

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 09-059
District Docket No. XIV-07-404E

IN THE MATTER OF
RICHARD L. PRESS
AN ATTORNEY AT LAW

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Decision

Argued: June 18, 2009

Decided: August 7, 2009

Nitza I. Blasini appeared on behalf of the Office of Attorney Ethics.

Michael A. Fusco, II appeared on behalf of respondent.

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

This matter was before us on a stipulation between respondent and the Office of Attorney Ethics ("OAE"), arising out of a charge of criminal mischief filed against respondent. Respondent stipulated a violation of RPC 8.4(b) (commission of a criminal act that reflects adversely on the lawyer's honesty,

trustworthiness or fitness as a lawyer). The OAE recommended a reprimand or censure. We determine to impose a reprimand.

Respondent was admitted to the New Jersey bar in 1978. He received a private reprimand for improper solicitation of his former law firm's clients. In the Matter of Richard L. Press, DRB 88-189 (October 25, 1988).

By letter dated August 1, 2007, respondent's then counsel, Alan M. Lands, advised the OAE that respondent had been charged with several indictable offenses alleging criminal mischief, in violation of N.J.S.A. 2C:17-3. Seven complaints had been filed against respondent. The complaints alleged that, on two dates in May 2007 and two dates in June 2007, respondent purposely or knowingly damaged personal property of another, specifically seven vehicles.¹

In August 2007, respondent pleaded not guilty to an accusation charging him with one count of fourth degree criminal mischief, a violation of N.J.S.A. 2C:17-3(a)(1). Thereafter, respondent was admitted into the Pre-Trial Intervention Program ("PTI"). In addition to the standard PTI conditions, the State

¹ Respondent broke the windshield wipers off the vehicles. The record offers no explanation for his actions.

required that respondent make full restitution to the victims and that he continue treatment with his mental health provider.

In mitigation, the stipulation noted that respondent admitted his wrongdoing; cooperated with the OAE; was under extreme emotional distress at the time of his misconduct; and made restitution to the victims.²

Respondent stipulated that his commission of fourth-degree criminal mischief violated RPC 8.4(b).

Upon a de novo review of the record, we are satisfied that the stipulated facts support a finding that respondent's conduct was unethical. The record supports the conclusion that respondent violated RPC 8.4(c) when he committed fourth-degree criminal mischief. The sole issue to be determined is the quantum of discipline to be imposed.

In In re Cardullo, 75 N.J. 107 (2003), the attorney was reprimanded following her guilty plea to fourth-degree assault by automobile, driving while intoxicated, and leaving the scene of an accident. Specifically, the attorney rear-ended another

² The stipulation did not reveal the cause of respondent's extreme emotional distress. At oral argument before us, respondent's counsel stated that respondent's distress had been brought about by his involvement in a lengthy trial.

vehicle. When she was questioned by police officers, she denied that she had been in an accident. Although she eventually admitted being at the scene, she initially denied hitting the other vehicle. When she later admitted hitting the car, she claimed that it had been the other driver's fault for stopping suddenly.

In determining that a reprimand was the appropriate discipline for Cardullo, we considered the absence of serious injury to the other driver and Cardullo's efforts to recover from alcohol addiction. We disciplined her solely on her conviction of assault by auto, not for driving while intoxicated.

More recently, in In re Osei, 185 N.J. 249 (2005), the attorney was censured when, after a foreclosure action on his house, he caused \$72,000 worth of damage to the property, before relinquishing control. Osei was the first New Jersey case in which an attorney was disciplined solely for committing crimes relating to the destruction of property. We considered that Osei's actions were deliberate, that his crime was not an impulsive act, and that the extent of the damage to the property

revealed that his actions had occurred over a significant period of time.

The present case is most similar to Osei, in that both involve the destruction of property and involve conduct unrelated to the practice of law. Respondent's misconduct however, was not as egregious as Osei's. Unlike Osei, there is no indication that respondent's actions were premeditated. Rather, the parties stipulated that, at the time of respondent's conduct, he was under extreme emotional distress. Moreover, Osei committed a third-degree crime; respondent committed a fourth-degree crime.³ Finally, unlike Osei, respondent was remorseful for his conduct.

In light of the above, we determine that a reprimand is the appropriate measure of discipline for respondent's misconduct. In addition, we require him to provide proof of fitness to

³ The degree of the crime is based on the value of the property destroyed. See N.J.S.A. 2C:17-3(b):

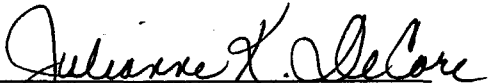
(1) Criminal mischief is a crime of the third degree if the actor purposely or knowingly causes pecuniary loss of \$2,000.00 or more.

(2) Criminal mischief is a crime of the fourth degree if the actor causes pecuniary loss in excess of \$500.00 but less than \$2000.00. It is a disorderly persons offense if the actor causes pecuniary loss of \$500.00 or less.

practice law within sixty days of the date of this decision, as attested to by a mental health professional approved by the OAE.

We further determine to require respondent to reimburse the Disciplinary Oversight Committee for administrative costs and actual expenses incurred in the prosecution of this matter, as provided in R. 1:20-17.

Disciplinary Review Board
Louis Pashman, Chair

By: 
Julianne K. DeCore
Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

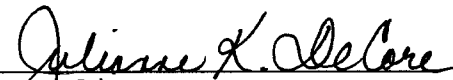
In the Matter of Richard L. Press
Docket No. DRB 09-059

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Disposition: Reprimand

| <i>Members</i> | Disbar | Suspension | Reprimand | Dismiss | Disqualified | Did not participate |
|----------------|--------|------------|-----------|---------|--------------|---------------------|
| Pashman | | | X | | | |
| Frost | | | X | | | |
| Baugh | | | X | | | |
| Clark | | | X | | | |
| Doremus | | | X | | | |
| Stanton | | | X | | | |
| Wissinger | | | X | | | |
| Yamner | | | X | | | |
| Zmirich | | | X | | | |
| Total: | | | 9 | | | |


Julianne K. DeCore
Chief Counsel