

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 04-243
District Docket No. XIV-03-386E

IN THE MATTER OF
VINCENT A. LLOYD
AN ATTORNEY AT LAW

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Decision

Argued: September 23, 2004

Decided: November 16, 2004

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 reciprocal discipline filed by the Office of Attorney Ethics ("OAE") pursuant to R. 1:20-14(a), following respondent's three-year suspension from the practice of law in Florida.

Respondent was admitted to the New Jersey and Florida bars in 1973. He has no history of discipline in New Jersey.

On January 14, 2003, the Supreme Court of Florida entered an order suspending respondent from the practice of law for a period of three years, pursuant to Florida Supreme Court Rule 3-7.2(h)(1),¹ effective thirty days from January 13, 2003. The discipline resulted from respondent's plea of nolo contendere to two counts of purchasing cocaine, Fla. Stat. §893.13(2)(a), a second-degree felony; one count of use or possession of drug paraphernalia, Fla. Stat. §893.147(1), a first degree misdemeanor; four counts of contributing to the delinquency or dependency of a child, Fla. Stat. §827.04(1), a first degree misdemeanor; and one count of driving under the influence ("DUI"), Fla. Stat. 316.193(1), a misdemeanor.

The OAE summarized the factual basis for respondent's plea, derived from two warrant affidavits, as follows:

The first affidavit . . . involved respondent's purchase of crack cocaine and drug paraphernalia. (Exhibit F). On August 10, 2001, respondent arranged to purchase \$150 worth of cocaine and a stem (pipe for smoking crack cocaine) from a confidential

¹ This rule states:

Maximum Term of Suspension. Unless the Supreme Court of Florida permits an earlier application for reinstatement, the suspension imposed on the determination or judgment of guilt shall remain in effect for 3 years and thereafter until civil rights have been restored and until the respondent is reinstated under rule 3-7.10 hereof [relating to reinstatement and readmission procedures].

informant of the St. Lucie County Sheriff's Office. Respondent requested that the cocaine be brought to his law office. Members of the Sheriff's Office observed, recorded and arrested respondent for purchasing crack cocaine. During the arrest, respondent refused to lay on the ground as requested by the officers. Respondent was arrested and charged with possession of cocaine, purchase of cocaine, use or possession of drug paraphernalia and resisting arrest without violence. (**Exhibit F**). Respondent subsequently pled nolo contendere and was convicted of the purchase of cocaine and possession of drug paraphernalia.

The second affidavit . . . involved four counts of the misdemeanor of contributing to the delinquency or dependency of a child and purchase of cocaine. (**Exhibit B, pp. 6-8**). On or about June 18, 2001, an individual allegedly dealing in drugs was arrested and found to be in possession of pictures showing respondent with three women. (**Exhibit G**). All four individuals in the photographs were nude. One of the women was identified as being sixteen years old. Subsequent investigation revealed that respondent planned to take the juvenile to Arizona on a business trip with him on June 14, 2001, but ultimately did not take her when she was unable to prove being at least eighteen years old. During the latter half of June 2001, respondent, on three occasions, rented hotel rooms for the juvenile. Respondent furnished crack cocaine to and joined in the consumption of the drug with the juvenile at his home, in the hotel rooms and at his law office. Respondent admitted that every time he was together with the juvenile "they ended up naked." (**Exhibit G, p.6**).

[OAEb2²]

² OAEb refers to the OAE brief and appendix.

Although respondent was initially charged with four counts of unlawful sexual activity with a minor, he subsequently entered a plea to four counts of contributing to the delinquency or dependency of a child and an additional count of purchasing cocaine.

While out on bail, respondent was arrested and charged with DUI. In addition, he failed to cooperate with authorities regarding the required drug tests, by failing to tell officials the name of the lab he used or the results of the tests. On one occasion, respondent tested positive for cocaine on the day he was to appear in court for a hearing on the above felony charges.

On December 12, 2001, respondent was sentenced to serve a term of one-year imprisonment in the county jail, with credit for time served of 192 days, followed by five years of probation.

The special conditions of his probation contemplated by his plea, as set forth in the sentencing transcript, give a flavor of the seriousness of respondent's offenses. The conditions, among others, included that respondent admit himself into an in-patient drug rehabilitation program, successfully complete the program and follow all after-care treatment recommendations, including, but not limited to, living in a half-way house, if

recommended. The court prohibited him from using any illegal drugs, or drinking alcohol; ordered him to submit to regular and random drug-testing or screening; and to make restitution to the victim, if necessary. The court further prohibited respondent from associating with prostitutes or persons engaged in criminal activities; ordered him to undergo drug screening twice a week, and prohibited him from possessing, carrying or owning any firearm, unless authorized by the court and consented to by his probation officer. The court also prohibited respondent from using intoxicants or possessing any drugs or narcotics, unless prescribed by a physician, or to visit places where intoxicants, drugs or other dangerous substances are unlawfully sold, dispensed or used. The court required respondent to attend and complete an HIV/AIDS awareness program; to submit to a psychological evaluation; to submit to an evaluation for sexual offenses; and to attend counseling by a therapist specifically trained to evaluate and treat said offenses. The court prohibited respondent from having any direct or indirect contact with the victim, unless approved by the victim, the therapist, and the sentencing court; and prohibited him from having contact with minors under the age of eighteen years of age, unless supervised in the presence of a responsible adult, with the exception of his children and biological grandchildren.

