

SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 96-142

---

IN THE MATTER OF  
DAVID C. PALMER  
AN ATTORNEY AT LAW

---

:  
:  
:  
:  
:  
:  
:  
:  
:  
:  
:

Decision

Argued: June 19, 1996

Decided: September 18, 1996

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

Gerard E. Hanlon 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 bar of New Jersey in 1966. On August 15, 1995, an accusation was filed against respondent in Morris County charging him with seven counts of third-degree aggravated criminal sexual contact, in violation of N.J.S.A. 2C:14-3a(2)b, and one count of fourth degree criminal sexual contact, in violation of N.J.S.A. 2C:14-3b(4)b. Exhibit A to OAE's brief. On the same day, respondent pleaded guilty to all charges, admitting that he touched the "private parts" of eight boys employed at a recreation complex owned by respondent.

On January 19, 1996, respondent was sentenced, as a repetitive sex offender, to a five-year term of incarceration at the Adult Diagnostic and Treatment Center in Avenel. He was ordered to pay an \$8,000 Violent Crimes Compensation Board assessment as well as a SSCP assessment totaling \$600. He was also directed to make restitution for counseling costs incurred by his victims.

The OAE argued that respondent's guilty plea to seven counts of third-degree aggravated criminal sexual contact and one count of fourth degree criminal sexual contact merits a three-year suspension.

\* \* \*

A criminal conviction is conclusive evidence of respondent's guilt in disciplinary proceedings. In re Goldberg, 105 N.J. 278, 280 (1987); In re Tusso, 104 N.J. 59, 61 (1981); In re Rosen, 88 N.J. 1, 3 (1981); R. 1:20-13(c)(1). Therefore, no independent examination of the underlying facts is necessary to ascertain guilt. In re Bricker, 90 N.J. 6, 10 (1982). The only issue to be determined is the quantum of discipline to be imposed. In re Goldberg, *supra*, 105 N.J. at 280; In re Kushner, 101 N.J. 397, 400 (1986); In re Addonizio, 95 N.J. 121, 123 (1984). Respondent's guilty plea to aggravated criminal sexual contact establishes that he engaged in conduct that adversely reflects on his fitness to practice law, in violation of RPC 8.4(b).

An attorney is obligated to adhere to the high standard of conduct required of every member of the bar, even when the activities do not directly involve the practice of law. In re Rutledge, 101 N.J. 493, 498 (1986); In re Huber, 101 N.J. 1, 4 (1986); In re Suchanoff, 93 N.J. 226, 230 (1983); In re Franklin, 71 N.J. 425, 429 (1976); In re Carlsen, 17 N.J. 338, 347

(1955). Good moral character is a basic condition for membership in the bar. In re Gavel, 22 N.J. 248, 265 (1956). Any misbehavior, private or professional, that reveals lack of good character and integrity essential for an attorney constitutes a basis for discipline. That respondent's misconduct did not arise from a lawyer-client relationship or that respondent did not commit the offense in his professional capacity is, therefore, immaterial. In re Suchanoff, supra, 93 N.J. at 230; In re Franklin, supra, 71 N.J. at 429.

Respect for the law is the keystone of democracy. An attorney by tradition is an appropriate advocate of this truism and it behooves him to act accordingly and exercise the utmost restraint under all circumstances.

[In re Howell, 10 N.J. 139, 141 (1952)]

Respondent pleaded guilty to seven counts of third-degree aggravated criminal sexual contact and one count of fourth-degree criminal sexual contact, offenses that bring reproach upon the entire profession. An attorney who does not uphold that which he or she is obligated to uphold imperils not only himself or herself, but also the honor and integrity of the profession. He or she undermines the public trust and confidence in the profession as a whole. In re Wilson, 81 N.J. 451, 456 (1979). "To lawyers especially, respect for the law should be more than a platitude." Model Code of Professional Responsibility, EC 1-5 (1980) (quoted in In re Addonizio, supra, 95 N.J. at 124).

There remains the issue of appropriate discipline. In In re X, 120 N.J. 459 (1990), the attorney sexually assaulted his three daughters over a period of eight years. He pleaded guilty to three counts of second-degree sexual assault. Attorney X was disbarred.

In In re Herman, 108 N.J. 66 (1987), the attorney pleaded guilty to one count of second-degree sexual assault. Herman admitted that, several times over a three-month period, he touched the buttocks of a ten-year old boy who was in his home, visiting his son. Herman was suspended for three years.

In re Addonizio, *supra*, 95 N.J. 121 (1984), involved an attorney who pleaded guilty to criminal sexual contact, a fourth-degree offense. The Court noted that the conviction represented an isolated instance unlikely to recur considering the combination of circumstances, including the attorney's marital difficulties, prescribed drug use and alcohol consumption. Addonizio was suspended for three months. See also In re Lugara, 115 N.J. 660 (1989) (where an attorney who pleaded guilty to child abuse and cruelty toward a nine-year old girl was suspended for twenty-two months).

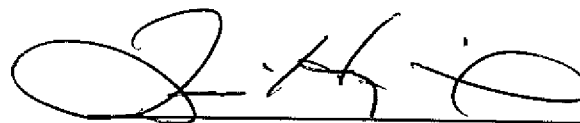
In determining the appropriate quantum of discipline to be imposed in this matter, the Board has considered that the sexual contact occurred with eight different boys over a four-year period and that respondent had supervisory authority over the children, as the owner of the recreation complex and their employer. These acts were clearly more egregious than those of the attorney in Herman, who pleaded guilty to one count of second-degree sexual assault and was suspended for three years.

In light of the severity of respondent's criminal behavior, the Board unanimously recommends that he be disbarred. Two members did not participate.

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

Dated: \_\_\_\_\_

9/18/96



LEE M. HYMERLING  
Chair  
Disciplinary Review Board