

Book

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 91-391

IN THE MATTER OF
JEFFREY P. RUDDY,
AN ATTORNEY AT LAW

Decision and Recommendation
of the
Disciplinary Review Board

Argued: February 26, 1992

Decided: April 29, 1992

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

Alan Dexter Bowman 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 upon a Motion for Final Discipline filed by the Office of Attorney Ethics ("OAE"), pursuant to R.1:20-6(c)(2)(i).

Respondent was admitted to the practice of law in New Jersey in 1967. In June 1987, the Essex County Grand Jury returned a fifteen-count indictment against respondent, charging him with seven counts of second degree sexual assault (N.J.S.A. 2C:14-2b) and eight counts of the third degree crime of endangering the welfare of a child (N.J.S.A. 2C:24-4). The alleged victims were four pre-teenage boys who knew respondent through his service as a volunteer athletic coach. The fifteenth count of the indictment

involved a fifth boy who allegedly witnessed some of the acts against the other four children.

On April 19, 1991, respondent entered a guilty plea to four counts of endangering the welfare of a child, in violation of N.J.S.A. 2C:24-4.¹ Specifically, respondent, over a two-and one-half year period, without the consent of the children, touched three of them on their bare buttocks and touched a fourth on both his bare buttocks and penis. The children were visitors in respondent's home when the offenses occurred and ranged in age between ten and twelve years.

On June 28, 1991, respondent was sentenced to four concurrent terms of five years' probation. As special conditions of probation, the court directed that: 1. respondent receive psychotherapy and his therapist submit reports to the court each year regarding his status and progress; 2. respondent have no direct or indirect involvement with any youth group, youth sports activity or program, except as a spectator, with children under eighteen years of age and, 3. respondent have no contact with the victims or their families, while on probation.²

¹ N.J.S.A. 2C:24-4 states that any person "who has assumed responsibility for the care of a child who engages in sexual conduct which would impair or debauch the morals of the child . . . is guilty of a crime of the third degree."

² As crimes of the third degree, each conviction carried a possible term of imprisonment of up to five years (N.J.S.A. 2C:43-6a(3)) and a fine of \$7,500 (N.J.S.A. 2C:43-3b).

CONCLUSION AND RECOMMENDATION

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.1:20-6(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 Kaufman, 104 N.J. 509, 510 (1986); In re Kushner, 101 N.J. 397, 400 (1986); In re Addonizio, 95 N.J. 121, 123-124 (1984); In re Infinito, 94 N.J. 50, 56 (1983); In re Rosen, supra, 88 N.J. at 3; In re Mirabelli, 79 N.J. 597, 602 (1979); In re Mischlich, 60 N.J. 590, 593 (1977). Respondent's guilty plea to endangering the welfare of a child 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); In re Senger, 15 N.J. 600, 606 (1956). Good moral character is a basic condition for membership in the bar. In re Gavel, 22 N.J. 248, 266 (1956). Any misbehavior, private or professional, that

reveals lack of good character and integrity essential for an attorney constitutes a basis for discipline. In re LaDuca, 62 N.J. 133, 140 (1973). 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 226; 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, 140 (1952).]

Respondent has pleaded guilty to endangering the welfare of a child, an offense that brings reproach upon the entire profession. A person who does not uphold that which he is obligated to uphold imperils not only himself but also the honor and integrity of his profession. He or she undermines the public trust and confidence in his 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.)

Although not directly related to the practice of law, the Court has previously noted that sex offenses by attorneys reflect adversely on the attorney's fitness to practice law. In re Herman, 108 N.J. 66, 70 (1987). A review of several previous cases of this nature is instructive in determining the appropriate quantum of discipline to be imposed in this matter. In In re X, 120 N.J. 459 (1990), the attorney had sexually assaulted his three daughters,

over a period of eight years. He pled guilty to three counts of second degree sexual assault. X was disbarred. See, also, In re Wesler, 1 N.J. 573 (1949) (where an attorney convicted of carnal abuse was disbarred).

In In re Herman, supra, the attorney pled 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 the attorney's home, visiting his son. Herman was suspended for three years, retroactive to the time he had voluntarily suspended himself from practice.

In re Addonizio, 95 N.J. 121 (1984), involved an attorney who pled guilty to criminal sexual contact, a fourth degree offense. The Court noted the Board's conclusion 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 pled 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 taken into account the psychiatric report submitted on respondent's behalf and, in particular, the favorable prognosis and respondent's cooperative and conscientious attitude toward the process. Nevertheless, his criminal offenses were serious and not confined to one single

episode. Respondent pled guilty to four counts of endangering the welfare of a child, a third degree offense. Accordingly, the Board unanimously recommends that respondent be suspended for a two-year period. Three members did not participate.

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

Dated: _____

4/29/92

By: _____

Raymond R. Trombadore
Chair
Disciplinary Review Board