

SUPREME COURT OF NEW JERSEY  
Disciplinary Review Board  
Docket No. DRB 04-151  
District Docket No. XIV-03-754E

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IN THE MATTER OF  
MARC D'ARIENZO  
AN ATTORNEY AT LAW

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Decision

Argued: July 15, 2004

Decided: August 19, 2004

Brian D. Gillet 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 stipulation between the Office of Attorney Ethics ("OAE") and respondent, pursuant to R. 1:20-15(f).

Respondent stipulated to facts showing that he violated RPC 8.4(b) (committing a criminal act that reflects adversely on an attorney's honesty, trustworthiness, or fitness as a lawyer).

Respondent was admitted to the New Jersey bar in 1993. He maintains a law office in Summit, New Jersey.

Respondent received a three-month suspension in 1999 for twice misrepresenting to a municipal court judge his reason for not appearing in court, violating RPC 3.3 (a)(1) and RPC 8.4(c). In re D'Arienzo, 157 N.J. 32 (1999). He was admonished in 2001, for not using his trust account in connection with his law practice, and not maintaining any of the required receipts and disbursements journals or client ledger cards, violating RPC 1.15(d) and R. 1:21-6 (recordkeeping violations).

By letter dated December 10, 2003, the Union County Prosecutor's Office referred this matter to the OAE, stating that respondent had been charged with two disorderly persons offenses: possession of marijuana, less than fifty grams (N.J.S.A. 2C:35-10(a)(4)), and possession of drug paraphernalia (N.J.S.A. 2C:36-2(a)).

On December 7, 2003, two Summit police officers responded to a building alarm at 273 Woodland Avenue, respondent's office and residence. The officers found that the rear door was closed but unlocked, and entered the house to check for intruders. Upon entering the third floor attic, one of the officers found a "bong" in plain view, on a coffee table. Also on the coffee table, the officer observed a clear plastic bag containing plant

material believed to be marijuana, a tin Coca Cola container, a ceramic model of a pipe, both of which contained plant material believed to be marijuana, and a clear sandwich bag containing plant material located on the top shelf of a bookcase. While the officers were collecting the evidence, respondent returned to his home.

The next day, December 8, 2003, respondent telephoned the Summit police to inform them that the items found in his home were for personal use for himself and his wife. On that same day, respondent and his wife were charged with possession of marijuana, less than fifty grams (N.J.S.A. 2C:35-10(a)(4)) and possession of drug paraphernalia, a water bong (N.J.S.A. 2C:36-2). Respondent and his wife were arrested, processed, served with summonses, and released on their own recognizance.

On December 17, 2003, respondent appeared in Summit Municipal Court and received a conditional discharge, with a one-year term, pursuant to N.J.S.A. 2C:36A-1. Respondent was also ordered to pay fines and penalties totaling \$800.

By letter dated December 18, 2003, respondent notified the OAE of his arrest and the disposition of the charges. Respondent stipulated that his conduct violated 8.4(b).

As an aggravating factor, the OAE referred to respondent's ethics history, which includes an admonition and a three-month

suspension. The OAE, thus, recommended the imposition of a reprimand.

Respondent suggested that an admonition more properly addresses his misconduct. His position was that this infraction does not relate to the practice of law, unlike his two prior breaches. Moreover, he argued that his complete cooperation with the OAE should be considered a mitigating factor.

Following a de novo review of the record, we are satisfied that there is clear and convincing evidence of unethical conduct on respondent's part.

The facts are not in dispute. The only issue for determination is the proper discipline. The OAE has cited the only cases that deal specifically with marijuana offenses. In In re Echevarria, 119 N.J. 272 (1990), the Court imposed a public reprimand for the attorney's possession and use of a small amount of marijuana, less than fifty grams. The Court determined that, "absent aggravating circumstances, a private reprimand is the proper discipline in matters arising from the possession and use of a small amount of marijuana. . . ." Id. at 272. In that matter, however, the Court considered as an aggravating factor that Echevarria was conditionally discharged for possession and use of marijuana in 1975.

Admonitions were imposed in In the Matter of Charles H. Lee, Docket No. DRB 97-468 (June 2, 1998) (possession of .46 grams of marijuana and drug paraphernalia) and In the Matter of Joel M. Solow, Docket No. DRB 94-327 (October 13, 1994) (admitted possession and personal use of more than fifty grams of marijuana).

Although respondent has been disciplined twice before, his ethics violation in this matter did not involve the representation of a client. Therefore, it cannot be said that he did not learn from his prior mistakes. We find that, under Echevarria, and considering respondent's complete cooperation with the OAE, an admonition is the appropriate discipline for respondent's possession and use of small amounts of marijuana. Robert C. Holmes, Esq. did not participate.

We further 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

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**SUPREME COURT OF NEW JERSEY  
DISCIPLINARY REVIEW BOARD  
VOTING RECORD**

In the Matter of Marc D'Arienzo  
Docket No. DRB 04-151

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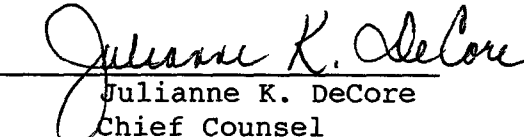
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Argued: July 15, 2004

Decided: August 19, 2004

Disposition: Admonition

Members	Disbar	Suspension	Admonition	Disqualified	Did not participate
Maudsley			X		
O'Shaughnessy			X		
Boylan			X		
Holmes					X
Lolla			X		
Pashman			X		
Schwartz			X		
Stanton			X		
Wissinger			X		
<b>Total:</b>			8		1

  
Julianne K. DeCore  
Chief Counsel