

SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 18-005
District Docket No. XIV-2015-0501E

IN THE MATTER OF :
 :
RAJSHAKTISINH D. JADEJA :
 :
AN ATTORNEY AT LAW :
 :
 :
 :

Decision

Argued: March 15, 2018

Decided: July 6, 2018

Hillary K. Horton appeared on behalf of the Office of Attorney Ethics.

James M. McGovern, Jr. 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 motion for final discipline filed by the Office of Attorney Ethics (OAE), pursuant to R. 1:20-13(c), following respondent's guilty plea in the Supreme Court of New York, Nassau County, to second-degree manslaughter, second-degree assault, driving under the influence of alcohol, and driving while impaired by a combination of alcohol and drugs.

The OAE requested that we impose a one- to two-year suspension. Respondent urged us to impose a one-year suspension, retroactive to June 7, 2017, the effective date of his temporary suspension. We determine to impose a two-year, retroactive suspension.

Respondent was admitted to the New Jersey bar in 2006. Although he has no prior, final discipline, on June 7, 2017, the Court temporarily suspended him after he pleaded guilty to the conduct underlying this matter. In re Jadeja, 229 N.J. 298 (2017).

On March 16, 2017, respondent pleaded guilty in the Supreme Court of New York, County of Nassau, before the Honorable Christopher Quinn, Acting Supreme Court Justice, to four counts of a twelve-count indictment, as follows: (1) count eight: manslaughter in the second degree, a violation of Penal Law 125.15, subdivision one, as a class C felony; (2) count nine: assault in the second degree, a violation of Penal Law 120.05, subdivision four, as a class D violent felony; (3) count one: operating a motor vehicle while under the influence of alcohol, as an unclassified misdemeanor under the Vehicle and Traffic Law (VTL) 1192.2; and (4) count four: operating a

motor vehicle while impaired by the combined use of alcohol and drugs, an unclassified misdemeanor of VTL 1192.4(a).

On September 15, 2015, after drinking in New York City, and while under the influence of alcohol and Xanax, respondent drove his automobile onto the Long Island Expressway. At Exit 46, while respondent was driving in the high occupancy vehicle lane, his car collided with a vehicle driven by twenty-one year old student George Ragotte, who had stopped his car to avoid a collision with two vehicles that had just been involved in an unrelated accident ahead of him. Ragotte died from his injuries.

At respondent's plea hearing, Justice Quinn elicited the following facts:

THE COURT: On or about September 19, 2015, were you present in the County of Nassau, State of New York?

[RESPONDENT]: Yes.

THE COURT: Were you operating a vehicle at that time?

[RESPONDENT]: Yes, I was.

THE COURT: Where was that and do you recall what town it was?

[RESPONDENT]: Exit 46, Plainview.

THE COURT: Was that on the Long Island Expressway?

[RESPONDENT]: It was.

THE COURT: During the operation of the vehicle, had you consumed some alcoholic beverage?

[RESPONDENT]: Yes.

THE COURT: Do you recall what you were drinking and where?

[RESPONDENT]: Yes.

THE COURT: What was that?

[RESPONDENT]: I was drinking beer in New York City.

THE COURT: And was your ability to operate that motor vehicle impaired by that alcohol?

[RESPONDENT]: Yes, your Honor.

THE COURT: Counsel, do you have reason to dispute the reading of more than point zero eight under count one?

[RESPONDENT'S COUNSEL]: No, your Honor.

THE COURT: Did you also ingest some drug prior to or during the operation of that vehicle?

[RESPONDENT]: Yes, your Honor.

THE COURT: What was that?

[RESPONDENT]: Alprazolam and Xanax.¹

THE COURT: Do you understand the combination of those drugs impaired your ability to operate that motor vehicle?

[RESPONDENT]: Yes, your Honor.

THE COURT: And during the operation of the vehicle you were involved in the crash?

[RESPONDENT]: Yes, your Honor.

THE COURT: Do you understand that your actions, as recklessly, caused the death of George Ragotte, R-A-G-O-T-T-E.

¹ Xanax is a trade name for the generic drug, alprazolam, which respondent's physician had prescribed.

[RESPONDENT]: Yes, your Honor.

