

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 08-434
District Docket No. XIV-2006-0295E

IN THE MATTER OF
LAURIE JILL BESDEN
AN ATTORNEY AT LAW

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Decision

Argued: May 21, 2009

Decided: July 24, 2009

Walton W. Kingsbery, III appeared on behalf of the Office of Attorney Ethics.

Respondent appeared pro se.

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

This matter was before us on a motion for reciprocal discipline filed by the Office of Attorney Ethics ("OAE"), based on respondent's three-year suspension in Pennsylvania, following her criminal convictions for DUI in that Commonwealth, and drug-related offenses in both Pennsylvania and New Jersey. The OAE

recommended a one-year suspension, retroactive to respondent's December 1, 2005 temporary suspension in Pennsylvania. We determine to impose a three-year retroactive suspension.

Respondent was admitted to the New Jersey bar in 2000 and the Pennsylvania bar in 1999. She has no prior discipline.

In October 2005, respondent and the Pennsylvania disciplinary authorities entered into a joint petition for the temporary suspension of her license to practice law in that jurisdiction. The joint petition recited respondent's numerous drug-related criminal acts over a two-year period (2002 - 2004). On December 1, 2005, the Pennsylvania Supreme Court entered an order for her temporary suspension.

On March 17, 2008, respondent and the Pennsylvania disciplinary authorities submitted a Joint Petition in Support of Discipline on Consent. The facts of the underlying misconduct are contained in the joint petition:

4. After graduating from Dickinson Law School in 1999, Respondent held several clerkships until October of 2001; thereafter, Respondent was unemployed until December of 2004.
5. The Pennsylvania Supreme Court transferred Respondent to inactive status in August of 2002.
6. From the spring of 2002 through January of 2004, as described in paragraphs 8 though [sic] 16, Respondent was repeatedly arrested and

charged with crimes relating to her substance abuse problems.

7. Most of the crimes Respondent committed occurred at a time when she was unemployed; and none were related in any way to the practice of law.

8. On March 29, 2002, Respondent was arrested in Collegetown, Pennsylvania and charged with violations of the Controlled Substance, Drug, Device and Cosmetic Act, Forgery and the Pharmacy Act by Bill Nos. 3345-02, 3345.1-02 and 3345.2-02.

9. On September 3, 2002, the Honorable Maurino Rossanese, Court of Common Pleas of Montgomery County, placed Respondent on A.R.D. probation as a result of the following charges: Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. § 780-113(16), 35 P.S. § 780-113(3) and 35 P.S. § 780-113(32)), forgery (18 Pa.D.S.A. § 4101(a)(1)(2)(3)), and the Pharmacy Act (63 P.S. § 390-8(13)).

10. On August 8, 2002, Respondent was arrested in Whitemarsh, Pennsylvania and charged with Driving under the Influence ("DUI") and other vehicle offenses by Bill No. 7878-02.

11. On February 13, 2003, Respondent pled guilty to DUI (75 Pa. C.S.A. § 3731) and other vehicle offenses (75 Pa. C.S.A. §§ 3736, 3714, 3734, 3331(a), 3331(b), 3331(c) and 333(d) in the Court of Common Pleas, Montgomery County, and the Honorable William Carpenter sentenced her to incarceration of not less than 48 hours nor more than 12 months in the Montgomery County Correctional Facility, CRN evaluation and treatment, safe driving school, and fines and costs.

12. On October 16, 2003, Respondent was arrested in Norristown, Pennsylvania and charged with Violation of the Controlled Substance, Drug, Device and Cosmetic Act; Theft by Deception and Identity Theft by Bill Nos.

7429-03, 7429.1-03, 7429.3-03, 7429.4-03,
7429.5-04, 7429.60-03, 7429.7-03, 7429.8-03,
7429.9-03 and 7429.10-03.

13. On January 23, 2004, Respondent was arrested in Upper Darby, Pennsylvania, and again on March 2, 2004, Respondent was arrested in Plymouth Meeting, Pennsylvania, and was charged with Violation of the Controlled Substance, Drug, Device and Cosmetic Act; Pharmacy Act and Identity Theft, by Bill Nos. 1603-04, 1603.1-04, 1603.2-04, 1603.3-04, 1603.4-04, 1603.5-04, 1603.6-04, 1603.7-04, 1603.8-04, 1603.9-04, 1603.10-04, 1603.11-04, 1603.12-04, 1603.13-04, 1603.13-04, 1603.14-04 and 1603.15-04.

