SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 94-209

IN THE MATTER OF

LAWRENCE MAGID,

AN ATTORNEY AT LAW

Decision and Recommendation
of the
Disciplinary Review Board

Argued: July 20, 1994

Decided: October 4, 1994

Richard J. Engelhardt appeared on behalf of the Office of Attorney Ethics.

Benjamin Goldstein appeared on behalf of respondent.

To the Honorable Chief Justice and Associate Justices of the Supreme Court of New Jersey.

This matter was before the Board on a Motion for Final Discipline filed by the Office of Attorney Ethics ("OAE"), based upon respondent's conviction of simple assault, in violation of N.J.S.A. 2C:12-1a(1).

Respondent was admitted to the New Jersey bar in 1969. On September 28, 1993, a complaint was filed in Woodbury Heights Municipal Court charging respondent with the disorderly persons offense of assault, in violation of N.J.S.A. 2C:12-1a(1). The complaint charged respondent with attempting "to cause bodily injury to Kimberly Perry, specifically by punching her in the head and face area causing a black eye, knocking her to the ground and kicking her in the neck, head, and lower back, causing other

bruising" (Exhibit A to the OAE's brief). The incident in question occurred on the evening of September 25, 1993, at Badges, a private club in Woodbury Heights, frequented by law enforcement personnel. At the time of the incident, respondent was the First Assistant Prosecutor of Gloucester County. The victim, Ms. Perry, was also employed by the Gloucester County Prosecutor's Office and had been dating respondent for several months. As a result of this incident, respondent was discharged from his position in the prosecutor's office.

On December 7, 1993, respondent pleaded guilty to assaulting Ms. Perry (Exhibit B to the OAE's brief). The plea was taken by Camden County Superior Court Judge Robert W. Page, sitting as Municipal Court Judge for the Woodbury Heights Municipal Court.

At sentencing on February 7, 1994, Judge Page placed respondent on probation for a period of one year, fined him $250, and administered a $50 violent crime penalty. As conditions of probation, Judge Page required that respondent have no contact with Ms. Perry and be responsible for any medical expenses incurred by her. He also directed respondent to continue treatment with his psychiatrist and remain drug- and alcohol-free during the course of his probation (Exhibit C to OAE's brief at 10-11).

The OAE requested that the Board recommend a public reprimand.

CONCLUSION AND RECOMMENDATION

A conviction in a criminal matter is conclusive evidence of a respondent's guilt in a disciplinary proceeding. In re Goldberg, 105 N.J. 278, 280 (1987); In re Tuso, 104 N.J. 59, 61 (1986); In re Rosen, 88 N.J. 1, 3 (1981); R. 1:20-6(c)(1). No independent examination of the underlying facts is, therefore, necessary to ascertain guilt. In re Bricker, 90 N.J. 6, 10 (1982). The only issue to be determined is the quantum of discipline to be imposed. In re Goldberg, supra, 105 N.J. at 280; In re Kaufman, 104 N.J. 509, 510 (1986); In re Kushner, 101 N.J. 397, 400 (1986).

Respondent was convicted of the disorderly persons offense of simple assault, in violation of N.J.S.A. 2C:12-1a(1). Respondent's conviction is clear and convincing evidence of his violation of RPC 8.4(b) (conduct that reflects adversely on his honesty, trustworthiness, or fitness as a lawyer). The fact that respondent's misconduct did not directly involve the practice of law is of little moment. The Court has consistently emphasized that "(g)ood moral character is a basic condition for membership in the bar," In re LaDucca, 62 N.J. 133, 140 (1973), and that "any misbehavior, private or professional, which reveals a lack of character and integrity essential for the attorney franchise constitutes a basis for discipline." In re Mattera, 34 N.J. 259, 264 (1961); See also In re Peia, 111 N.J. 318, 322 (1988) ("an attorney is obligated to adhere to a high standard of conduct").

At oral argument before the Board, respondent's counsel urged the Board to recommend the imposition of a private reprimand, in light of the substantial toll that the intense negative publicity has taken on respondent's career. It cannot be denied that, as a result of this incident, respondent lost his job and was subject to a number of embarrassing articles in the local press. The Board is also mindful of other mitigating factors that existed at the time of the incident, such as respondent's son's critical illness and his troubled relationship with Ms. Perry.

However, the Court has long recognized that attorneys who hold public office are held to the highest of standards. "Respondent's conduct must be viewed from the perspective of an informed and concerned private citizen and be judged in the context of whether the image of the bar would be diminished if such conduct were not publicly disapproved." In re McLaughlin, 105 N.J. 457, 461 (1987) (citation omitted). To withhold public discipline may cause the public to believe that the legal profession is not concerned about domestic violence or that prosecutors, as members of the legal system, receive preferential disciplinary treatment. "Public confidence in the integrity and trustworthiness of the legal profession must be maintained." Id.

An act of violence as a method of resolving a dispute, regardless of the surrounding circumstances, can never be condoned. To impose private discipline in this matter would tarnish the image of the bar. Therefore, a four-member majority of the Board recommends a public reprimand as the appropriate discipline for

respondent's misconduct. Two members dissented, believing that a private reprimand is sufficient discipline in this matter. One member recused himself. Two members did not participate.

The Board further recommends that respondent be required to reimburse the Ethics Financial Committee for administrative costs.

Dated: 10/4/94

By: Elizabeth L. Buff
Elizabeth L. Buff
Vice-Chair
Disciplinary Review Board