THE COURT: That was based upon your driving and the fact you were impaired by the drugs and alcohol at that time?

[RESPONDENT]: Yes, your Honor.

THE COURT: Your actions as reckless caused serious physical injury to that individual as well?

[RESPONDENT]: Yes, your Honor.

[OAEbEx.B at 12-14 to 14-15.]²

On May 25, 2017, Justice Quinn sentenced respondent as follows: under count eight, second-degree manslaughter, an indeterminate term of imprisonment with a minimum of one year and a maximum of three years; count nine, second-degree assault, a determinate sentence of two years of incarceration with three years of post-release supervision; and counts one and four, driving while impaired, one-year sentences for each, to be served in the Nassau County Correctional Center. All of the terms of incarceration were to be served concurrently. Judge Quinn also imposed various fines, fees, and surcharges, revoked respondent's driving privileges, and required the use of an ignition interlock device on his automobile upon his release from custody.

² OAEb refers to the December 27, 2017 brief in support of the motion for final discipline.

Ragotte's father, Steven Ragotte, spoke at the sentencing, on behalf of his family. He presented a heart-wrenching tribute to his son, and described the family's daily struggle without George.

Respondent chose not to address the court or the Ragotte family at sentencing. Through counsel, he expressed remorse.

Respondent's brief to us contains several factors in mitigation of his conduct. First, his counsel, James M. McGovern, Jr., claimed that at least one of the vehicles involved in the accident that preceded respondent's collision with Ragotte, a car driven by Paul Castiglione, had been "drag-racing" at a speed of 105 miles per hour. As a result:

Respondent was unable to timely slow his vehicle or navigate his vehicle around those involved in the first accident to avoid collision with the car of George Ragotte. Mr. Ragotte had stopped his car behind the disabled vehicle of Mr. Castiglione and then abruptly pulled out into the adjacent (or third) lane. Respondent was traveling in the high occupancy vehicle lane when he came upon the scene. Tragically, the cars of Respondent and Mr. Ragotte collided and Mr. Ragotte expired in this second car accident.

[Rb2.]

Counsel also urged us to consider that: (1) respondent has accepted full responsibility for his role in the accident; (2) since the accident, he has demonstrated a commitment to change his life for the betterment of others; (3) respondent and his

wife, Kathryn E. Jadeja-Cimone, Esq., practice immigration law, dedicating their practice to assisting immigrants, primarily in the area of "removal defense;" much of their work is pro bono;

(4) for the past three years, respondent and his wife co-sponsored the living expenses and salary of a "Safe Passage - Justice AmeriCorps fellow," a New York Law School-sponsored program under which the selected pro bono attorney spends a year representing abused, neglected, and/or abandoned juvenile immigrants before the immigration and family courts; (5) respondent has not used drugs or alcohol since the accident; he attends Alcoholics Anonymous meetings four nights per week in prison, has been named a group leader there, and has applied for enrollment in an intensive, six-month, alcohol and drug treatment program offered at the correctional facility; and (6) respondent attends a Christian Bible study group in prison; as no Hindu services are offered, he has sought spiritual comfort through other faiths.

Respondent states, "I am committed to turning my life around through prayer, meetings of the Alcoholics Anonymous, and both group and one-on-one counseling. I want to re-enter society as a better man. My hope is that I will be afforded a new start through my dedication to this regimen."

Kathryn E. Jadeja-Cimone provided a five-page letter expressing her love and respect for her husband/law partner, who is "deeply regretful for the loss of George Ragotte's life. This event broke his spirit."

Lenni B. Benson, Professor of Law, New York Law School, provided a letter expressing her thanks for respondent's financial and legal support, as well as office space devoted to the Safe Passage Project Clinic, for which she acts as Director.

In aggravation, the OAE has cited a 2009 assault charge against respondent in Suffolk County, New York, for an altercation that took place outside a bar. According to respondent's counsel, that charge was later dismissed. However, "a misdemeanor charge, similar to a disorderly persons offense in New Jersey, still stands." Counsel argues that, because such an offense is not considered a criminal conviction, it should not serve as an aggravating factor.³

In addition, according to the OAE, respondent "did not notify the OAE of the criminal charges as required by R. 1:20-13(a)(1)," but "did respond and provide some documentation after being contacted by the OAE."

