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SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 97-112

IN THE MATTER OF :
THOMAS J. VIGGIANO :
AN ATTORNEY AT LAW :

Decision

Argued: May 15, 1997

Decided: November 18, 1997

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

Respondent failed to appear for oral argument.¹

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 criminal conviction on two counts of simple assault, in violation of N.J.S.A. 2C:12-1a(1).

Respondent was admitted to the New Jersey bar in 1974. He has no prior history of discipline.

On April 10, 1996, respondent and June Moncalieri were involved in a minor traffic accident. Respondent exited his vehicle and approached Moncalieri's automobile. He reached into her automobile and began to strike her with a closed fist. Officers Griffin and Hargrove arrived on the

¹Respondent advised Board staff by telephone that he refused to appear .

scene and physically restrained respondent from assaulting Moncalieri. During the attempt to restrain respondent, the officers were struck by him. Specifically, according to the criminal complaints, respondent assaulted the officers by pushing them and kicking them about the body.

Respondent was charged with simple assault on June Moncalieri, in violation of N.J.S.A. 2C:12-1a(1), and aggravated assault on the two police officers. On April 23, 1996, the latter charge was amended to simple assault. In addition, prior to the April 10, 1996 incident, respondent had been charged on November 30, 1995 with harassing one Linda Corots, in violation of N.J.S.A. 2C:33-4, in an incident similar to the one that occurred on April 10, 1996. According to the criminal complaint, respondent shouted at Corots and pounded on her driver's side window with his fists after striking her vehicle from behind.

On May 29, 1996, respondent pleaded guilty to two of the assault charges: those concerning Officer Griffin and June Moncalieri. He was placed on probation for a period of one year and was assessed a \$1,000 fine, a \$100 Violent Crimes Compensation Board penalty and a \$150 Safe and Secure Neighborhood penalty.

The OAE urged the Board to suspend respondent from the practice of law.

* * *

Following a de novo review of the record, the Board determined to grant the OAE's Motion for Final Discipline.

The existence of a conviction is conclusive evidence of respondent's guilt. R. 1:20-13(c)(1); In re Rosen, 88 N.J. 1, 3 (1981). Only the quantum of discipline to be imposed remains at issue. R. 1:20-13(c)(2)(ii); In re Lunetta, 118 N.J. 443, 445 (1989).

The primary purpose of discipline is not to punish the attorney, but to preserve the confidence of the public in the bar. In re Barbour, 109 N.J. 143 (1988). When an attorney commits a crime, he violates his professional duty to uphold and honor the law. In re Bricker, 90 N.J. 6, 11 (1982).

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).

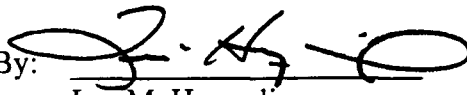
The Court has stated its reasons for disciplining attorneys whose illegal conduct was not related to the practice of law. "An attorney is 'bound even in the absence of the attorney-client relationship to a more rigid standard of conduct than required of laymen. To the public he is a lawyer whether he acts in a representative capacity or otherwise.' In re Gavel, 22 N.J. 248, 265 (1956)." In re Katz, 109 N.J. 17, 22-23 (1987).

"Acts of violence are condemned in our society." In re Magid, 139 N.J. 449, 455 (1995) and In re Principato, 139 N.J. 456, 463 (1995). Both Magid and Principato were convicted of the same offense as respondent, for which they received a reprimand. However, the Court cautioned that, in the future, any attorney convicted of an act of domestic violence would ordinarily face suspension. While this case does not involve an act of domestic violence, Magid and Principato make it clear that any act of violence committed by an attorney will not be tolerated. Here, respondent physically attacked another motorist and then assaulted two police officers as they tried to place him under arrest. Nothing less than a suspension would be appropriate for this kind of violent behavior.

Accordingly, the Board unanimously determined to suspend respondent for three months. In addition, respondent must submit proof of fitness to practice law, prior to reinstatement.

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

Dated: 1/18/57

By: 

Lee M. Hymerling
Chair
Disciplinary Review Board

SUPREME COURT OF NEW JERSEY

**DISCIPLINARY REVIEW BOARD
VOTING RECORD**

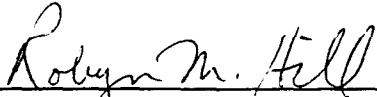
**In the Matter of Thomas J. Viggiano
Docket No. DRB 97-112**

Argued: May 15, 1997

Decided: November 18, 1997

Disposition: Three-Month Suspension

Members	Disbar	Suspension 3 Months	Reprimand	Admonition	Dismiss	Disqualified	Did not Participate
Hyerling		x					
Zazzali		x					
Brody		x					
Cole		x					
Lolla		x					
Maudsley		x					
Peterson		x					
Schwartz		x					
Thompson		x					
Total:		9					



Robyn M. Hill
Chief Counsel