

Book

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 95-462

: IN THE MATTER OF :
: :
: JOSEPH T. MARGRABIA :
: :
: AN ATTORNEY AT LAW :
: :

Decision

Argued: January 31, 1996

Decided: November 18, 1996

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

Carl D. Poplar 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 based on a Motion for Final Discipline filed by the Office of Attorney Ethics (OAE) following respondent's criminal conviction. R. 1:20-13(c)(2).

Respondent was admitted to the New Jersey bar in 1994. On October 5, 1995, respondent was found guilty of assault, in violation of N.J.S.A. 2C:12-1(a)(1). The uncontroverted testimony of respondent's wife was that respondent had struck her on October 3, 1995. In his certification, respondent admits to striking his wife with a piece of bread and punching her on the arm.

Respondent was sentenced to a thirty-day suspended sentence, two-year term of probation, 200 hours of community service, and

costs and penalties totalling \$160. Respondent was also required to receive an alcohol evaluation and attend Alcoholics Anonymous and People Against Abuse Program.

The OAE requests that respondent receive a term of suspension from the practice of law.

* * *

Respondent's criminal conviction clearly and convincingly demonstrates that he has engaged in activity that reflects adversely on his fitness as a lawyer. RPC 8.4(b). A criminal conviction is conclusive evidence of an attorney's guilt in disciplinary proceedings. R. 1:20-13(c)(1); In re Goldberg, 105 N.J. 278, 280 (1987). The sole issue to be determined is the quantum of discipline to be imposed. In re Infinito, 94 N.J. 50, 56 (1983).

A calculation of the measure of discipline, even in cases of criminal conviction, must include the nature and severity of the crime, whether the crime was related to the practice of law and any mitigating factors, such as evidence of the attorney's good reputation and character. In re Kushner, 101 N.J. 397, 400 (1986).

Attorneys who are convicted of an act of domestic violence ordinarily will be suspended from the practice of law. In re Magid, 139 N.J. 449, 455 (1995); In re Principato, 139 N.J. 456, 463 (1995). In those cases, the Court imposed a reprimand only

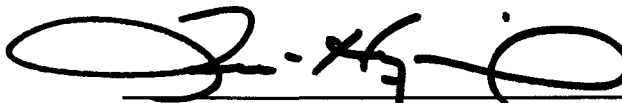
because of the lack of notice to the bar that such conduct would result in a suspension and because of the absence of a pattern of abusive behavior. The Court cautioned the bar, however, that, in the future, conviction of an act of domestic violence would ordinarily result in a term of suspension. Here, respondent's conviction post-dated Magid and Principato. Ordinarily, thus, a suspension would follow. The Board, however, is not convinced that a suspension is required in this case. Respondent acknowledged that his conduct was wrong and improper; he has already fulfilled the conditions attached to his criminal conviction; and he did not display a pattern of abusive behavior.

In light of the foregoing, a four-member majority of the Board was persuaded that a reprimand adequately addresses the gravity of respondent's offense and the mitigating circumstances present in this case. One member concurred. Three members dissented, voting for a three-month suspension, based on the rationale enunciated in Magid and Principato, which were decided seven months before the respondent's misconduct. One member did not participate.

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

Dated: _____

11/18/96



LEE M. HYMERLING
Chair
Disciplinary Review Board