SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 04-253
District Docket No. VA-02-049E

IN THE MATTER OF :

ANTHONY M. SUPINO :
:
AN ATTORNEY AT LAW :

Decision

Argued: October 21, 2004

Decided: November 30, 2004

Anne Marie Kelly appeared on behalf of the District VA Ethics Committee.

Respondent waived appearance for oral argument.

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

This matter was before us on a recommendation for an admonition filed by the District VA Ethics Committee ("DEC"), which we determined to bring on for oral argument.

Respondent was admitted to the New Jersey bar in 1988. He is also a member of the New York bar. At the relevant times, he maintained law offices in West Orange, New Jersey. He has no history of discipline.

The complaint charged respondent with violations of RPC 3.2 (failure to treat with courtesy and consideration all persons involved in the legal process); RPC 3.4(g) (presenting, participating in presenting, or threatening to present criminal charges to obtain an improper advantage in a civil matter); RPC 3.5(a) (seeking to influence a judge or other official by means prohibited by law); RPC 3.5(c) (conduct intending to disrupt a tribunal); RPC 5.3(c) (failure to supervise non-lawyer employee); and RPC 8.4(d) (conduct prejudicial to the administration of justice).

The disciplinary charges against respondent arose out of his conduct in a child custody battle with his ex-wife. The Honorable Anthony J. Frasca, P.J.M.C., Essex County, referred this matter to the Office of Attorney Ethics.

Respondent and Lori Michaud, also an attorney, were divorced in March 1999. One child was born of the marriage. Custody and visitation issues remained outstanding after the divorce. As a result of numerous domestic violence complaints filed by Michaud, she obtained a restraining order against respondent. In turn, respondent filed nine criminal complaints against Michaud: five for perjury and false swearing (one of these also included a charge of wiretapping), and the remainder for contempt, endangering the welfare of a child, and custody

interference. All but the complaint dealing with custody interference ("process issued") were denied.

In addition, between October 2001 and January 2002, respondent filed thirty[1] criminal complaints against seven police officers who responded to Michaud's calls involving either the custody dispute or respondent's alleged violations of the restraining order. The complaints covered three separate incidents and charged the officers with either filing false and fictitious reports, official misconduct, falsifying reports to law enforcement authorities, or falsifying and tampering with records. Later, respondent withdrew the charges against two of the officers.

On March 9, 2002, respondent wrote the following letter to Sergeant Levine from the Millburn Police Department:

> Please be advised that if any officer is foolish enough to sign a criminal complaint I will be forced by law to protect myself by doing what I was forced to do to Officer Mendelsohn. I will have no choice but to file criminal charges against him.
>
> If I do not hear from you by the close of business day on Tuesday that the warrant is null and void and has been withdrawn, I will pursue all appropriate civil and criminal remedies against the Millburn Police Department, its relevant members and Ms. Shaughnessy [the municipal court administrator].

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[1] The transcript of the DEC hearing refers to thirty-two complaints.

Besides filing complaints against the police officers, respondent wrote to or communicated with several judges and the court administrator, announcing his intention to file complaints against them as well.

On November 27, 2001, respondent appeared before the Honorable James C. Haggerty, J.M.C., seeking a modification of the restraining order. The following exchange took place between the judge and respondent:

> Mr. Supino: . . . And you're telling me that you have no power to modify your own order.
>
> The Court: Not that I know of.
>
> Mr. Supino: Not that you know of?
>
> The Court: No.
>
> Mr. Supino: Okay. Well you, you're making a very big mistake and there are gonna be some very serious consequences to the mistake that you have made.
>
> The Court: Okay. I may be, I may be --
>
> Mr. Supino: I am going to join you --
>
> The Court: I'm not --
>
> Mr. Supino: -- in the lawsuit --
>
> The Court: Sure.
>
> Mr. Supino: -- I am going to file against the entire Township of Millburn --
>
> The Court: Okay.

> Mr. Supino: The Millburn Police Department and you because they -- I mean for example, I show up to pick up my son at 6:00 on a Friday night. I call the police when she won't turn him over and they say oh, everything is fine. Meanwhile, I bring him home an hour later and you got like four squad cars there as if, you know, I'm Jack the Ripper. This whole thing is ridiculous.
>
> . . . .
>
> The Court: Look. I don't have four squad cars there. I'm the Judge. All I do is —
>
> Mr. Supino: Yeah, but it's a pattern. It's a pattern of misconduct on the part of the township. Okay? I'm very good at building cases. Okay? So what's your final answer? Are you gonna modify the court order or not?
>
> The Court: No, I'm not gonna modify the order.
>
> Mr. Supino: Okay. You're not gonna modify the order. Okay.

