

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 99-139

IN THE MATTER OF :
: :
CHARLES M. RADLER, JR. :
: :
AN ATTORNEY AT LAW :
: :

Decision

Argued: July 8, 1999

Decided: November 16, 1999

Tangerla M. Thomas appeared on behalf of the Office of Attorney Ethics.

John E. Bruder 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 by way of a disciplinary stipulation between respondent and the Office of Attorney Ethics ("OAE"). Respondent admitted a violation of RPC 8.4(b) (commission of a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects).

Respondent was admitted to the New Jersey bar in 1983. He practices law in Cranford, New Jersey. Respondent has no history of discipline.

The stipulation and its attachments reveal that respondent was arrested by the Woodbridge, New Jersey police on January 22, 1998 for violations of the New Jersey controlled dangerous substance statutes. Respondent was in his automobile at the time of the arrest and was in possession of 1.9 grams of cocaine, three pills of Valium and narcotics paraphernalia. The cocaine in respondent's possession was for personal use and had been recently purchased from a former client. Respondent had been purchasing cocaine from this individual "every couple of days for the past few months."

Respondent was indicted in Middlesex County for third degree conspiracy to possess a controlled dangerous substance, in violation of N.J.S.A. 2C:35-10a(1) and N.J.S.A. 2C:5-2 (count one) and third degree unlawful possession of a controlled dangerous substance, in violation of N.J.S.A. 2C:35-10a(1) (count six).

Respondent was enrolled in the Middlesex County Pre-Trial Intervention Program ("PTI") on May 7, 1998 for a twelve-month period. Upon successful completion of PTI, the charges against him were to be dismissed.¹

Respondent admitted that his conduct violated RPC 8.4(b).

¹ The charges should have been dismissed in May 1999, but that information is not a part of this record.

* * *

Following a de novo review of the record, the Board is satisfied that the record contains clear and convincing evidence of respondent's unethical conduct. Respondent's possession of cocaine was a violation of RPC 8.4(b).

In other matters involving possession of small amounts of cocaine for personal use, the Court has imposed three-month suspensions. See In re Benjamin, 135 N.J. 461 (1994) (possession of cocaine and marijuana); In re Karwell, 131 N.J. 396 (1993) (possession of small amounts of cocaine, marijuana and drug paraphernalia); and In re Nixon, 122 N.J. 290 (1991) (possession of marijuana and cocaine).

Respondent, however, urged that we deviate from this standard form of discipline. He proposed, as an alternative, a suspended three-month suspension, during which time he would provide free legal services to the New Jersey Lawyers' Assistance Program to assist other attorneys, who are suffering from personal or medical problems, in meeting the demands of their law practice (the practice assistance program). Respondent suggested that his proposal would benefit the public, the bar and himself. Specifically, it would benefit the public because the practice assistance program provides a safety net for troubled attorneys and the public's confidence would be restored by requiring him to engage in a constructive contribution, rather than a period of inactivity; it would benefit the bar because attorneys with substance abuse problems would know that competent volunteers were tending to their

practices while troubled attorneys focused on their own treatment and recovery; and continuing to work would be a positive force in his own continuing recovery.

In In re Schaffer, 140 N.J. 148 (1995), the Court reaffirmed its position that attorneys who violate the laws relating to controlled dangerous substances will be suspended from the practice of law:

We continue to believe that an attorney who breaks the criminal laws relating to the possession of controlled dangerous substances thereby commits ethical infractions that demonstrate a disrespect for the law, denigrate the entire profession and destroy public confidence in the practicing bar. Those offenses cannot be countenanced. We thus reaffirm the reasons that have prompted us to impose suspensions on attorneys for violating our laws relating to controlled dangerous substances.

[Id. at 159]

See also In re McLaughlin, 105 N.J. 457 (1987) (cautioning the bar that henceforth even the use of small amounts of cocaine will warrant the imposition of a suspension).

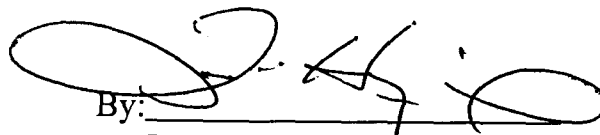
The Schaffer Court determined that a suspension from the practice of law was not disproportionate to the offense. However, the Court recognized the hardship that may befall an attorney who is suspended from the practice of law several years after the occurrence of the criminal and ethics offenses. The Court found that a suspension "that is imposed after rehabilitation has been achieved can engender special hardship because it may itself jeopardize that recovery, undermine rehabilitation and incite relapse." In re Schaffer, supra, 140 N.J. at 159. The Court, thus, fashioned the remedy of an accelerated suspension, to be imposed immediately following the commission of the offense in order to coincide with any

rehabilitation program and recovery efforts undertaken by the attorney. Respondent was afforded the opportunity to apply to the OAE for this accelerated discipline, but declined to do so.

We have considered respondent's prior unblemished record, the steps he has taken towards rehabilitation and the numerous character references he has amassed in connection with this matter. Nevertheless, because respondent did not avail himself of the opportunity to apply for an accelerated suspension, we are constrained by precedent and, thus, must impose a period of suspension. We unanimously vote to suspend respondent for three months. As the Court noted in In re Karwell, supra, 131 N.J. at 399, "[w]e are confident that a period of suspension will reinforce the gravity of the offense, maintain the necessary public confidence in the legal profession's commitment to the laws of society, and yet allow respondent to return to practice, a faithful adherent to his program of rehabilitation." One member did not participate.

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

Dated: 11/16/88


By: _____
LEE M. HYMERLING
Chair
Disciplinary Review Board

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Charles M. Radler
Docket No. DRB 99-139

Argued: July 8, 1999

Decided: November 16, 1999

Disposition: Three-Month Suspension

Members	Disbar	Three-month Suspension	Reprimand	Admonition	Dismiss	Disqualified	Did not Participate
Hymerling		x					
Cole		x					
Boylan		x					
Brody		x					
Lolla		x					
Maudsley		x					
Peterson		x					
Schwartz							x
Wissinger		x					
Total:		8					1

*Member Thompson is on a temporary leave of absence

Robyn M. Hill 11/29/99
 Robyn M. Hill
 Chief Counsel