

Supreme Court of New Jersey  
Disciplinary Review Board  
Docket No. 19-205  
District Docket No. XIV-2018-0488E

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In the Matter of  
Jeffrey Scott Fattell  
An Attorney at Law

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Decision

Argued: September 19, 2019

Decided: January 13, 2020

Amanda W. Figland appeared on behalf of the Office of Attorney Ethics.

Anthony R. Fattell, Jr. 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 motion for final discipline filed by the Office of Attorney Ethics (OAE), pursuant to R. 1:20-13(c)(2), following respondent's guilty plea in the Superior Court of New Jersey, Somerset County, to criminal mischief, a disorderly persons offense, in violation of

N.J.S.A. 2C:17-3(a)(1). This offense constitutes a violation of RPC 8.4(b) (criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects).

For the reasons set forth below, we determine to grant the motion for final discipline and impose a reprimand.

Respondent earned admission to the New Jersey bar in 2008. He is not currently affiliated with any law firm and is not actively engaged in the practice of law in New Jersey.

On August 20, 2018, before the Honorable Peter J. Tober, J.S.C., respondent entered a guilty plea to a single count of criminal mischief, as amended from an allegation of a third-degree crime to a disorderly persons offense, in violation of N.J.S.A. 2C:17-3(a)(1). Respondent entered his plea during a pre-indictment conference, voluntarily waiving his right to an indictment by a grand jury.

During his plea allocution before the court, respondent admitted that, on February 4, 2018, he purposely smashed the taillights on a motor vehicle owned by another party, causing more than \$3,000 in damage. Respondent provided no further explanation for his criminal conduct.

On October 12, 2018, Judge Tober sentenced respondent to a one-year term of probation, conditioned on respondent's continued participation in

counseling, restitution in the amount of \$3,645, and mandatory fines and penalties. Respondent addressed the court, stating, “I apologize for this matter . . . having to arise . . . and I am willing to take responsibility and make sure that nothing like this ever happens again.”

Following a review of the record, we determine to grant the OAE’s motion for final discipline. Final discipline proceedings in New Jersey are governed by R. 1:20-13(c). Under that Rule, a criminal conviction is conclusive evidence of guilt in a disciplinary proceeding. R. 1:20-13(c)(1); In re Magid, 139 N.J. 449, 451 (1995); In re Principato, 139 N.J. 456, 460 (1995). Respondent’s guilty plea to disorderly persons criminal mischief, in violation of N.J.S.A. 2C:17-3(a)(1), thus, establishes a violation of RPC 8.4(b). Pursuant to that Rule, it is professional misconduct for an attorney to “commit a criminal act that reflects adversely on the lawyer’s honesty, trustworthiness, or fitness as a lawyer.” Hence, the sole issue is the extent of discipline to be imposed. R. 1:20-13(c)(2); In re Magid, 139 N.J. at 451-52; and In re Principato, 139 N.J. at 460.

In determining the appropriate measure of discipline, we must consider the interests of the public, the bar, and the respondent. “The primary purpose of discipline is not to punish the attorney but to preserve the confidence of the public in the bar.” Ibid. (citations omitted). Fashioning the appropriate penalty

involves a consideration of many factors, including the “nature and severity of the crime, whether the crime is related to the practice of law, and any mitigating factors such as respondent’s reputation, his prior trustworthy conduct, and general good conduct.” In re Lunetta, 118 N.J. 443, 445-46 (1989).

That an attorney’s conduct did not involve the practice of law or arise from a client relationship will not excuse an ethics transgression or lessen the degree of sanction. In re Musto, 152 N.J. 165, 173 (1997). Offenses that evidence ethics shortcomings, although not committed in the attorney’s professional capacity, may, nevertheless, warrant discipline. In re Hasbrouck, 140 N.J. 162, 167 (1995). The obligation of an attorney to maintain the high standard of conduct required by a member of the bar applies even to activities that may not directly involve the practice of law or affect his or her clients. In re Schaffer, 140 N.J. 148, 156 (1995).

In sum, respondent violated RPC 8.4(b). The only remaining issue is the appropriate quantum of discipline to be imposed for respondent’s misconduct.

The OAE urges the imposition of a reprimand, and further requests that, given the unexplained nature of respondent’s misconduct, he be required to provide proof of fitness to practice law. Respondent requests the imposition of no discipline or, at most, an admonition.

Standing alone, reprimands and censures have been imposed on attorneys convicted of criminal mischief. See, e.g., In re Press, 200 N.J. 437 (2009) (reprimand for attorney who stipulated to having committed a fourth-degree crime of criminal mischief; the attorney purposely damaged personal property of others by damaging windshield wipers on vehicles; prior private reprimand) and In re Osei, 185 N.J. 249 (2005) (attorney was censured for causing \$72,000 worth of damage to his own house, which was the subject of a foreclosure; aggravating factors included the deliberate nature of the attorney's actions and the extent of the damage to the property, which demonstrated that his actions had occurred over a significant period of time; no prior discipline).

Here, like the attorney in Press, respondent admitted having committed a petty, senseless act of criminal mischief, in violation of RPC 8.4(b). In mitigation, he has no prior discipline, expressed remorse for his misconduct, and agreed to pay restitution to make the victim whole. His criminal act was not as serious as that of the attorney in Osei, who was censured for having committed extensive criminal mischief. Respondent has provided no explanation for his criminal conduct, but has disclosed confidential information that justifies the OAE's request that he provide proof of fitness prior to resuming any practice.


On balance, thus, a reprimand is sufficient to protect the public and preserve confidence in the bar. As a condition, respondent is required to provide, within sixty days of the Court's Order in this matter, proof of fitness to practice law.

Vice-Chair Gallipoli and Member Joseph voted to impose a censure with the condition that respondent provide proof of fitness to practice law.

Member Boyer did not participate.

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  
Bruce W. Clark, Chair

By:   
Ellen A. Brodsky  
Chief Counsel

SUPREME COURT OF NEW JERSEY  
DISCIPLINARY REVIEW BOARD  
VOTING RECORD


In the Matter of Jeffrey Scott Fattell  
Docket No. DRB 19-205

Argued: September 19, 2019

Decided: January 13, 2020

Disposition: Reprimand

<i>Members</i>	Reprimand	Censure	Recused	Did Not Participate
Clark	X			
Boyer				X
Gallipoli		X		
Hoberman	X			
Joseph		X		
Petrou	X			
Rivera	X			
Singer	X			
Zmirich	X			
Total:	6	2	0	1

  
Ellen A. Brodsky  
Chief Counsel