On December 3, 2001, respondent wrote to the Honorable James G. Troiano, J.S.C., asking that he recuse himself from respondent's family court matters:

> You should also know that I am contemplating a civil action against you for violations of the Law Against Discrimination and the Americans with Disabilities Act. The doctrine of Judicial Conduct does not protect a Judge from discriminating against a litigant who has a mental disability.[2]

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[2] Respondent alleged that he suffers from bipolar disorder. The record does not contain a medical report.

On February 4, 2002, respondent wrote to the Honorable Donald J. Volkert, P.J.F.P., complaining about Judge Troiano:

> In light of the outlandish nature, both procedurally and substantively, of the suspension of my visits, the fact that my visits have yet to be restored is puzzling, and I suspect I am being penalized by the Family Court as a whole because of the problems I have caused and will cause for Judge Troiano in the future.

On March 13, 2002, respondent wrote to Judge Haggerty:

> Please be advised that I intend to move to quash and nullify the issuance of the warrant [for respondent's arrest for allegedly violating the restraining order]. The venue for the motion, however, cannot be in the Millburn Municipal Court . . . . The Millburn Court is biased against me. I have filed criminal complaints against their officers and notices of claim against them and I intend to do so in the future.

On June 17, 2002, respondent wrote to the Honorable Anthony Frasca, P.J.M.C., Essex County, expressing his frustration with both the judge and the court administrator. According to respondent, although the court administrator had agreed to accept charges that he wanted to file against Michaud, first she had required him to obtain transcripts of the audio-tape of a phone conversation. Respondent also complained that the court administrator had refused to accept his charges against Michaud for false swearing. Respondent's letter to Judge Frasca stated:

> Your attempts to stymie me in connection with the instructions given to [the court

> administrator] are despicable and if [I] do not hear from you by the end of the day tomorrow, I will take all appropriate steps to be sure charges are filed and to ensure that this will not happen to anyone else in the future.

On July 19, 2002, Gioia Delgado, an employee from respondent's office, wrote a letter to the court administrator:

> Mr. Supino has asked me to inform you that he will pursue criminal charges of official misconduct and obstruction of administration of justice because your delay in having our request processed is not only slowing down our Appeal of Judge Haggerty's ruling on the crimes of [Michaud], it is also impeding our efforts to apply for emergent appellate relief in the custody matter in Essex County Family Court.

On July 22, 2002, respondent wrote to the court administrator, asking her to give him a "written explanation" for why his request for a transcript was "embargoed for such a long time." He asked when he should expect to receive the transcript.

The next day, July 23, 2002, respondent wrote a letter to Judge Frasca, complaining about the court administrator's conduct:

> . . . Ms. Shaughnessy has been running amok for quite some time now. She, as you know, refused to allow me to file criminal charges against my ex-wife, she issued an invalid arrest warrant against me, which lay dormant for two months and when the Millburn police tried to execute it, Judge Ryan stopped them. Ms. Shaughnessy consistently acts in

> a rude and unprofessional fashion when I deal with her; she even had the audacity to render legal opinions about the matters at hand. Her latest stunt is just the icing on the cake.
>
> If this situation is not resolved to my satisfaction, I will take all necessary lawful steps to remedy past misconduct and to avoid such misconduct in the future.

On July 28, 2002, respondent wrote another letter to Judge Frasca:

> Your failure to address the misconduct on the part of Kathleen Shaughnessy, outside of the transcript issue . . . is glaring and I ask you to do so . . . . You also ignore my request to determine, what, if any, relationship exists between Ms. Michaud and Ms. Shaughnessy. I believe this is necessary, since all of Ms. Shaughnessy's misconduct occurs in respect to Ms. Michaud and Ms. Shaughnessy has made statements showing preferential treatment, such as Ms. Michaud makes "more sense" than I do.
>
> In addition, I learned today that Ms. Shaughnessy is possibly going to be a witness in a domestic violence case involving my ex-wife and myself . . . . If you do not address this misconduct in an appropriate fashion I plan on filing criminal charges against Ms. Shaughnessy. Based on what I have been told the testimony she is planning to give is patently absurd, namely, she did not know she had the power to make a lack of probable cause finding when I filed the perjury charges against my ex-wife. If she is that incompetent then she should certainly be terminated given her other misconduct.
>
> Finally, if this outrageous matter is not resolved by mid-week, I plan on filing

> appropriate criminal charges against Ms. Shaughnessy. Please advise where and how to do so.

