SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 16-263
District Docket No. XIV-2012-0470E

IN THE MATTER OF	
SASHA CABRINI INTRIAGO	
AN ATTORNEY AT LAW	

Corrected
Decision

Argued: January 19, 2017

Decided: April 5, 2017

Jason D. Saunders appeared on behalf of the Office of Attorney Ethics.

Mark J. Cintron appeared on behalf of respondent.

To the Honorable Chief Justice and Associate Justices of the Supreme Court of New Jersey.

This matter was before us on a disciplinary stipulation between the Office of Attorney Ethics (OAE) and respondent. Respondent stipulated to having violated RPC 8.4(b) (committing a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer). The OAE recommends the imposition of a censure. For the reasons expressed below, we determine that a reprimand is sufficient discipline in this matter.

Respondent was admitted to the New Jersey bar in 2007. At the relevant time she practiced law in Hackensack, New Jersey. She has no history of discipline.

Following graduation from law school and a judicial clerkship, respondent became employed as an associate by a law firm.

According to the stipulation, in or about January 2009, respondent and her employer began engaging in phone and cyber-sex, watching adult videos together, and engaging in other forms of "non-physical consensual interactions."

From approximately May 2009 until August 2012, respondent and the lawyer engaged in a consensual extramarital affair. In the weeks leading up to August 2012, they argued about the relationship because respondent, who had recently reached thirty years of age, was in the process of getting divorced and wanted children and "something more" from the relationship with the lawyer.

Respondent "became angry" when she learned that the lawyer had purchased a vacation property with his wife, which signaled to her that he did not intend to leave his wife. Upset by these events, respondent threatened to show the lawyer's wife e-mails and pictures, and to appear at their residence. She demanded luxury items and cash from the lawyer in return for not

revealing the affair to his wife. Because, during their relationship, the lawyer had given respondent luxury items, including jewelry, handbags, shoes, and vacations, the OAE was unable to substantiate whether items received prior to the breakup were gifts or whether they were tendered as a result of the extortion.

In August 2012, the lawyer reported respondent's conduct to the Bergen County Prosecutor's Office (BCPO) and provided that office with an August 7, 2012 recorded telephone conversation he had with respondent, in which she demanded jewelry and cash in return for her continued silence about their affair. Her demand for cash increased from $75,000, to $115,000, to $125,000.

Thereafter, with the lawyer's consent, the BCPO conducted a recorded "consensual intercept telephone call" between the lawyer and respondent, during which respondent continued to demand money and luxury items for her continued silence about the affair. During the phone call, respondent threatened to kill herself, which prompted a welfare check of respondent at the lawyer's law office by the Hackensack Police Department.

On November 28, 2012, respondent was admitted into a Pre-trial Intervention Program (PTI), which she successfully completed. The PTI order of postponement showed that accusation A 1656-12 had charged respondent with Theft by Extortion,

N.J.S.A. 2C:20-5 and Stalking, N.J.S.A. 2C:12-10B. Following the incident, respondent attended two years of counseling.

According to the stipulation, the OAE's investigation "did not substantiate the allegation that [the lawyer] suffered significant mental suffering or distress or fear for his own safety or the safety of third persons to support a finding of stalking pursuant to N.J.S.A. 2C:12-10B."

Respondent stipulated to violating RPC 8.4(b), by engaging in extortion, a criminal act that reflected adversely on her honesty, trustworthiness, or fitness as a lawyer in other respects.

The OAE recommended a censure, reasoning that cases that called for disbarment involved successful extortion plots, citing In re Ross, 194 N.J. 513 (2008) (reciprocal discipline imposed on attorney who was disbarred in Pennsylvania and who pleaded guilty to wire fraud, mail fraud, and conspiracy to commit extortion); In re Yim, 188 N.J. 257 (2006) (reciprocal discipline for attorney whose Virginia license was revoked after he pleaded guilty to collection of extension of credit by extortionate means; the attorney discussed with another whether he could arrange for a debtor to be either seriously injured or killed in an apparent accident); and In re Krakauer, 99 N.J. 476 (1985) (attorney convicted of extortion in connection with a

scheme to extort $12,500 from a municipal contractor in connection with a senior citizen high-rise project).

