

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 04-456
District Docket No. XIV-04-351E

IN THE MATTER OF :
 :
JOHN SCOTT ANGELUCCI :
 :
AN ATTORNEY AT LAW :
 :

Decision

Argued: February 17, 2005

Decided: March 30, 2005

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

Respondent did not appear for oral argument, despite proper notice.

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 on respondent's conviction for obstructing the administration of law or other governmental function.

Respondent was admitted to the New Jersey bar in 1992. He has no history of discipline.¹

On October 18, 2003, respondent was arrested and charged with resisting arrest, a third degree crime, following an altercation with Deptford Township police officers. On June 2, 2004, respondent was convicted of obstructing the administration of law or other governmental function, in violation of N.J.S.A. 2C:29-1(a), a disorderly persons' offense.² He was ordered to pay a \$1,000 fine, \$50 to the Violent Crime Compensation Board, \$75 to the Safe Streets Fund, and \$30 in costs. In addition, he was required to perform community service for thirty days.

At the trial, the involved police officers testified in accord with their incident notes. Officer Bryn Wilden checked the registration of a van parked on the street where respondent's parents live. The system showed that the registration had expired five months earlier, and also showed an outstanding warrant for \$26,154 against respondent.

¹ The transcript of the underlying criminal proceeding refers to a prior petty disorderly persons conviction. There is no information about the details of that matter in the record.

² N.J.S.A. 2C:29-1(a) states that "[a] person commits an offense if he purposely obstructs, impairs, or perverts the administration of law or other governmental function or prevents or attempts to prevent a public servant from lawfully performing an official function by means of flight, intimidation, force, violence, or physical interference or obstacle"

Wilden attempted to serve the warrant on respondent, who was staying at his parents' house. Respondent answered Wilden's knock, but refused to emerge from the house and denied ownership of the van. Respondent used vulgar language and stated that he knew Wilden was using the van as a ruse to serve the warrant, which he had already paid. Wilden advised respondent that, if he was shown a bail receipt, he would leave. Respondent replied that he did not have it. Wilden called for another officer, anticipating that he would have to enter the house to arrest respondent. Respondent, through the door, asserted that the bail receipt was in his apartment.

During this time, respondent's father attempted to locate the current van registration in the vehicle. When the father went to the van, he left the door ajar, enabling Wilden to open the door. Respondent then ran to the back of the house, and tried to call 911. A third police officer arrived at the scene. One officer went to the back of the house to prevent respondent's escape, and another followed Wilden into the house.

According to Wilden, respondent resisted arrest and was wrestled to the floor. After the arrest, respondent's father produced a bail receipt dated October 17, 2003, the previous day, for \$769. In addition, the Sheriff's Office called Wilden and advised him that an employee recalled respondent's paying a

warrant on that date. Wilden stated that he did not know if the payment was on the outstanding warrant or on another matter.

Respondent's testimony about the incident differed:

Well, there was knock - I heard some banging at the door and I answered the door. I was in my underwear when I answered the door and it was Wilden. And he asked - I said what do you want? He says is that your van outside? I said, yeah, that's my van. He goes, well, your registration's bad. I said, ah, no, it's not. I said yes [sic] - it's not bad. And he goes, well, why don't you go out and show it to me. He had this smirk on his face. I said, wait a second, why are you here? He said, uh, 'cause I want to see your registration. I said you're here for a child support warrant, aren't you? And he said, no, I'm not. I said, yes, you are, aren't you? And he said he was not here for that. I swear to God he said he was not here for a child support warrant. I said, look, I paid it yesterday, I took care of it yesterday. Are you here for that? He said, no. Then I said, well, I don't have to come out and show you my registration. I know the law. I don't have to come out and show you that. He goes, well, I want to see it. I said, fine. I'll have someone else show it to you.

(T49-6 to T50-2.)³

According to respondent, he walked away from the door, got dressed, and when he again looked outside he saw more police cars in the street and tried to call 911. Wilden threw him against the wall and then to the floor. Wilden and another officer began kicking and punching him, and telling him to stop

³ T refers to the transcript of the underlying criminal proceeding on June 2, 2004.

resisting. Wilden denied that he or another officer struck or kicked respondent. Officers John Leone and William Bittner (the other responding officers) corroborated Wilden's testimony.