On August 13, 2002, respondent wrote to the Honorable Joseph A. Falcone, A.J.S.C., stating:

> Enclosed you will find copies of letters I have sent to Judge Anthony Frasca detailing the improper conduct of Ms. Kathleen Shaughnessy . . . which he failed to address. Ms. Shaughnessy has engaged in various forms of criminal conduct by refusing to allow me to file charges against my ex-wife, issuing an invalid arrest warrant against me, failing to process my request for the transcript of the July 2, 2002 probable cause hearing before Judge Haggerty, lying to my assistant about the lack of availability of expedited copies, and doctoring evidence during the recent probable cause hearing before Judge Haggerty. Judge Frasca has failed to address or take action on any of our complaints. Before we file criminal charges against Ms. Shaughnessy, we are willing to wait until a Judge fully reviews her misconduct.
>
> . . . .
>
> Finally, I am providing you with the transcript of the recent probable cause hearing, which demonstrates Ms. Shaughnessy's doctoring of evidence and which we never provided to Judge Frasca because he was disinterested.

At the DEC hearing, Ms. Shaughnessy testified that respondent harassed her, accused her of being an idiot and of doctoring evidence, and threatened to seek every civil and criminal remedy against her and her office. According to Ms.

Shaughnessy, she thought that she would lose her job when respondent threatened that he would "own Millburn and everything in it."

Captain David A. Barber, an internal affairs officer with the Millburn Police Department, testified that respondent threatened to file a lawsuit against three police officers whom respondent called "bozos and idiots," and also threatened to "take their homes."

By way of defense and/or mitigation, respondent testified that, in the mid-nineties, he developed and alcohol problem and that, in 1996, he was diagnosed with bipolar disorder. Respondent has been under the care of a physician since then. He takes medication, albeit in "relatively little amounts."

Respondent admitted that he threatened to file criminal charges against the court administrator and the Millburn Police Department, and that he left several phone messages with members of the Millburn Police Department, including a Captain Polardi, stating that he would violate the restraining order and knock Captain Polardi on his "butt."

The DEC found that respondent violated RPC 3.2, when he "threatened to bring criminal or civil charges against various members of the judiciary, court staff and members of law enforcement and did not act with courtesy and consideration to

those persons involved;" RPC 3.4(g), when he filed "in excess of thirty criminal complaints against various members of the Millburn Police Department [and Michaud] . . . in order to obtain an improper advantage in connection with the custody and visitation dispute which had existed between respondent and [Michaud];" RPC 3.5(c), in that he "sought to disrupt a tribunal by bullying and pressuring the court and its staff to take certain actions or activity insofar as it benefited the Respondent's position as a litigant in the matter;" and RPC 8.4(d), in that he "threatened and bullied court staff and law enforcement personnel in an effort to extract an advantage in his matrimonial and custody proceedings."

For lack of clear and convincing evidence, the DEC dismissed the allegations that respondent violated RPC 3.5(a) (attempt to influence a judge or other official by means prohibited by law) and RPC 5.3(c) (failure to supervise non-lawyer employee).

The DEC concluded that respondent's behavior was "more accurately deemed an ethical lapse in judgment rather than venality. The Panel has considered the mitigating factors concerning testimony pertaining to the Respondent's medical condition and the fact that the Respondent has sought help through treatment by a licensed medical physician."

The DEC recommended that respondent be admonished.

Following a de novo review of the record, we are satisfied that the DEC's conclusion that respondent's conduct was unethical is fully supported by clear and convincing evidence. We are also satisfied that the DEC's dismissal of the charged violations of RPC 3.5(a) and RPC 5.3(c) was proper. The record does not sustain a finding that respondent attempted to influence a judge or other official by means prohibited by law or that Gioia Delgado, an employee from his office, acted improperly when she wrote a letter to the court administrator.

On the other hand, respondent's overall conduct violated RPC 3.2 by his pattern of rude and intimidating behavior toward judges, the court administrator, and law enforcement authorities; RPC 3.4(g) by either presenting or threatening to present criminal charges against his ex-wife, the court administrator, and police officers in order to obtain an improper advantage in the custody and visitation matters; RPC 3.5(c) by engaging in conduct intended to disrupt a tribunal (particularly egregious was respondent's attempt to strong-arm Judge Haggerty: "what's your final answer? Are you gonna modify the court order or not?"; ". . . you're making a very big mistake and there are gonna be some very serious consequences to

the mistake that you have made"); and RPC 8.4(d) by engaging in conduct prejudicial to the administration of justice.

