

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
DOCKET NO. DRB 98-484

IN THE MATTER OF :
LEONARD C. GUZZINO, III :
AN ATTORNEY AT LAW :

Decision

Argued: February 11, 1999

Decided: December 6, 1999

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

Joseph W. Spagnoli appeared on behalf of respondent.

To the Honorable Chief Justice and Associate Justices of the Supreme Court of New Jersey.

This matter was before us on a motion for final discipline filed by the Office of Attorney Ethics (OAE), based upon respondent's criminal conviction for second degree manslaughter, in violation of N.J.S.A. 2C:11-4(b).

Respondent was admitted to the New Jersey bar in 1993. On December 23, 1997 he was temporarily suspended from the practice of law. In re Guzzino, 152 N.J. 183 (1997).

The suspension remains in effect to date.

In an accusation filed in December 1997, respondent was charged with one count of second degree manslaughter (reckless homicide), in violation of N.J.S.A. 2C:11-4(b). On December 9, 1997, pursuant to a plea agreement, respondent pleaded guilty to the charge. Simultaneously respondent also pleaded guilty to a charge of driving while under the influence of alcohol, in violation of N.J.S.A. 39:4-50. A detailed recitation of the pertinent events is contained in respondent's adult presentence report:

On Friday, August 30, 1996 at 1:16 A.M., the defendant, Leonard C. Guzzino III, was responsible for causing a motor vehicle fatality on the northbound section of Interstate Route 287 at milepost 40.6 in Parsippany-Troy Hills Twp. While under the influence of alcohol, Mr. Guzzino, who was the driver and sole occupant of a 1992 Nissan 300ZX (vehicle #1), was traveling at an undetermined high rate of speed in the 45 MPH zone when he lost control of his vehicle. Mr. Guzzino's vehicle then struck the rear of a 1992 Ford Taurus (vehicle #2) driven by Sanjay C. Agnihorti in the center left lane of the four lane highway. After striking vehicle #2, Mr. Guzzino's vehicle continued to travel in a northerly direction and struck the left rear section of a 1987 Dodge Raider (vehicle #3) driven by Javier Soto in the right center lane. The impact between vehicles #1 and 3 caused vehicle #3 to overturn in the roadway, during the course of which the left rear passenger of vehicle #3 was partially ejected from the vehicle. Both vehicles #1 and 3 came to their final resting positions in the roadway.

The passengers of vehicle #3 had to lift their vehicle off of the head of the victim, Carlos Gillondondo. Subsequent to the arrival of New Jersey State Police and emergency response technicians, Mr. Gillondondo was transported to Morristown Memorial Hospital, where he was pronounced dead on August 30, 1996 at 2:26 A.M. Mr. Guzzino was found to be intoxicated with blood/alcohol content reading of 0.132%. The results of an autopsy revealed that Mr. Gillondondo's death was caused by multiple blunt head trauma.

[Adult presentence report at 5]

On February 6, 1998, the court sentenced respondent to a five-year term of incarceration and a two-year loss of driving privileges.

As noted above, the Court temporarily suspended respondent on December 23, 1997. The OAE urged us to impose a two-year suspension, retroactive to the date of respondent's temporary suspension.

* * *

Upon a de novo review of the record, we determined to grant the OAE's motion for final discipline.

The existence of 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). Respondent's conviction of second degree manslaughter is clear and convincing evidence that he violated RPC 8.4(b) (commission of a criminal act that reflects adversely on his honesty, trustworthiness or fitness as a lawyer). Only the quantum of discipline to be imposed remains at issue. R.1:20-13(c)(2)(ii); In re Goldberg, 105 N.J. 278, 280 (1987).

Two recent cases involved attorneys convicted of vehicular homicide. In In re Howard, 143 N.J. 526 (1996), an attorney struck her husband with her vehicle after a heated argument. The husband died from his injuries and Howard was indicted on murder charges. Following a jury trial, she was convicted of the lesser included offense of death by auto, then a third degree crime, in violation of N.J.S.A. 2C:11-5.¹ She was sentenced to a noncustodial

¹Death by auto is now a second degree crime.

term of five years' probation and ordered to perform 500 hours of community service. The Court suspended Howard's license for three months, reasoning that the recklessness and seriousness of her crime brought "disrepute to the Bar generally." In re Howard, supra, 143 N.J. at 533. Although there was no indication that drugs or alcohol played a role in the accident, the Court noted that a "longer suspension is fully called for when alcohol plays an aggravating role in a vehicular homicide case." Ibid.

Subsequently, in In re Barber, 148 N.J. 74 (1997), more serious discipline was imposed where an attorney was found guilty of homicide by vehicle while driving in Pennsylvania. Prior to the accident the attorney had been drinking with a friend, who was killed in the one-car accident. Although the attorney was not convicted of driving while intoxicated, we found that his consumption of alcohol was an aggravating factor, warranting a term of suspension longer than that imposed in Howard. The Court agreed and imposed a six-month suspension.

In its brief, the OAE succinctly stated the essence of this matter and the need for stern discipline:

In brief summary, respondent made the decision to drive even though his blood alcohol level was .132%, which was over the legal limit of .10%. His reckless conduct not only endangered the lives of many, but directly resulted in one death. As an officer of the Court, he should have exhibited a greater respect for the law. Given the seriousness of his offense, aggravated by his use of alcohol in its commission, we submit that a two year suspension, retroactive to the date respondent was placed on temporary suspension, December 23, 1997, is warranted.

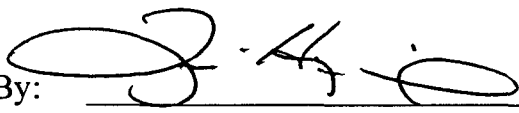
[OAE's brief at 7]

We agreed with the OAE's recommendation and unanimously determined to suspend respondent for a period of two years, retroactive to December 23, 1997.

Two members did not participate.

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

Dated: 12/6/95

By:  _____

LEE M. HYMERLING
CHAIR
DISCIPLINARY REVIEW BOARD

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Leonard C. Guzzino, III
Docket No. DRB 98-484

Argued: February 11, 1999

Decided: December 6, 1999

Disposition: Two-Year Suspension Retroactive to December 23, 1997

Members	Disbar	Two-Year Suspension	Reprimand	Admonition	Dismiss	Disqualified	Did not Participate
Hyerling		x					
Zazzali		x					
Cole		x					
Brody		x					
Lolla							x
Maudsley		x					
Peterson		x					
Schwartz		x					
Thompson*	On temporary leave of absence						x
Total:		7					2

Robyn M. Hill 12/15/99
 Robyn M Hill
 Chief Counsel