

SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 95-320

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IN THE MATTER OF  
GERARD J. GILLIGAN  
AN ATTORNEY AT LAW

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Decision of the  
Disciplinary Review Board

Argued: October 18, 1995

Decided: July 15, 1996

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

John P. McDonald 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 criminal conviction of lewdness, a disorderly persons offense under N.J.S.A. 2C:14-4.

Respondent was admitted to the bar of the State of New Jersey in 1980. On October 8, 1993, respondent was charged with three counts of the disorderly persons offense of lewdness, in violation of N.J.S.A. 2C:14-4. Specifically, respondent was accused of exposing his genitals for the purpose of sexual gratification, in

the presence of three non-consenting individuals, two of whom were children under the age of thirteen.

Respondent pleaded guilty to the three charges on February 9, 1995. At sentencing on April 13, 1995, he was fined \$375 and placed on probation for five years. In addition, he was directed to notify the OAE of his conviction, to continue with psychiatric counseling, to attend Narcotics Anonymous and Alcoholics Anonymous, and to complete 200 hours of community service.

The event underlying respondent's conviction occurred on September 21, 1993, when he exposed his genitals in the presence of two female children. Witness statements indicate that respondent approached two girls in his car and requested directions to Route 80. While trying to explain the directions to him, one of the girls noticed that respondent had exposed himself and was fondling his "private part." The two girls ran away upon observing respondent's conduct.

Another witness, an adult male who happened to be looking out the window when the incident transpired, conveyed an account similar to that described by the two girls. In his statement, this witness stated that "I assumed that the driver was asking the girls for directions, because I could see them pointing . . . I saw him pick his shirt up and I saw that he had an erection, then I heard the girls either scream or yell." This witness recorded respondent's license plate number and reported the incident to the Bogota Police.

The OAE requested that respondent be given a reprimand.

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Respondent's conviction clearly and convincingly demonstrates that he has committed "a criminal act that reflects adversely on (his) honesty, trustworthiness or fitness as a lawyer in other respects." RPC 8.4(b).

A criminal conviction is conclusive evidence of respondent's guilt. R. 1:20-13(c)(1); In re Gipson, 103 N.J. 75, 77 (1986). Disorderly persons offenses are specifically included. R. 1:20-6(c)(2)(i). The only issue to be determined is the quantum of discipline to be imposed. R. 1:20-13(c)(2); In re Goldberg, 105 N.J. 278, 280 (1987).

"That respondent's activity did not arise from a lawyer-client relationship, that his behavior was not related to the practice of law or that this offense was not committed in his professional capacity is immaterial." In re Leahey, 118 N.J. 578, 581 (1990). Any misbehavior, private or professional, that reveals a lack of good character and integrity essential for an attorney, constitutes a basis for discipline. In re La Duca, 62 N.J. 133, 140 (1973). In In re Pierce, 139 N.J. 433 (1995), an attorney's conviction of the disorderly persons offense of lewdness warranted a reprimand. In that case, the attorney, who was unclothed, approached a young girl

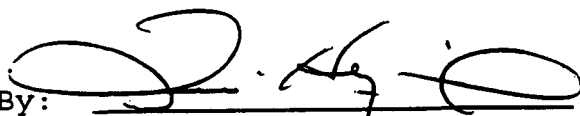
in his vehicle under the guise of offering a monetary donation to a club for which she was collecting funds, and exposed his genitals to her. In imposing only a reprimand, the Court noted that the victim was not physically restrained by the attorney and was free to walk away at any time.

Similarly, here, respondent did not attempt to physically restrain the victims and there was in fact no bodily contact. Nevertheless, respondent's conduct was serious: he approached two children and exposed his genitals and fondled himself in their presence.

In light of the foregoing, a six-member majority of the Board determined to impose a reprimand. One member would have imposed a three-month suspension. Two members did not participate.

The Board further determined to require respondent to reimburse the Disciplinary Oversight Committee for administrative costs.

Dated: 7/5/96

By:   
Lee M. Hymerling  
Chair  
Disciplinary Review Board