Respondent introduced photographs below purporting to show his facial and other injuries.⁴ He described his tense relationship with the Deptford Police Department and particularly with Bittner. According to respondent, approximately five years before the incident in question, Bittner had escorted him out of the Division of Motor Vehicles.

The judge found that respondent had resisted the officers while they were performing their duties, noting that the issue of whether the Deptford Police liked respondent was irrelevant. He determined further that the photographs of the house showed signs of a struggle, but not of an assault. He did not find respondent's testimony credible, stating that "[t]he Court does not believe Mr. Angelucci that he was cooperative with the officers, but I'm satisfied that he was hostile, antagonistic and was not going to be taken on a voluntarily - voluntary - Force was required." In conclusion, the judge noted that "[respondent] is a member of the Bar and the - his actions in this matter were - for a member of the Bar are egregious,

⁴ At the trial, respondent asserted that he had medical reports but did not have them with him.

especially a defense attorney who is fully familiar with the respons [sic] - with the law and his responsibilities - or the responsibilities thereunder."

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

Respondent was convicted of violating N.J.S.A. 2C:29-1(a). A criminal conviction is conclusive evidence of guilt in a disciplinary proceeding. R. 1:20-13(c)(1); In re Gipson, 103 N.J. 75, 77 (1986). Respondent's conviction established a violation of RPC 8.4(b) (commission of a criminal act that reflects adversely on his honesty, trustworthiness, or fitness as a lawyer). Even a disorderly persons' offense can establish a violation of RPC 8.4(b). See In re Magid, 139 N.J. 449 (1995), and In re Principato, 139 N.J. 456 (1995) (attorneys reprimanded after convictions for simple assault, a disorderly persons' offense, involving acts of domestic violence).

The sole issue to be determined is the quantum of discipline to be imposed. R. 1:20-13(c)(2); In re Lunetta, 118 N.J. 443, 445 (1989).

The level of discipline imposed in disciplinary matters based on the commission of a crime depends on a number of 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, supra, 118 N.J. at 445-46. Discipline is imposed even though an attorney's offense was not related to the practice of law. In re Kinnear, 105 N.J. 391, 393 (1987).

The OAE urged us to impose a reprimand, citing In re Magee, 180 N.J. 302 (2004) (reprimand imposed where the attorney pleaded guilty to eluding a police officer, resisting arrest and driving while intoxicated), In re Thakker, 177 N.J. 228 (2003) (reprimand imposed for guilty plea to harassment where attorney telephoned a former client repeatedly after she had told him to stop; in addition, he was abusive to the police officer handling the matter and, despite the police officer's warning, continued to call the former client and the officer), In re Magid, supra, 139 N.J. 449 (1995), and In re Principato, supra, 139 N.J. 456 (1995). See also In re Gonzalez, 142 N.J. 482 (1995) (reprimand where the attorney lied to a police officer during a traffic stop, and then recanted and confessed to the fabrication when questioned by the officer; attorney pleaded guilty to the disorderly persons' offense of obstructing justice, a violation of N.J.S.A. 2C:29-1) and In re Lekas, 136 N.J. 514 (1994) (reprimand where attorney was convicted of the disorderly persons' offense of obstructing the administration of law, a

violation of N.J.S.A. 2C:29-1, for interrupting a court proceeding and refusing to leave when ordered to do so by a municipal court judge).

As noted, the OAE argued that the law and facts of this case require the imposition of a reprimand. We agree. In our view, a reprimand is the appropriate discipline for respondent's criminal conviction. Member Barbara Schwartz dissented, voting for an admonition. Member Ruth Lolla did not participate.

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

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

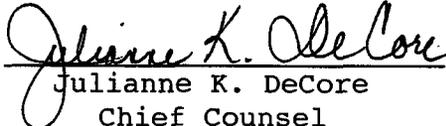
In the Matter of John Scott Angelucci
Docket No. DRB 04-456

Argued: February 17, 2005

Decided: March 30, 2005

Disposition:

	Admonition	Suspension	Reprimand	Disqualified	Did not participate
<i>Members</i>					
Maudsley			X		
O'Shaughnessy			X		
Boylan			X		
Holmes			X		
Lolla					X
Pashman			X		
Schwartz	X				
Stanton			X		
Wissinger			X		
Total:	1		7		1


Julianne K. DeCore
Chief Counsel