

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 00-252

IN THE MATTER OF :
:
KENNETH S. DOBIS :
:
AN ATTORNEY AT LAW :
:

Decision

Argued: September 21, 2000

Decided: June 20, 2001

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

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 based on a motion for final discipline filed by the Office of Attorney Ethics ("OAE"), based on respondent's criminal conviction for importing protected wildlife.

Respondent was admitted to the New Jersey bar in 1979. On May 5, 2000, pursuant to a plea agreement, respondent pleaded guilty to a one-count complaint filed in the United States District Court for the District of New Jersey, charging him with importing protected wildlife without a permit, a misdemeanor, in violation of 16 U.S.C.A. 3372(a)(2).

At the plea hearing, the court elicited from respondent the factual basis for the plea:

Q: Could you tell me what you did? What's the factual basis here? Did you possess some -- these are rattlesnakes or various reptiles that are venomous, is that correct?

A: Yes, Your Honor.

Q: And you transported them from Pennsylvania to New Jersey?

A: Yes, Your Honor.

Q: Now you did so knowing that they were venomous and poisonous, correct?

A: Yes, Your Honor.

* * *

Q: And, Mr. Dobis, did you know that you needed a permit for this?

A: Yes, Your Honor, I did.

Q: And you did not have one.

A: I didn't have one. I didn't believe it would be possible for me to get a permit, Your Honor.

Q: Because you knew you couldn't possess these.

* * *

A: I knew that it was against the law to possess venomous snakes without a permit. It was my understanding, my belief that it would be -- if I applied for a permit, I wouldn't get one from the New Jersey Department of --

Q: Because they're prohibited.

A: No because the permits are only -- the scheme under the New Jersey

Administrative Code requires that you're able to prove extensive experience with the handling and keeping, etc., of venomous snakes, and other criteria --

* * *

A: That I didn't feel as if I could --

Q: Qualify.

A: -- qualify for.

Respondent had the snakes shipped to him at a Pennsylvania airport, using a fictitious Pennsylvania address to acquire the snakes. He obtained them as a hobby and kept them in his house in a locked room. Previously, in 1993, respondent pleaded guilty to a similar offense that was resolved in state court and resulted in a \$100 fine.

As a condition of his plea, respondent agreed to forfeit title to the snakes. He was placed on probation for one year and fined \$500. Although, as a consequence of his conviction, respondent's job with the Federal Aviation Administration was in jeopardy, he was offered another position within that organization.

The OAE recommended that respondent receive a reprimand.

* * *

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

The existence of a criminal conviction is conclusive evidence of respondent's guilt. R.1:20-13(c)(1); In re Gipson, 103 N.J. 75, 77 (1986). Respondent's conviction of importing

protected wildlife without a permit is clear and convincing evidence that he violated RPC 8.4(b) (commission of a criminal act that reflects adversely on his honesty, trustworthiness or fitness as a lawyer) and RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation). Only the quantum of discipline to be imposed remains at issue. R.1:20-13(c)(2)(ii); In re Goldberg, 105 N.J. 278, 280 (1987). However, mitigating factors could be taken into account. "A calculus for discipline, even in cases of criminal conviction, must include the nature and severity of the crime, whether the crime was related to the practice of law and any mitigating factors, such as evidence of the attorney's good reputation and character." In re Chester, 117 N.J. 360, 363 (1990), citing In re Kushner, 101 N.J. 397, 400 (1986).

Our disciplinary system has never dealt with a conviction of this sort. There have been, however, many instances where the Court imposed a suspension in cases involving federal misdemeanors. See, e.g., In re Chester, *supra*, 117 N.J. 360 (1990) (six-month suspension for willful failure to file federal income tax return) and In re DiBiasi, 102 N.J. 152 (1986) (three-month suspension for misapplication of bank funds).

We agree with the OAE's conclusion that, in light of the less egregious nature of the crime and the mitigating circumstances cited below, this matter is more akin to In re Rushfield, 142 N.J. 617 (1995). In Rushfield, the attorney was disciplined for filing inaccurate financial reports. Specifically, the attorney had misrepresented that his wife was an employee of his neighbor's company so that she would be eligible for less expensive

medical benefits. Given the nature of the crime and the mitigating circumstances, we imposed a reprimand. The Court agreed.

Here, like the attorney in Rushfield, respondent engaged in a lie for his personal benefit. Respondent created a fictitious Pennsylvania address to obtain venomous snakes as part of a life-long hobby. Nevertheless, respondent had no intent to sell the snakes and had no intent to harm anyone. In addition, respondent has had an unblemished career of more than twenty years. Accordingly, we unanimously determined to impose a reprimand. Two members did not participate.

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

Dated: 6/20/01

By: 

MARY J. MAUDSLEY
Vice-Chair
Disciplinary Review Board

SUPREME COURT OF NEW JERSEY

**DISCIPLINARY REVIEW BOARD
VOTING RECORD**

**In the Matter of Kenneth S. Dobis
Docket No. DRB 00-252**

Decided: June 20, 2001

Disposition: reprimand

Members	Disbar	Suspension	Reprimand	Admonition	Dismiss	Disqualified	Did not Participate
Hyerling			X				
Peterson							X
Boylan			X				
Brody			X				
Lolla			X				
Maudsley			X				
O'Shaughnessy			X				
Schwartz							X
Wissinger			X				
Total:			7				2

Robyn M. Hill 7/19/01
Robyn M. Hill
Chief Counsel