On July 22, 2003, the New Jersey Supreme Court temporarily suspended respondent from practicing law, until the final resolution of the ethics proceedings against him, pursuant to R. 1:20-13(b)(1). In re Lloyd, 177 N.J. 242 (2003).

The OAE urged us to suspend respondent for a three-year period and to condition his reinstatement in this state on his reinstatement in Florida.

Upon a review of the full 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 the Board rests for purposes of disciplinary proceedings), we adopt the findings of the Supreme Court of Florida.

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

The Board shall recommend the imposition of the identical action or discipline unless the respondent demonstrates, or the Board finds on the face of the record on 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 disciplinary matter was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or

(E) the misconduct established warrants substantially different discipline.

We agree with the OAE that a review of the record does not reveal any conditions that would fall within the scope of subparagraphs (A) through (E). No good reasons have been shown to impose discipline different from that imposed in Florida.

Respondent was convicted of two counts of felony purchase of a controlled substance, crack cocaine; one count of possession of drug paraphernalia; four counts of contributing to the delinquency of a minor; and one count of DUI. Respondent's conviction demonstrates that he committed criminal acts that reflect adversely on his honesty, trustworthiness or fitness as a lawyer, violating RPC 8.4(b).

The discipline imposed in cases involving the use of cocaine has varied greatly, depending on pertinent factors such as the extent of the use, the harm to clients, the presence of other ethics infractions, and any mitigating factors.

This case does not involve the wide-scale use or distribution of controlled dangerous substances for financial gain, or a conspiracy, warranting disbarment, such as in In re Goldberg, 105 N.J. 278 (1987) (knowing participation in an extensive narcotics conspiracy with a known drug-dealer and

fugitive), or 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).

Significant terms of suspension were imposed in In re Musto, 152 N.J. 165 (1997) (three-year suspension for conspiracy to possess heroine and cocaine, possession of heroine 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); In re Morris, 153 N.J. 36 (1998) (three-year suspension where attorney pleaded guilty to official misconduct and conspiracy to obtain cocaine); and In re Kinnear, 105 N.J. 391 (1987) (one-year suspension where the attorney pleaded guilty to one count of distribution of CDS; the attorney was placed on probation for three years and was directed to continue outpatient treatment; the Court considered the relationship of the crime to the practice of law, the good reputation of the attorney, his prior conduct and character, and

that his misconduct was limited to one episode, unrelated to the practice of law, and unlikely to recur).

Lesser discipline was imposed in In re Kaufman, 104 N.J. 509 (1986) (six-month suspension for an attorney who pleaded guilty to two separate charges of drug possession (methaqualude and cocaine) and had a prior drug incident and history of drug abuse); In re Schaffer, 140 N.J. 148 (1995) (three-month suspended suspension where attorney was guilty of possession of cocaine, being under the influence of cocaine, and possession of drug-related paraphernalia); and In re Karwell, 131 N.J. 396 (1993) (three-month suspension where the attorney possessed small amounts of marijuana, cocaine, and drug paraphernalia, but engaged in efforts to combat his dependency).

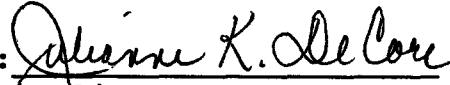
In this matter, respondent's drug use was exacerbated by his plea to four counts of contributing to the delinquency or dependency of a child. Respondent had multiple encounters with a minor, at which times he, at a minimum, supplied her with drugs. The record is not clear on the extent of any sexual contact in which he engaged with the minor. Respondent admitted only that, during their encounters, they always "[ended] up naked." Although respondent denied having sex with the minor, the warrant affidavit contains contrary statements made by her.

We have also considered, as an aggravating factor, that, while out on bond, respondent was arrested for DUI, and tested positive for cocaine, on at least two occasions, including on a date when he appeared in court.

Respondent's conduct was serious. Six members believe that, while his actions do not warrant disbarment, as in Goldberg and McCann, a lengthy period of suspension is warranted, as in Musto and Morris. These members determine that a three-year suspension, retroactive to the date of respondent's suspension in Florida, February 12, 2003 ("thirty days from January 13, 2003"), is the appropriate discipline for his criminal offenses. Those members further determine that respondent should not be permitted to apply for reinstatement in New Jersey until he is reinstated in Florida. Member Ruth Lolla would disbar respondent. Members Barbara Schwartz and Spencer V. Wissinger, III did not participate.

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

Disciplinary Review Board
Mary J. Maudsley, Chair

By: 
Julianne K. DeCore
Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

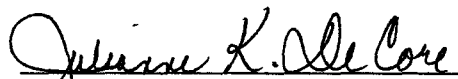
In the Matter of Vincent A. Lloyd
Docket No. DRB 04-243

Argued: September 23, 2004

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Disposition: Three-year suspension

Members	Disbar	Three-year Suspension	Reprimand	Disqualified	Did not participate
Maudsley		X			
O'Shaughnessy		X			
Boylan		X			
Holmes		X			
Lolla	X				
Pashman		X			
Schwartz					X
Stanton		X			
Wissinger					X
Total:	1	6			2


Julianne K. DeCore
Chief Counsel