14. On July 28, 2004, Respondent entered an open guilty plea to Violation of the Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. §§ 780-113(16), 780-113(3), 780-113(30), 780-113(19), 780-113(12), 780-113(31), Identity Theft (18 Pa. C.S.A. § 4120) and the Pharmacy Act (63 P.S. § 390-8(13)).

15. On October 14, 2004, Respondent was sentenced to undergo imprisonment for not less than 11 & ½ months nor more than 23 months in the Montgomery County Correctional Facility, probation for a period of 3 years, costs and fines, and ordered to write a letter to the Judge regarding her status every first week of January and first week of June until Supervision was complete.

16. In addition, Respondent was arrested in Ventnor, New Jersey on September 7, 2002, for prescription drug fraud and possession. Respondent entered into a negotiated plea agreement which included, among other things, two years probation, fines, and six month driver's license suspension.

17. In January of 2004, J. David Farrell, Esquire, visited Respondent in prison.

18. With Mr. Farrell's assistance and encouragement, Respondent joined Lawyers

Concerned for Lawyers ("LCL") and developed a long term plan for her ongoing treatment and rehabilitation.

19. Upon her release from prison Respondent attended a 35 day program at the Caron Foundation, intensive outpatient treatment at Program in Counseling for approximately 8 weeks, continued with weekly drug counseling at Program in Counseling, and joined Narcotics Anonymous ("NA") and Alcoholics Anonymous ("AA").

20. Respondent currently continues as an active member of LCL, NA and AA.

21. Respondent serves as chair of the Montgomery County LCL meeting along with J. David Farrell. In addition, Respondent volunteers her time to help other current and former inmates in addiction recovery and Respondent is presently awaiting approval to serve as a speaker and volunteer with NA and AA at the Montgomery County Correctional Facility.

22. Shortly after her release from prison Respondent found employment with Oliver and Caiola, LLC in East Norriton, PA. Respondent shared her criminal history and drug addiction with her employers, who have treated her as a suspended attorney from the inception of her employment, and provided notice of her employment to the Disciplinary Board pursuant to Pa.R.D.E. 217(j)(5).

23. In November of last year, upon petition of J. David Farrell, Judge Carpenter released Respondent from probation 16 months early.

24. Although Respondent did not self-report her criminal convictions within the time provided by Pa.R.D.E.214(a), she did ultimately make a self-report by letter dated June 7, 2005.

25. Respondent cooperated with the Office of Disciplinary Counsel, as evidenced by both the Joint Petition seeking her Temporary License

Suspension and the Current Joint Petition for Discipline.

[OAEbEx.C14-125.]¹

Respondent stipulated that her conduct violated RPC 8.4(b) (committing a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects) and Pennsylvania R.D.E. 203(b)(1), dealing with possible suspension from the practice of law for attorneys found guilty of crimes.

Following a review of the record, we determine to grant the OAE's motion for reciprocal discipline.

Pursuant to R. 1:20-14(a)(5), another jurisdiction's finding of misconduct shall establish conclusively the facts on which it rests for purposes of disciplinary proceeding in this state. We, therefore, adopt the findings of the Pennsylvania Supreme Court.

Reciprocal disciplinary proceedings in New Jersey are governed by R. 1:20-14(a) (4), which provides that

The Board shall recommend imposition of the identical action or discipline unless the Respondent demonstrates, or the Board finds on the face of the

¹ "OAEb" refers to the OAE's June 16, 2008 brief to us, in support of its motion for reciprocal discipline.

record upon which the discipline in another jurisdiction was predicated that it clearly appears that:

(A) the disciplinary or disability order of the foreign jurisdiction was not entered;

(B) the disciplinary or disability order of the foreign jurisdiction does not apply to the Respondent;

(C) the disciplinary or disability order of the foreign jurisdiction does not remain in full force and effect as the result of appellate proceedings;

(D) the procedure followed in the foreign matter was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or

(E) the unethical conduct established warrants substantially different discipline.

A review of the record does not reveal any conditions that would fall within the ambit of subparagraphs (A) through (E).

Although the OAE advocated a one-year suspension on the basis that, under subsection (E), the established misconduct warrants substantially different discipline from a three-year suspension, the record does not support that position. Because the record is so lacking in details about respondent's various arrests, we relied on the Pennsylvania Supreme Court's determination that the sanction imposed in that Commonwealth

was appropriate for the overall scope of respondent's criminal conduct.² As noted above, R. 1:20-14(a)(4) provides that we shall impose the identical discipline meted out in the sister jurisdiction, unless paragraphs (A) to (E) apply. They do not in this case.

