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SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 02-195

IN THE MATTER OF

KEITH A. COSTILL

AN ATTORNEY AT LAW

Decision

Argued: July 18, 2002

Decided: October 15, 2002

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). On December 17, 2001 respondent pleaded guilty to an accusation in the Camden County Superior Court to the fourth-degree crime of child abuse and neglect, in violation of N.J.S.A. 9:6-1 and 9:6-3.¹

Respondent was admitted to the New Jersey bar in 1990. The court elicited the

¹Although the accusation cited "abuse and neglect," the statutes actually proscribe conduct involving either abuse, abandonment, cruelty or neglect. N.J.S.A. 9:6-3 provides in pertinent part that, "(a)ny parent, guardian or person having the care, custody or control of any child, who shall abuse, abandon, be cruel to or neglectful of such child...shall be deemed to be guilty of a crime of the fourth degree." The definition of the terms abuse, abandonment, cruelty and neglect in N.J.S.A. 9:6-1 make it clear that respondent was guilty of neglect and abandonment, rather than abuse and neglect.

Respondent was admitted to the New Jersey bar in 1990. The court elicited the

following factual basis for the plea:

Q. Turning your attention to the date in question, were you in Cherry Hill on January 14th of this year?

A. Was I in – yes, I was.

Q. All right. And did you have in your custody at that time two year old twins, born on June 30, 1998, whose initials are J.C. and [K.C.]?

* * *

Q. Did you have within your custody twins with those initials?

A. Yes, I did.

Q. And what was your legal relationship to those two children?

A. Father.

Q. All right. And did you go someplace at the time?

A. Yes, I did.

Q. Where did you go?

A. I stopped at the Four Seasons Hotel, Morgan's Bar and Restaurant, that evening.

Q. Okay. And where were the – where were your sons at the times that you were inside the bar?

A. They were in the car, asleep.

Q. Okay. And for how long did they remain alone and unsupervised in the car in the parking lot?

A. According to the accusation, approximately 45 minutes.

Q. Okay. And do you have any reason to challenge that passage of time?

A. I have my own thoughts on that time frame, but no, I don't challenge it.

Q. All right. And how do you plead –

THE COURT: -- is there anything further with respect to the factual?

MS. SPINOSI: Your Honor, just one question.

CROSS-EXAMINATION BY MS. SPINOSI:

Q. Mr. Costill, you would agree that you went into the – into the establishment for a period of time and the children were alone and unsupervised?

A. Yes. I don't dispute that at all.

MS. SPINOSI: I have nothing further.

BY THE COURT:

Q. Okay. How do you plead –

THE COURT: --

MS. SPINOSI: No.

BY THE COURT:

Q. How do you plead to fourth degree neglect and/or abuse of a child?

A. Guilty, Your Honor.

(Exhibit B at 8-10)

Respondent was sentenced to one year of probation, fines and penalties totaling \$155 and directed to undergo alcohol evaluation and the completion of any necessary treatment.

The OAE urged the imposition of a reprimand. The OAE noted that, at the time of the criminal conduct, respondent was a Deputy Attorney General in the Division of Law for the State of New Jersey and that, as a public official, he should be held to a higher standard.

* * *

Upon a de novo review of the record, we determined to grant the OAE's motion for final discipline. The existence of a criminal record 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 for the fourth-degree crime of child abuse or neglect 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). Only the quantum of discipline remains at issue. R. 1:20-13(c)(2)(ii); In re Lunetta, 118 N.J. 443, 445 (1989).

The level of discipline imposed in disciplinary matters involving the commission of a crime depends on numerous 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, 118 N.J. 443, 445-46 (1989). That respondent's offense does not relate directly to the practice of law does not negate the need for discipline. Even a minor violation of the law tends to lessen public confidence in the legal profession as a whole. In re Addonizio, 95 N.J.

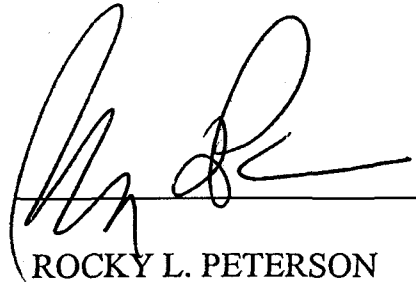
121, 124 (1984).

We did not consider respondent's position as a Deputy Attorney General as an aggravating factor. If we were to do so, discipline greater than that requested by the OAE might be supportable. Although it is true that an errant attorney who betrays the public trust is held to stricter ethics standards, we do not believe that the character of respondent's criminal offense – child neglect – is of the same character as the criminal offenses that also constitute a breach of the public trust because of the office held by the attorney. See, e.g., In re Farr, 115 N.J. 231 (1989) (six-month suspension for attorney who as an assistant prosecutor, removed drugs from the evidence room for use by himself and two informants, falsely introduced one of the informants as an employee of the prosecutor's office and allowed her to accompany him on a narcotics investigation); and In re Jones, 131 N.J. 505 (1993) (attorney disbarred for soliciting bribe for his own personal gain while serving as deputy attorney general).

Respondent left his two infant children unattended and sleeping in a locked car for almost an hour, after dark, in the dead of winter, while he drank beer in a nearby bar. There are no disciplinary cases analogous to respondent's. Unquestionably, however, he should be disciplined. He committed a crime and violated RPC 8.4(b). Fortunately, respondent now understands the seriousness of his conduct. In light of his remorse and the aberrational nature of his criminal conduct, we unanimously determined that a reprimand is sufficient discipline for his wrongdoing. One member did not participate.

We also required respondent to reimburse the Disciplinary Oversight Committee for all administrative expenses.

Dated:

A handwritten signature in black ink, appearing to read 'R. Peterson', written over a horizontal line.

ROCKY L. PETERSON
Chair
Disciplinary Review Board

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

In the Matter of Keith A. Costill
Docket No. DRB 02-195

Argued: July 18, 2002

Decided: October 15, 2002

Disposition: Reprimand

<i>Members</i>	<i>Disbar</i>	<i>Suspension</i>	<i>Reprimand</i>	<i>Admonition</i>	<i>Dismiss</i>	<i>Disqualified</i>	<i>Did not participate</i>
<i>Peterson</i>			X				
<i>Maudsley</i>			X				
<i>Boylan</i>			X				
<i>Brody</i>			X				
<i>Lolla</i>			X				
<i>O'Shaughnessy</i>			X				
<i>Pashman</i>							X
<i>Schwartz</i>			X				
<i>Wissinger</i>			X				
Total:			8				1

Robyn M. Hill 10/21/02

Robyn M. Hill
Chief Counsel