

SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 08-221  
District Docket No. XIV-07-0651E

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IN THE MATTER OF  
GEORGE R. KORPITA  
AN ATTORNEY AT LAW

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Decision

Argued: October 17, 2008

Decided: December 4, 2008

Michael J. Sweeney appeared on behalf of the Office of Attorney Ethics.

Frederick Dennehy appeared on behalf of respondent.

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

This matter came before us on a motion for final discipline filed by the Office of Attorney Ethics ("OAE") pursuant to R. 1:20-13(c). It arises out of respondent's guilty plea to making a threat to a public servant (N.J.S.A. 2C:27-3a(3)) and driving while intoxicated (N.J.S.A. 39:4-50).

The OAE recommends either a censure or a three-month suspension. We determine that a censure is the more appropriate form of discipline.

Respondent was admitted to the New Jersey bar in 1984. He has no history of discipline.

In the early morning of November 6, 2007, a passing motorist reported to the police that a man had passed out behind the wheel of a black car, at a traffic signal near the entrance of the Smiles II Go-Go Bar, in Roxbury Township. One of the officers who arrived at the scene, Patrolman Jonathan Edmunds, observed that, when the signal turned green, the black car remained stationary for about ten seconds, then slowly proceeded through the traffic light, and finally drifted into the left lane, with the driver's side tires crossing over the white lines. When the officer activated his car's overhead lights, the car veered back into the right lane, turned right onto a road, and pulled into a driveway.

The officer approached the driver's side of the car and noticed that the window was rolled down and that the driver, who turned out to be respondent, was slouched towards the seat on the passenger's side. He asked respondent how he was doing, but received no answer. Respondent remained motionless. The second time the officer asked how respondent was doing, respondent sat up from the slouched position and answered "I'm fine, Bro." The officer detected a strong smell of alcohol coming from the car.

After the officer asked respondent for his driver's license, respondent handed him a State of New Jersey Judiciary

identification card and said, "I'm a judge."<sup>1</sup> The officer explained to respondent that he still needed to see his driver's license. Once again, respondent attempted to hand him the card, while mumbling, "I'm OK, Bro, I'm OK." Once again, the officer informed him that he still had to see his license. Respondent then fumbled through his wallet and gave the officer his driver's license.

The officer told respondent that he had detected a strong alcohol odor emitting from him. Respondent replied that he had just left Smiles II Go-Go Bar and was on his way home. The officer then asked respondent to step out of the car for a sobriety test, to which respondent replied, "It's OK, Bro, I'm alright, I'm alright." He remained in the car. The officer again asked him to get out of the car, which he did. The officer noted that respondent had "to grasp and lean onto the driver's side door with his right arm for support while attempting to exit."

According to Patrolman Edmunds, after respondent was transported to police headquarters, respondent "made [certain] statements that caused [him] great concern as a police officer as well as a citizen." The officer described those statements in a letter to Morris County Assignment Judge B. Theodore Bozonelis:

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<sup>1</sup> At the time, respondent was a municipal court judge in three municipalities.

Mr. Korpita indicated that he has always been a strong supporter of law enforcement and that he is a "good guy". He then stated that "when the cops beat the shit out of a guy, I do the right thing". I then recorded the following statements on the arrest jacket as he made them, "I'll never take care of cops again. After tonight, I'm done. My whole fucking life, I've taken care of cops, my whole life". He then indicated that he had cases that could have gone either way and that he has always ruled for the cops. He then stated that he has helped out Jefferson Twp. and Roxbury Twp. Police in the past, implying that we (Roxbury Twp.) should help him now. He then stated "never again, I'm going to stick it up their asses. Get the Vaseline out and bend over". Sgt. Carroll then asked Mr. Korpita if that was a threat to which he stated no. Mr. Korpita then repeatedly asked Sgt. Carroll if he could issue him a careless driving or reckless driving ticket instead of the D.W.I. and that he would plead guilty to them. Sgt. Carroll advised Mr. Korpita that he could not honor his request.

Due to Mr. Korpita's previous statements, I am concerned that police officers that go before Mr. Korpita in the future may not get a fair trial due to his current resentment against law enforcement.

[OAEbEx.B.]<sup>2</sup>

Thereafter, respondent agreed to plead guilty to the DWI charge and to the third degree crime of threat to a public servant. The latter is a violation of N.J.S.A. 2C:27-3a(3), which provides, in pertinent part: "[a] person commits an

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<sup>2</sup> OAEb denotes the OAE's brief in support of its motion for final discipline.

offense if he directly or indirectly threatens harm to any public servant . . . with purpose to influence him to violate his official duty."