What is condemnable here is not respondent's repeated attempts to persuade the courts that their rulings were unfair, unwarranted, or even plain wrong. Zealous advocacy and dogged pursuit of the right result are part and parcel of a lawyer's stock-in-trade. Perseverance and tenacity are admirable traits that at times distinguish a good lawyer from a great lawyer. Respondent went too far, however. His chosen means and tactics were nothing short of rude, abusive, and coercive. By sheer intimidation and threats against his ex-wife, the court administrator, police officers, and judges, respondent sought to obtain results that favored his position. In the process, he disrupted lives, the dignity of judicial proceedings, and the orderly administration of justice.

Threatening to present or presenting criminal charges to obtain an unfair advantage in a civil matter leads to discipline ranging from an admonition to a suspension, depending on the severity of the conduct. See, e.g., In the Matter of Mitchell J. Kassoff, DRB 96-182 (1996) (admonition for attorney who, after being involved in a car accident, sent a letter to the other driver indicating his intent to file a criminal complaint against him for assault; the letter was sent the same day that

the attorney received a letter from the other driver's insurance company denying his damage claim); In the Matter of Christopher Howard, DRB 95-215 (1995) (admonition for attorney who, during the representation of one shareholder of a corporation, sent a letter to another shareholder threatening to file a criminal complaint for unlawful conversion if he did not return the client's personal property); In re Hutchins, 177 N.J. 520 (2003) (reprimand for attorney who, in attempting to collect a debt on behalf of a client, told the debtor that he had no alternative but to recommend to his client that civil and criminal remedies be pursued); In re McDermott, 142 N.J. 634 (1995) (reprimand for attorney who filed criminal charges for theft of services against a client and her parents after the client stopped payment on a check for legal fees); In re Dworkin, 16 N.J. 455 (1954) (one-year suspension for attorney who wrote a letter threatening criminal prosecution against an individual who forged an endorsement on a government check, unless the individual paid the amount of the claim against him and the legal fee that the attorney ordinarily charged in a criminal matter "of this type;" the Court found that the attorney had resorted to "coercive tactics of threatening a criminal action to effect a civil settlement"); and In re Barrett, 88 N.J. 450 (1982) (three-year suspension for serious acts of misconduct

that included the filing of a criminal complaint with the purpose of coercing a party into reaching a civil settlement).

Disrespectful or insulting conduct to persons involved in the legal process leads to a broad spectrum of discipline: from an admonition to disbarment. See, e.g., In the Matter of Alfred Sanderson, DRB 01-412 (2002) (admonition for attorney who, in the course of representing a client charged with DWI, made discourteous and disrespectful communications to the municipal court judge and to the municipal court administrator; in a letter to the judge, the attorney wrote: "How fortunate I am to deal with you. I lose a motion I haven't had [sic] made. Frankly, I am sick and tired of your pro-prosecution cant;" the letter went on to say, "It is not lost on me that in 1996 your little court convicted 41 percent of the persons accused of DWI in Salem County. The explanation for this abnormality should even occur to you."); In the Matter of John J. Novak, DRB 96-094 (1996) (admonition imposed on attorney who engaged in a verbal exchange with a judge's secretary; the attorney stipulated that the exchange involved "loud, verbally aggressive, improper and obnoxious language" on his part); In re Geller, 177 N.J. 505 (2003) (reprimand imposed on attorney who filed baseless motions accusing two judges of bias against him; failed to expedite litigation and to treat with courtesy judges (characterizing one

judge's orders as "horseshit," and, in a deposition, referring to two judges as "corrupt" and labeling one of them "short, ugly and insecure"), his adversary ("a thief"), the opposing party ("a moron," who "lies like a rug"), and an unrelated litigant (the attorney asked the judge if he had ordered "that character who was in the courtroom this morning to see a psychologist"); failed to comply with court orders (at times defiantly) and with the disciplinary special master's direction not to contact a judge; used means intended to delay, embarrass or burden third parties; made serious charges against two judges without any reasonable basis; made a discriminatory remark about a judge; and titled a certification filed with the court "Fraud in Freehold"; in mitigation, the attorney's conduct occurred in the course of his own child-custody case, the attorney had an unblemished twenty-two-year career, was held in high regard personally and professionally, was involved in legal and community activities, and taught business law); In re Milita, 177 N.J. 1 (2003) (reprimand for attorney who wrote an insulting letter to his client's former paramour – the complaining witness in a criminal matter involving the client; an aggravating factor was the attorney's prior six-month suspension for misconduct in criminal pretrial negotiations and for his method in obtaining information to assist a client); In re Lekas, 136 N.J. 515

