETHICS COMMITTEE	Docket No. VA-2014-35C
Complainant	
vs.	DISCIPLINARY ACTION ANSWER
KENYATTA K. STEWART, ESQ.	
Respondent.	

The Respondent Kenyatta Stewart answer the Complaint filed against him as :

GENERAL ALLEGATIONS

1. Respondent admits the information contained in paragraph 1 of the complaint.
2. Respondent admits the information contained in paragraph 2 of the complaint.
3. Respondent admits the information contained in paragraph 3 of the complaint.
4. Respondent denies the information contained in paragraph 4 of the complaint.
5. Respondent denies the information contained in paragraph 5 of the complaint.
6. Respondent denies the information contained in paragraph 6 of the complaint.
7. Respondent denies the information contained in paragraph 7 of the complaint.
8. Paragraph 8 of the complaint has been omitted.
9. Respondent denies the information contained in paragraph 9 of the complaint.
10. Respondent denies the information contained in paragraph 10 of the complaint.
11. Respondent denies the information contained in paragraph 11 of the complaint.
12. Respondent denies the information contained in paragraph 12 of the complaint.

13. Respondent denies the information contained in paragraph 13 of the complaint.
14. Respondent denies the information contained in paragraph 14 of the complaint.
15. Respondent denies the information contained in paragraph 15 of the complaint.
16. Respondent denies the information contained in paragraph 16 of the complaint.
17. Respondent denies the information contained in paragraph 17 of the complaint.
18. Respondent denies the information contained in paragraph 18 of the complaint.
19. Respondent denies the information contained in paragraph 19 of the complaint.
20. Respondent denies the information contained in paragraph 20 of the complaint.
21. Respondent denies the information contained in paragraph 21 of the complaint.
22. Respondent denies the information contained in paragraph 22 of the complaint.
23. Respondent denies the information contained in paragraph 23 of the complaint.
24. Respondent denies the information contained in paragraph 24 of the complaint.
25. Respondent denies the information contained in paragraph 25 of the complaint.
26. Respondent denies the information contained in paragraph 26 of the complaint.
27. Respondent denies the information contained in paragraph 27 of the complaint.
28. Respondent denies the information contained in paragraph 28 of the complaint.
29. Respondent denies the information contained in paragraph 29 of the complaint.
30. Respondent denies the information contained in paragraph 30 of the complaint.
31. Respondent denies the information contained in paragraph 31 of the complaint.
32. Respondent denies the information contained in paragraph 32 of the complaint.
33. Respondent denies the information contained in paragraph 33 of the complaint.

FIRST COUNT

Violation of R.P.C. 1.5(b)

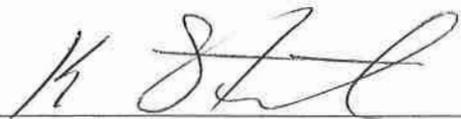
- 34. Respondent denies the information contained in paragraph 34 of the complaint.
- 35. Respondent denies the information contained in paragraph 35 of the complaint.
- 36. Respondent denies the information contained in paragraph 36 of the complaint.
- 37. Respondent denies the information contained in paragraph 37 of the complaint.
- 38. Respondent denies the information contained in paragraph 38 of the complaint.

SECOND COUNT

Violation of R.P.C. 1.7

- 39. Respondent admits the information contained in paragraph 39 of the complaint.
- 40. Respondent denies the information contained in paragraph 40 of the complaint.
- 41. Respondent denies the information contained in paragraph 41 of the complaint.
- 42. Respondent denies the information contained in paragraph 42 of the complaint.
- 43. Respondent denies the information contained in paragraph 43 of the complaint.
- 44. Respondent denies the information contained in paragraph 44 of the complaint.
- 45. Respondent denies the information contained in paragraph 45 of the complaint.
- 46. Respondent denies the information contained in paragraph 46 of the complaint.

WHEREFORE, the Respondent should not be disciplined.



KENYATTA K. STEWART, ESQ.

Dated: April 18, 2016

- (5) any constitutional challenges to the proceedings.

R. 1:20-4(e).

You are advised that, while the burden of proof by clear and convincing evidence is on disciplinary authorities to establish unethical conduct, the burden of going forward on all properly raised affirmative defenses and mitigating factors, including claims of mental and physical disability, if any, and whether such defenses or claims are causally related to the offense charged, is on you. The burden of proof for all medical/psychiatric defenses is clear and convincing evidence. R. 1:20-6(c)(2)(B).

Please note that you must personally verify your answer by attaching and signing the following form to that document:

<p><u>VERIFICATION OF ANSWER</u></p> <p>I, <u>Kergette Stewart</u>, am the respondent in the within disciplinary action and hereby certify as follows:</p> <p>1. I have read every paragraph of the foregoing Answer to the Complaint and verify that the statements therein are true and based on my personal knowledge.</p> <p>2. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.</p> <p>DATE: <u>4/18/16</u></p>

TAKE NOTICE THAT YOUR FAILURE TO FILE A TIMELY, VERIFIED ANSWER WILL CONSTITUTE AN ADMISSION OF THE CHARGES. SUCH FAILURE MAY ALSO RESULT IN YOUR IMMEDIATE TEMPORARY SUSPENSION FROM PRACTICE. IN EITHER EVENT, NO FURTHER HEARING NEED BE HELD AND THE ENTIRE RECORD, OR A RECORD SUPPLEMENTED BY THE PRESENTER, IN THIS MATTER CAN BE CERTIFIED DIRECTLY TO THE DISCIPLINARY REVIEW BOARD FOR IMPOSITION OF SANCTION, ALL PURSUANT TO R.1:20-6(c)(1) R.1:20-4(e) and (f) AND R.1:20-11.

This matter will be prosecuted by Paul S. Danner, Esq., as presenter, before a three-member panel of this District Ethics Committee. Pursuant to *Rule 1:20-4(g)*, you are entitled to have an attorney present on your behalf at the forthcoming hearing. If you are unable to retain an attorney by reason of indigence, you may make application to the Assignment Judge of your vicinage for the appointment of counsel based upon a certification pursuant to *Rule 1:20-4(g)*. Such application must be made within 14 days after service of the complaint on written notice to me. In addition, you are entitled, pursuant to *Rule 1:20-7(i)*, to the issuance of subpoenas necessary and relevant to your defense. This application should be directed to the hearing panel chair or any special ethics master at least two weeks prior to the hearing date. Your failure to timely request the issuance of subpoenas or assignment of counsel will constitute a waiver.