Attempts at extortion, the OAE noted, resulted in lesser discipline. For example, in In re Braunstein, 210 N.J. 148 (2012), the attorney, an assistant corporation counsel for the City of Newark, received a one-year suspension for a conviction for attempt to commit third-degree criminal coercion. The attorney threatened to sue a superior unless he agreed to promote him and pay him $750,000. In the Matter of Neil Howard Braunstein, DRB 11-250 (December 22, 2011)(slip op. at 2). The attorney entered a guilty plea to a third-degree felony of attempted criminal coercion, official action, and theft by extortion. Id. at 3.

In the case of In re Korpita, 197 N.J. 496 (2009), the attorney received a three-month suspension for a conviction of a third-degree crime of a threat to a public servant and driving while intoxicated (DWI). The police found the attorney, a municipal court judge, passed out in his car. In the Matter of George R. Korpita, DRB 08-221 (December 4, 2008) (slip op. at 2). The attorney told the police that, when they appeared in his court, he had always found in their favor, but would no longer do so if he received a DWI summons. Id. at 4. He had presided over cases that could have gone either way but always

"ruled for the cops." He tried, without success, to bargain with the police for a less serious charge. Ibid. The attorney negotiated a plea to DWI and the third-degree crime of threat to a public servant, which states that a person commits such an offense if "he directly or indirectly threatens harm to any public servant . . . with the purpose to influence him to violate his official duty." Id. at 4-5.

The OAE maintained that this case is less egregious than either Braunstein or Korpita, both of which involved attorneys who were public officials convicted of crimes. Here, the OAE argued, respondent's motivation was not strictly pecuniary, but "clearly, an emotional, immature outburst in connection with the termination of an ongoing and long term affair." The OAE, thus, compared respondent's conduct to that of the attorney in In re Sanchez, 204 N.J. 74 (2010), who was censured for his unwitting involvement in a plot to extort money from a National Basketball Association (NBA) player in exchange for silence with regard to a videotape purporting to show the player engaged in an assault.

The OAE noted that, here, at the time of respondent's misconduct, she was a relatively young attorney, involved in an affair with her direct supervisor, who should have been mentoring her and providing her with guidance. In addition,

respondent was not convicted of a crime, but successfully completed PTI.

The stipulation recited, as an aggravating factor, respondent's failure to report her conduct to the OAE, as required by R. 1:20-13. In mitigation, respondent expressed genuine remorse to the OAE; she had no disciplinary history; she readily admitted her wrongdoing; there is little likelihood that she will repeat the offense; she sought mental health treatment as required by PTI; and, at the time of the conduct, she was relatively young and inexperienced, which, in part, caused her to react in an immature and aberrational manner when the lawyer terminated their relationship.

* * *

Following a de novo review of the record, we are satisfied that the stipulation contains clear and convincing evidence that respondent was guilty of unethical conduct. Specifically, respondent is guilty of violating RPC 8.4(b).

As the OAE noted, there is a distinction between cases where the attorneys succeeded in their extortion plots or, as in Ross, were guilty of additional serious ethics violations (and were disbarred), from cases where the attorneys were guilty only of attempted extortion and received significantly lesser sanctions.

We agree with the OAE's comparison of this case to the Sanchez case. In that case, the attorney's client, who had been injured in a fight with NBA player Carmelo Anthony, had a videotape of a bar fight also involving Anthony and another man. Sanchez' client had suffered injuries at Anthony's hands. Sanchez, thus, believed that his client had a valid personal injury claim against Anthony. Anthony's agent contacted Sanchez' client and offered to buy the videotape. In the Matter of Rodrigo H. Sanchez, DRB 10-102 (June 24, 2010) (slip op. at 2).

Thereafter, Sanchez consulted with an experienced attorney, who told him that, so long as he did not make any threats, negotiations for the sale of the tape were "legitimate and legal." Ibid. Sanchez did not attend any of the meetings at which his client met with the agent seeking compensation for the tape. At one point, the agent informed Sanchez' client that he was engaging in extortion. Id. at 3.

