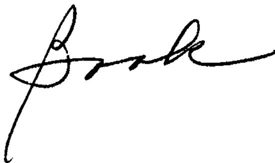


SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 92-005

IN THE MATTER OF

RODNEY B. JONES,

AN ATTORNEY AT LAW

Decision and Recommendation
of the
Disciplinary Review Board

Argued: April 15, 1992

Decided: July 20, 1992

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

Jerrold Kamensky 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 Based Upon a Criminal Conviction filed by the Office of Attorney Ethics (OAE). R.1:20-6(c)(2)(i).

Respondent was admitted to the New Jersey bar in 1986. On March 15, 1991, the Office of the Attorney General filed an Accusation, charging respondent with the solicitation of a gift while a public servant, in violation of N.J.S.A. 2C:27-6a, which provides as follows: "(a) public servant commits a crime if he, knowingly and under color of his office, directly or indirectly solicits, accepts or agrees to accept any benefit not allowed by

law to influence the performance of his official duties." Specifically, the Accusation charged that:

> [B]etween on or about May 20, 1990, and on or about October 4, 1990, at the City of Newark, and at the City of East Orange, both in the County of Essex, at the Township of Teaneck, in the County of Bergen, at the City of East Hills, in the State of New York, elsewhere and within the jurisdiction of this Court, knowingly and under the color of his office did directly and indirectly solicit, accept and agree to accept a benefit not allowed by law to influence the performance of his official duties, in that, the said **RODNEY B. JONES**, who at all times relevant to this accusation was employed as a Deputy Attorney General by the New Jersey Department of Law and Public Safety, Division of Law, knowingly did solicit, accept and agree to accept a benefit not allowed by law, that is, United States currency with a value of $5,000, from another to influence the performance of his duties with respect to a matter pending before the New Jersey Board of Psychological Examiners by engaging them in conversation with respect to the said complaint, to influence the processing and release of certain major medical claim forms and to keep another apprised of the progress of the said complaint, all contrary to the provisions of N.J.S.A. 2C:27-6a, and against the peace of this State, the government and dignity of the same.
>
> [Exhibit A to the OAE's Brief]

On March 15, 1991, respondent pleaded guilty to the above offense. During his plea hearing, respondent testified as follows:

MR. McCUSKER: Mr. Jones, between May 20, 1990 and on or about October 4, 1990, were you employed as a Deputy Attorney General by the New Jersey Department of Law and Public Safety?

THE DEFENDANT: Yes, I was.

MR. McCUSKER: At that time did you knowingly solicit, accept and agree to accept a benefit not allowed by law, that benefit being $5,000 from another person, to influence the performance of your duty with respect to a matter pending before the New Jersey Board of Psychological Examiners?

THE DEFENDANT: Yes, I did.

MR. McCUSKER: And at that time did you tell another person that you would influence members of the Board of Psychological Examiners by engaging them in conversation with respect to a complaint pending before the Board and influence the processing and release of certain medical major claims forms and to keep that person informed of the progress of the complaint?

THE DEFENDANT: Yes.

THE COURT: Do you have any additional questions you might wish to ask of Mr. Jones, Counsel?

MR. REALE: If I might ask, too, your Honor, because there may be a question by way of restitution.

Mr. Jones, on or about October 1, 1990, did you receive from another individual $1,000 cash in connection with this particular matter?

THE DEFENDANT: Yes, I did.

MR. REALE: And, sir, what happened to that $1,000?

THE DEFENDANT: What specifically happened to it?

MR. REALE: Did you spend that money, sir?

THE DEFENDANT: It was received, yes.

MR. REALE: And did you subsequently on October 4th of 1990 receive $4,000 in cash, actually $2,500 in your hands directly?

THE DEFENDANT: Yes.

[T14-18 to 16-6][1]

On April 19, 1991, respondent was sentenced to a period of probation for three years, ordered to perform ten hours of community service per month, fined $2,500 and ordered to restitute $1,000 to the State.

On March 18, 1991, the Supreme Court temporarily suspended respondent from the practice of law. This suspension remains in effect as of this date.

The OAE requested that the Board recommend respondent's disbarment.

CONCLUSION AND RECOMMENDATION

A criminal conviction is conclusive evidence of an attorney's guilt in disciplinary proceedings. 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

[1] T refers to the March 15, 1991 transcript of the guilty plea, annexed to the OAE's Brief as Exhibit B.

