

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. 98-312

IN THE MATTER OF :
 :
STANLEY S. FRANKFURT :
 :
AN ATTORNEY AT LAW :

 :

Decision

Argued: September 17, 1998

Decided: April 5, 1999

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 the Board on a Motion for Final Discipline filed by the Office of Attorney Ethics ("OAE"), based upon respondent's contempt conviction and guilty plea to a fourth degree stalking charge, in violation of N.J.S.A. 2C:12-10b(1) and (2).¹

¹ Respondent's contempt conviction does not fall within the category generally covered by R. 1:20-13, providing for the filing of a motion for final discipline based upon a criminal conviction. However, respondent has consented to the inclusion of the contempt conviction with

Respondent was admitted to the New Jersey bar in 1987. He has no prior disciplinary history.

On March 2, 1998 respondent entered a conditional guilty plea to an indictment filed against him in Passaic County, charging him with one count of fourth degree stalking, in violation of N.J.S.A. 2C:12-10b(1) and (2). The victim was a Passaic County Superior Court Judge. The plea was conditioned on respondent's admission into the Pretrial Intervention Program, with the provision that, if respondent successfully completed the program, the matter would be administratively dismissed.²

As part of his guilty plea, respondent admitted that he went to the judge's chambers on numerous occasions between April 1, 1997 and May 1, 1997 and asked to speak with her. Respondent had no matters pending before the judge. Even after respondent was told that the judge would not speak to him, he repeatedly returned to chambers and asked to speak with the judge.

With regard to the contempt charge, on April 18, 1997 respondent was found guilty of contempt for having failed to appear at a hearing to determine why he should not be held in contempt for failing to appear at a trial and thereafter ignoring the judge's directives to appear. At respondent's June 17, 1997 sentencing, his counsel advised the court that

the motion for final discipline filed in the stalking matter.

² Although the case will be dismissed if respondent successfully completes the program, R. 1:20-13(c)(1) permits the filing of a motion for final discipline based upon a criminal conviction even when a guilty plea results in "admission to a diversionary program...."

respondent was undergoing psychiatric counseling and had decided to cease practicing law for the immediate future. During the sentencing hearing, respondent apologized for his conduct. The court sentenced respondent to a six-month term of probation and ordered him to pay restitution in the amount of \$630 to the Superior Court for the cost of jurors and a \$250 fine.

The OAE urged the Board to reprimand respondent.

* * *

Following a review of the full record, the Board 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). Only the quantum of discipline to be imposed remains at issue. R. 1:20-13(c)(2); 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, supra, 118 N.J. at 445-46.


For disrespectful and/or harassing conduct towards a tribunal, the Court has generally imposed sanctions ranging from a reprimand to a three-month suspension, depending on the individual mitigating circumstances. See In re Skripek, 156 N.J. 399 (1998) (reprimand where attorney was found guilty of civil contempt for failing to pay court-ordered spousal support and failing to appear at a hearing); In re Lekas, 136 N.J. 515 (1994) (reprimand for obstructing the administration of law, interrupting a court hearing and refusing to leave); In re DeMarco, 125 N.J. 1 (1991) (reprimand following conviction on two counts of contempt for pattern of abusive behavior directed at the trial judge during a criminal trial); In re Brown, 148 N.J. 48 (1997) (three-month suspension for using obscene language to a municipal court judge and threatening to injure the judge); In re McAlevy, 94 N.J. 201 (1983) (three-month suspension following conviction on five counts of contempt in two separate matters).

Here, respondent purposely and repeatedly engaged in a course of conduct that was distressing to a Superior Court Judge and that, as found by the sentencing judge, reasonably caused fear of bodily harm. Moreover, six weeks after entering a guilty plea for stalking, respondent failed to appear at a trial and ignored the judge's directives that he appear.

In light of the foregoing, the Board determined to suspend respondent for three months and to condition his reinstatement on the submission of psychiatric proof of fitness to practice law. One member voted to impose a reprimand.

The Board further determined to require respondent to reimburse the Disciplinary Oversight Committee for administrative costs.

Dated: 3/29/99

By: 
LEE M. HYMERLING
Chair
Disciplinary Review Board

SUPREME COURT OF NEW JERSEY

*DISCIPLINARY REVIEW BOARD
VOTING RECORD*

In the Matter of Stanley S. Frankfurt
Docket No. DRB 98-312

Argued: September 17, 1998

Decided: March 29, 1999

Disposition: Three-Month Suspension

Members	Disbar	Three-Month Suspension	Reprimand	Admonition	Dismiss	Disqualified	Did not Participate
Hymerling		x					
Zazzali		x					
Brody		x					
Cole			x				
Lolla		x					
Maudsley		x					
Peterson		x					
Schwartz		x					
Thompson		x					
Total:		8	1				

By Isabel Frank 4/15/99
Robyn M. Hill
Chief Counsel