At his plea hearing, respondent admitted saying to the police officers that he would take some adverse action against them in the future, if the arrest process were to continue. He admitted that he had "knowingly threatened harm to a public official, that being a law enforcement officer, to influence his decision to write a DUI ticket."

The prosecutor's sentencing memorandum listed a number of mitigating factors that he urged the sentencing judge to consider: respondent's alcohol addiction and depression, for which he was being treated; respondent's high level of intoxication at the time (he had mixed alcohol and Zoloft) and the consequent reduction of his inhibitions (at least one of the officers saw respondent's threats as the "ranting of a drunk"); respondent's fear that his DWI arrest would cause him to lose his judgeships, which were his main source of income; respondent's forfeiture of any future public employment, the possible loss of his pension, and the stigma of "going through life as a convicted felon;" respondent's appreciation for the seriousness of his conduct, for which he accepted full responsibility; and the "devastating effect" that his "downfall" will have on his children.

Respondent was sentenced in accordance with the sentence contemplated in the plea agreement: a three-year term of non-custodial probation, 100 days of community service, and a one-year revocation of his driver's license. In addition, he was ordered to submit to drug and alcohol evaluations, agreed not to seek expungement of his conviction, and forfeited all public offices.

At oral argument, respondent's counsel stated that respondent is rehabilitated from his alcohol problem, having attended more than 200 Alcoholics Anonymous meetings, and having been sober for 200 days. Counsel further stated that respondent is currently practicing law with his father.

A criminal conviction is conclusive evidence of guilt in a disciplinary proceeding. R. 1:20-13(c)(1); In re Magid, 139 N.J. 449, 451 (1995); In re Principato, 139 N.J. 456, 460 (1995). Respondent's guilty plea to a violation of N.J.S.A. 2C:27-3a(3), threatening a public servant, establishes his violation of RPC 8.4(b).<sup>3</sup> Pursuant to that rule, it is professional misconduct for an attorney to "commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer." Hence, the sole issue is the extent of discipline to be imposed.

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<sup>3</sup> Respondent also pleaded guilty to DWI, a violation of N.J.S.A. 39:4-50. As noted by the OAE, however, "the disciplinary system does not normally impose discipline for DWI convictions."

R. 1:20-13(c)(2); In re Magid, supra, 139 N.J. at 451-52; In re Principato, supra, 139 N.J. at 460.

In determining the appropriate measure of discipline, the interests of the public, the bar, and the respondent must be considered. "The primary purpose of discipline is not to punish the attorney but to preserve the confidence of the public in the bar." In re Principato, supra, 139 N.J. at 460 (citations omitted). Fashioning the appropriate penalty involves a consideration of many factors, including the "nature and severity of the crime, whether the crime is related to the practice of law, and any mitigating factors such as respondent's reputation, his prior trustworthy conduct, and general good conduct." In re Lunetta, 118 N.J. 443, 445-46 (1989).

That an attorney's conduct did not involve the practice of law or arise from a client relationship will not excuse an ethics transgression or lessen the degree of sanction. In re Musto, 152 N.J. 167, 173 (1997). The obligation of an attorney to maintain the high standard of conduct required by a member of the bar applies even to activities that may not directly involve the practice of law or affect his or her clients. In re Schaffer, 140 N.J. 148, 156 (1995).

The OAE remarked that no prior disciplinary cases have addressed the offense committed by respondent. In recommending

either a censure or a three-month suspension, the OAE relied on cases dealing with comparable conduct.

In In re Gibson, 185 N.J. 235 (2005), a reciprocal discipline case out of Pennsylvania, the attorney received a one-year suspension for his conviction of aggravated assault, disorderly conduct, public drunkenness, simple assault, and aggravated harassment by a prisoner. There, the attorney had been arrested for public drunkenness and disorderly conduct (he was involved in a bar room brawl and was punched in the nose). At the police station, he spat on and later hit a police officer, while in the process of being handcuffed to be transported to a hospital for treatment of his injured nose.

In In re Angelucci, 183 N.J. 472 (2005), an attorney was reprimanded following his conviction for obstruction of the administration of law, a disorderly persons' offense. The attorney refused to come out of his house when an officer was attempting to serve him with an outstanding warrant, used vulgar language, and, after the officer entered the house, resisted arrest. The attorney was then wrestled to the floor.

In In re Magee, 180 N.J. 302 (2004), another reprimand case, the attorney attempted to evade a police officer's efforts to stop his car, after the officer observed the attorney's erratic driving. When the officer was finally able to stop the



car, the officer detected the odor of an alcoholic beverage coming from the attorney. He also noted that the attorney's eyes were watery and that his speech was slurred. The officer attempted to handcuff the attorney, but the attorney refused to release his hand from the car. Ultimately, the attorney pleaded guilty to eluding a police officer, resisting arrest, and DWI.