Later, Sanchez met with the agent's attorney to negotiate a settlement and told that attorney that he was unaware whether his client had approached anyone else with the tape. Ibid. At some point, the attorney told Sanchez to "walk away" from the case. Id. at 4. Sanchez became concerned for his safety. The attorney's comment caused him to question the propriety of his involvement in the negotiations and whether it was meant as a

warning or as strategy. Ibid. Thus, Sanchez again consulted with the experienced attorney, who told him that, because he had not made any threats to the agent, he had not committed a crime. Id. at 4-5.

Sanchez pleaded guilty to one count of attempted grand larceny in the fourth degree, agreed to cooperate in the prosecution of his co-defendants, and was sentenced to time served of an unknown length. Id. at 5.

At the DEC hearing, Sanchez provided compelling mitigation. The lead prosecutor in the case against him authored one of nine character letters on his behalf, writing that he had been cooperative during the investigation of the matter and routinely apologized for his lack of judgment, was honest and forthright, had received sufficient punishment, and should be permitted to continue practicing law. Id. at 5-6.

We found that Sanchez had exercised monumentally poor judgment when he agreed to represent his client. His actions were not venal, but "incredibly naïve." Id. at 10. His conduct was aberrational and the result of poor judgment, rather than greed or malevolence. Moreover, if the extortion plot had succeeded, Sanchez would not have benefitted financially. He would have received only an hourly fee per his fee agreement. Id. at 11.

In imposing only a censure, we determined that the public did not need protection from the attorney:

> [T]he record strongly suggests that naiveté, inexperience, and a total lack of understanding of his involvement in an extortion plot played a great role in his actions. In a misguided fashion, he unwittingly participated in a matter that turned out to be criminal. He had no actual knowledge of the scheme – he did not attend any meetings in which the sale of the videotape was discussed.
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> [Id. at 18.]

Here, too, respondent can be deemed to have been naïve and to have used "monumentally poor judgment" by engaging in an affair with her employer and then seeking compensation for her silence about it.

We consider the attorney's conduct in Korpita, supra, as well. There, Korpita a municipal court judge, was held to a higher standard and should have had a heightened awareness of his ethics obligations. However, his conduct was not the result of dishonesty or a flaw in his character, but rather the product of severe intoxication. At least one police officer who witnessed Korpita's conduct, characterized it as the "ranting of a drunk." Korpita, supra, at 5.

Korpita's disciplinary record had been unblemished. Moreover, he paid a high price for his offense – he lost his position as a municipal court judge in three municipalities, his

principal source of income, and was barred from ever holding public employment. Id. at 11-12.

While none of the cases cited are squarely on point, Sanchez and Korpita are instructive and form a basis for comparison. Respondent did not hold a public office as did Korpita. Although there is no evidence to suggest that respondent was intoxicated at the time of her misconduct, her threat of suicide surely indicated that she was suffering from severe emotional turmoil. Her mentor and employer, who had almost twenty more years of experience than she, was an active participant in the affair. Respondent lost much as a result of that affair – she was in the process of divorcing her husband, believing that she had a future with the lawyer, only to discover otherwise.

As in Sanchez, we conclude that the public need not be protected from respondent. Moreover, her conduct is not likely to be repeated. In addition, unlike Sanchez or Korpita, respondent was not convicted of a crime. She successfully completed PTI and has no disciplinary history. Finally, respondent has suffered substantial public humiliation as a result of her misconduct. Under the totality of these circumstances, we determine that a reprimand sufficiently addresses respondent's misconduct.

Members Boyer, Clark, Gallipoli, and Zmirich voted to impose a censure.

We further determine to require respondent to reimburse the Disciplinary Oversight Committee for administrative costs and actual expenses incurred in the prosecution of this matter, as provided in R. 1:20-17.

Disciplinary Review Board
Bonnie C. Frost, Chair

By: Ellen A. Brodsky
Ellen A. Brodsky
Chief Counsel