It should be remembered that respondent was arrested numerous times over a two-year period and charged with dozens of crimes, including several instances of CDS possession and, more ominously, forgery, identity theft, and writing false prescriptions. We know little more than that she went to great lengths to obtain drugs on her two-year-long drug tear.

Informative also is the fact that the Pennsylvania Supreme Court took into account respondent's considerable mitigation: that she was not practicing law during any of the years 2002 to 2004; that she had made great strides to overcome her addiction; that she is active in NA, AA, and programs designed to help similarly troubled inmates and attorneys in her area; and that she had obtained a job with a law firm in Pennsylvania under a

² Office of Board Counsel ("OBC") contacted the OAE to request any other documents from the Pennsylvania disciplinary authorities that might shed further light on respondent's offenses. The OAE informed OBC that the record before us contains everything transferred to the OAE from the Pennsylvania disciplinary authorities.

special arrangement for troubled lawyers. Despite all of it, the Pennsylvania Court ultimately agreed with the prosecutorial arm of its disciplinary system, the Office of Disciplinary Counsel, that a three-year suspension was required for this respondent.

An attorney who committed similar acts of misconduct in order to obtain prescription painkillers was disbarred when she later went beyond falsifying physician scripts in order to obtain painkillers. In re Hasbrouck, 152 N.J. 366 (1998). There, the attorney burglarized doctors' homes in four counties in order to obtain keys to their offices to obtain drugs. The attorney also stole purses with cash and credit cards from the homes. She had a prior one-year suspension for illegally obtaining prescription painkillers using scripts belonging to her father, a retired physician.

Hasbrouck's conduct was much more egregious than respondent's. Therefore, we do not believe that disbarment is warranted in this case.

Likewise, this case does not involve the wide-scale use or distribution of CDS for financial gain or conspiracy requiring disbarment. See, e.g., In re Goldberg, 105 N.J. 278 (1987) (knowing participation in an extensive narcotics conspiracy with a known drug-dealer and fugitive) and In re McCann, 110 N.J. 496

(1988) (participation in a large-scale and prolonged criminal narcotics conspiracy involving the purchase of large quantities of cocaine in various South American countries).

Rather, this case is more akin to those cases in which three-year suspensions were imposed for a variety of drug-related offenses. See, e.g., In re Lloyd, 183 N.J. 228 (2005) (attorney convicted of two counts of felony purchase of a controlled dangerous substance (crack cocaine), one count of possession of drug paraphernalia, four counts of contributing to the delinquency or dependency of a minor, and one count of driving under the influence); In re Musto, 152 N.J. 165 (1997) (attorney guilty of conspiracy to possess and possession of heroin and cocaine, and possession of methyl ecgonine; although the attorney was also guilty of conspiracy to distribute cocaine, the Court considered that he had no other ethics infractions in his twelve-year legal career, he was not practicing law at the time of his arrests, he was primarily a drug user, rather than a seller, he did not harm any clients, he cooperated fully with federal agents, and he confronted his addiction both before and after he was arrested); and In re Morris, 153 N.J. 36 (1998) (attorney guilty of official misconduct and conspiracy to obtain cocaine).

In summary, the record in this matter does not contain sufficient information from which we could glean that, in New Jersey, respondent's misconduct would warrant lesser discipline than that imposed in Pennsylvania. Indeed, New Jersey attorneys who have been guilty of similar drug offenses have received three-year suspensions.

In keeping with the OAE's recommendation for a somewhat lenient sanction for respondent, we determine to suspend respondent for three years, but, like the Pennsylvania Court, to make the suspension retroactive to respondent's December 1, 2005 Pennsylvania temporary suspension.

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: Isabel Frank
for Julianne K. DeCore
Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

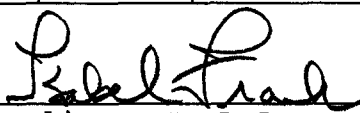
In the Matter of Laurie Jill Besden
Docket No. DRB 08-434

Argued: May 21, 2009

Decided: July 24, 2009

Disposition: Three-year suspension

Members	Disbar	Three-year Suspension	Reprimand	Dismiss	Disqualified	Did not participate
Pashman		X				
Frost		X				
Baugh		X				
Clark		X				
Doremus		X				
Stanton		X				
Wissinger		X				
Yamner		X				
Zmirich		X				
Total:		9				

By 
Julianne K. DeCore
Chief Counsel