In In re Thakker, 177 N.J. 228 (2003), an attorney was reprimanded after he pleaded guilty to harassing a former client by repeatedly telephoning her and being abusive to the police officer who responded to the client's complaints. Despite the officer's warnings, the attorney continued to call the client and the officer, threatening the latter with a physical confrontation.

In In re Viggiano, 153 N.J. 40 (1998), the attorney, after being involved in a minor traffic accident, approached the other car, reached into the driver's window, and began punching the driver. When the police officers who arrived at the scene attempted to restrain respondent, he pushed and kicked them. The attorney pleaded guilty to two counts of simple assault, whereupon he was placed on probation for one year and fined \$1,000. The attorney was suspended for three months.

The OAE remarked that, although respondent's position as a judge in three municipalities in the county in which he was arrested is a significant aggravating factor,

it is unquestioned that respondent was also severely intoxicated at the time of this incident and it is highly unlikely he would have made similar statements if he had not been so.

[OAEb at 19.]

As mentioned above, the OAE concluded that, compared to the above cases, respondent's conduct is deserving of either a censure or a three-month suspension.

The OAE correctly noted that no disciplinary cases address conduct identical to respondent's. Guidance, however, may be drawn from the cases cited by the OAE, particularly those in which the attorneys' conduct toward police officers followed their DWI arrest and, in all likelihood, was caused by their intoxicated state.

In In re Gibson, supra, 185 N.J. 235, the attorney, who had been arrested for public drunkenness and was still heavily intoxicated at the police station, spat on and assaulted a police officer. His criminal offenses were serious, including aggravated assault and aggravated harassment by a prisoner. He was suspended for one year in Pennsylvania and received reciprocal discipline of the same duration in New Jersey.

Clearly, however, his conduct was much more egregious than respondent's, who did not assault a police officer.

In In re Magee, supra, 180 N.J. 302, the attorney, who was also intoxicated, did not assault or threaten a police officer, although he eluded a police officer and resisted arrest by refusing to release his hands from his car, while the officer was attempting to handcuff him. Magee received a reprimand. His conduct was less severe than respondent's, who threatened to dispense unfavorable treatment to police officers who appeared in his court in the future.

We find that the nature of respondent's conduct is more akin to Magee's than to Gibson's.

We are mindful that, as a municipal court judge, respondent was held to a higher standard and should have had a heightened awareness of his ethical obligations. On the other hand, his conduct was not the result of dishonesty or a flaw in his character, but the product of severe intoxication. At least one police officer viewed his conduct as the "ranting of a drunk." Until this incident, respondent had an impeccable disciplinary record.

Furthermore, he has paid a high price for his offenses. He lost his position as judge in three municipalities, reportedly

his principal source of income, and is barred from ever holding public employment.

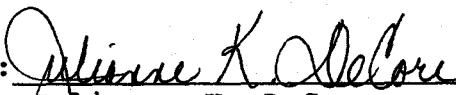
In view of the foregoing, we believe that a censure sufficiently addresses the extent of respondent's conduct and, at the same time, preserves the public's confidence in the disciplinary system and the judiciary as a whole.

In addition, within sixty days from the date of this decision, respondent shall provide proof of current fitness to practice law and, thereafter, shall submit periodic reports to the OAE that his alcohol-problem is under control. The reports are to be submitted on a schedule set by the OAE and by an OAE-approved counselor.

Vice-Chair Frost recused herself. Member Doremus did not participate.

We further determine to require respondent to reimburse the Disciplinary Oversight Committee for administrative costs and actual expenses incurred in the prosecution of this matter, as provided in R. 1:20-17.

Disciplinary Review Board  
Louis Pashman, Chair

By:   
Julianne K. DeCore  
Chief Counsel

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SUPREME COURT OF NEW JERSEY  
DISCIPLINARY REVIEW BOARD  
VOTING RECORD

In the Matter of George R. Korpita  
Docket No. DRB 08-221

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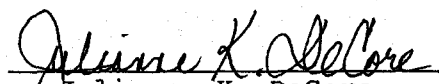
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Argued: October 17, 2008

Decided: December 4, 2008

Disposition: Censure

Members	Disbar	Suspension	Censure	Reprimand	Disqualified	Did not participate
Pashman			X			
Frost					X	
Baugh			X			
Boylan			X			
Clark			X			
Doremus						X
Lolla			X			
Stanton			X			
Wissinger			X			
Total:			7		1	1

  
Julianne K. DeCore  
Chief Counsel