(1994) (reprimand imposed on attorney who, while the judge was conducting a trial unrelated to her client's matter, sought to withdraw from the client's representation; when the judge informed her of the correct procedure to follow and asked her to leave the courtroom because he was conducting a trial, the attorney refused; the judge repeatedly asked her to leave because she was interrupting the trial by pacing in front of the bench during the trial; ultimately, the attorney had to be escorted out of the courtroom by a police officer; the attorney struggled against the officer, grabbing onto the seats as she was being led from the room); In re Stanley, 102 N.J. 244 (1986) (reprimand for attorney who engaged in shouting and other discourteous behavior toward the court in three separate cases; the attorney's "language, constant interruptions, arrogance, retorts to rulings displayed a contumacious lack of respect. It is no excuse that the trial judge may have been in error in his rulings."); In re Mezzacca, 67 N.J. 387 (1975) (reprimand imposed on attorney who referred to a departmental review committee as a "kangaroo court" and made other discourteous comments); In re Vincenti, 114 N.J. 275 (1989) (three-month suspension for attorney who challenged opposing counsel and a witness to fight, used profane, loud and abusive language toward his adversary and an opposing witness, called a judge's law

clerk "incompetent," used a racial innuendo at least once, and called a deputy attorney general a vulgar name); In re Vincenti, 92 N.J. 591 (1983) (one-year suspension for attorney who displayed a pattern of abuse, intimidation, and contempt toward judges, witnesses, opposing counsel, and other attorneys; the attorney engaged in intentional behavior that included insults, vulgar profanities, and physical intimidation consisting of, among other things, poking his finger in another attorney's chest and bumping the attorney with his stomach and then his shoulder); In re Vincenti, 152 N.J. 253 (1998) (disbarment for attorney described by the Court as an "arrogant bully," "ethically bankrupt," and a "renegade attorney;" this was the attorney's fifth encounter with the disciplinary system).

In a very recent case, In the Matter of Kathleen Gahles, Docket No. DRB 04-192, we determined that a reprimand was appropriate for conduct less serious than respondent's, directed at one single individual. That case is pending Supreme Court review.

The conduct most analogous to respondent's was that exhibited by the attorney in In re Geller, supra, 177 N.J. 505 (2003), whose behavior also took place in the course of a custody battle. Both Geller and respondent aimed their conduct at a great number of people: in Geller, two judges, the opposing

party, the adversary, and an unrelated individual; in this matter, the ex-wife, seven police officers, the court administrator, and three judges. Both respondents violated numerous RPCs.[3] Geller advanced several mitigating circumstances not present in this case (he was highly regarded personally and professionally, he was involved in legal and community activities, and he taught business law). Although, unlike Geller, respondent advanced a mental condition (bipolar disorder) as mitigation, his claim was limited to his testimony and not corroborated by a medical report.

Geller received a reprimand. Our decision stated that, if not for the extensive mitigating factors considered, a term of suspension would have been warranted.

Here, as in Geller, we have taken into account that respondent's conduct occurred in the heat of his own child-custody case. The absence of any other proven mitigating circumstances, however, requires the imposition of sterner discipline than the reprimand meted out in Geller. We, therefore, determine that a three-month suspension is the appropriate quantum of discipline in this matter.

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[3] Although Geller did not threaten to present or present criminal charges to obtain an unfair advantage in his custody matter (RPC 3.4(g)), he violated other RPCs not violated by respondent: 3.1, 3.4(c), 3.4(e), 4.4, 8.2(a), and 8.4(g).

We further determine that, within sixty days of the date of this decision, respondent should submit proof of fitness to practice law, as attested by a mental health professional approved by the OAE.

Vice-Chair William J. O'Shaughnessy, Esq., Member Matthew P. Boylan, Esq., and Member Barbara F. Schwartz did not participate.

We further determine to require respondent to reimburse the Disciplinary Oversight Committee for administrative costs incurred in this matter.

Disciplinary Review Board
Mary J. Maudsley, Chair

By: Julianne K. DeCore
Julianne K. DeCore
Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Anthony M. Supino
Docket No. DRB 04-253

Argued: October 21, 2004

Decided: November 30, 2004

Disposition: Three-month suspension

Members	Three-month Suspension	Reprimand	Admonition	Disqualified	Did not participate
Maudsley	X				
O'Shaughnessy					X
Boylan					X
Holmes	X				
Lolla	X				
Pashman	X				
Schwartz					X
Stanton	X				
Wissinger	X				
Total:	6				3

Julianne K. DeCore
Julianne K. DeCore
Chief Counsel