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's guilty plea established that he engaged in criminal conduct that was prejudicial to the administration of justice, in violation of RPC 8.4(b) and (d). Respondent's "serious crime," as defined by R.1:20-6(b)(2), was directly related to the practice of law and designed to bring him personal financial gain. Respondent's criminal offense was particularly egregious because he was a public official. When a member of the bar acts corruptly in the exercise of his or her official service, the public injury is intensified. In re Gordon, 58 N.J. 386, 387 (1971). Public attorneys are invested with the public trust. Because of their high visibility to the public, their conduct is subject to closer scrutiny. Similarly, in the event of misconduct, the degree of discipline imposed must be higher in order to insure the public that any transgressions will be harshly sanctioned and, thus, restore the public's confidence in the integrity of the system.

There remains the issue of appropriate discipline for this respondent's serious criminal offense. When a crime of dishonesty touches on the administration of justice, the offense is deserving of severe sanctions and would ordinarily require disbarment. In re Verdiramo, 96 N.J. 183, 186 (1984) (citing In re Hughes 90 N.J. 32 (1982)). Where there is evidence that an attorney has solicited or

received personal financial gain from the commission of a crime or played a continuing role in a criminal conspiracy, the Court has ordered the attorney's disbarment. In re Lunetta, 118 N.J. 443 (1989) (attorney disbarred for involvement in protracted criminal conspiracy to receive and sell stolen securities); In re Goldberg, 105 N.J. 278 (1987) (attorney disbarred for continuing involvement in crime motivated by personal greed and involving the use of the lawyer's skills to assist in the engineering of the criminal scheme); In re Tuso, 104 N.J. 59 (1986) (attorney disbarred for pernicious, sustained and adroit attempt to corrupt a public official, a school board member, to serve his own financial ends); and In re Alosio, 99 N.J. 84 (1985) (attorney disbarred for masterminding a scheme involving stolen high-priced cars).

Here, respondent's responsibilities to the public were greatly compromised when he consciously placed his personal interest above the duties required of him as an attorney and as a public official. He forsook his client, the public, for his own interest. The Board carefully reviewed the psychiatric report submitted by respondent and found no causal connection between respondent's misconduct and his emotional difficulties. Moreover, those difficulties in no way "dispel[] the damning fact that respondent's calculating course of conduct was designed to seek personal gain." In re Tuso, supra, 104 N.J. at 65.

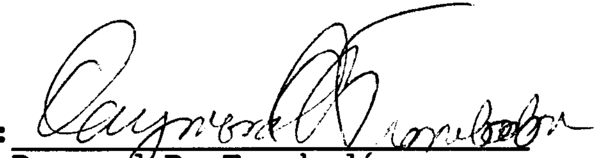
In his brief, respondent contended that he should not be disbarred because the crime to which he pleaded guilty requires specific intent and the facts do no support this finding. Respondent alleged that it is questionable whether he was, in effect, "selling any influence in exchange for the proposed loan." Respondent's brief at 11. Respondent urged the Board to consider, in mitigation, his lack of intent and the emotional pressures suffered by him at the time of the offense. The issue of respondent's intent, for purposes of the Board's review, has been resolved by his criminal conviction of violation of N.J.S.A. 2C:27-6a, which requires knowing misconduct. Under R.1:20-6(c)(1), the Board will not go behind a judgment of conviction to debate respondent's guilt or innocence. Moreover, the Board views respondent's conduct as incapable of being mitigated. Like the OAE, the Board believes that several factors require respondent's permanent removal from the profession. First, his motivation was personal financial gain. Second, his offense directly involved the practice of law, as it was his position as an attorney with the Office of Attorney General that enabled him to solicit a gift from his intended victim. And, finally, respondent's crime did not consist of a single act of bad judgment, but a course of misconduct extending for a period of five months, from May to October 1990.

Respondent's conduct leaves the Board without any confidence that he could ever again practice law in accordance with the standards required of the profession. The Board is convinced that respondent's "good character and fitness have been permanently and

irretrievably lost." In re Templeton, 99 N.J. 365, 376-377 (1985). A four-member majority of the Board recommends that he be disbarred. Two members would have imposed a three-year suspension, believing that respondent's transgression was the product of misguidance, youth and inexperience. Two members did not participate.

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

Dated: 7/20/92

By: 
Raymond R. Trombadóre
Chair
Disciplinary Review Board