³ Under a separate, confidential letter to us, the OAE attached a copy of the arrest report and witness statement in the bar incident. However, because that document is of limited evidentiary value, we determine not to consider it.

On February 16, 2018, however, respondent's counsel filed a letter brief with a certification from respondent, asserting that, indeed, he had notified the OAE of the New York State indictment against him. According to the certification, McGovern, too, informed the OAE of the matter, within a week of respondent's guilty plea.

Neither respondent's certification nor counsel's brief makes clear whether the OAE was notified about the ultimate disposition of the case, including respondent's sentence.

* * *

In urging the imposition of a suspension, the OAE cited In re Murphy, 200 N.J. 427 (2009). There, we stated, "suspensions are in order when an automobile accident causes a fatal injury." In the Matter of Michael P. Murphy, Jr., DRB 09-011 (July 16, 2009) (slip op. at 17). The OAE also cited In re Howard, 143 N.J. 526, 533 (1996) (three-month suspension for attorney convicted of death by auto, a third-degree crime; although there was no evidence that the attorney had been drinking prior to the accident, the Court warned that "[l]onger suspensions will be called for when alcohol plays an aggravating role in a vehicular homicide case"); In re Barber, 148 N.J. 74 (1997) (the attorney was suspended for six months after his conviction of vehicular homicide when his passenger died in a one-car accident; although

the attorney was not convicted of driving while intoxicated, his consumption of alcohol prior to the accident was considered to be an aggravating factor); In re Costill, 217 N.J. 354 (2014) (two-year suspension for attorney following his fourth-degree assault by auto conviction in the Superior Court of New Jersey; an admitted alcoholic, Costill had a history of alcohol-related seizures that occurred within twelve to twenty-four hours after drinking; the day before the accident, he appeared for work intoxicated, and was sent to the hospital; released with a blood/alcohol content of .20, he returned to the office and wanted to drive himself home; after the State Police were summoned, they advised Costill not to drive, and arranged for a co-worker to drive him home; the following morning, Costill reported for work and suffered a seizure when moving his SUV in the office parking area; the vehicle jumped a curb and pinned thirty-one year old Hikema George, an employee on break, between the front bumper of Costill's vehicle and a pillar that guarded the front of the office building; she suffered severe trauma to her lower extremities, required an amputation, and died hours later at the hospital; although there was a factual question whether Costill had been clinically intoxicated when his blood was drawn at a hospital after the accident, there was no question that his alcoholism played a role in the accident;

George's great-aunt gave an impassioned eulogy of George at Costill's sentencing; in aggravation, Costill sought to minimize his responsibility for the accident during the ethics proceedings; prior reprimand for fourth-degree child abuse and neglect); In re Guzzino, 165 N.J. 24 (2000) (two-year suspension imposed on attorney convicted of second-degree manslaughter and driving while intoxicated; the attorney killed a passenger in one of two vehicles that he struck after losing control of his vehicle as the result of driving at a high rate of speed); and In re Koufos, 220 N.J. 577 (2015) (disbarment; after attending a local bar association function, the attorney continued communicating, by mobile phone, with someone with whom he had been arguing at the event; while driving along Route 35 North and looking down at his phone, he heard a loud noise, but did not stop to determine whether he had struck something or someone; in fact, he struck, and severely injured, a seventeen-year-old man as he walked with his friends; Koufos then fled the scene; the next day, he summoned a friend and sometime employee, who agreed to take the blame for the accident; after reviewing the New Jersey Criminal Code with his friend, Koufos told him to expect to be entered into a pre-trial intervention program or to be sentenced to probation for the accident; a certified criminal trial attorney, Koufos knew at the time that there was no

presumptive sentence for such conduct, and that the friend risked incarceration, while Koufos stood to go free; the Court disbarred Koufos for his offending post-accident conduct, specifically, his egregious effort to corrupt the criminal process).

The OAE based its recommendation for a one- to two-year suspension recommendation on Guzzino, discussed below.

* * *

Following a review of the record, we determine to grant the OAE's motion for final discipline. Final discipline proceedings in New Jersey are governed by R. 1:20-13(c). Under that Rule, a criminal conviction is conclusive evidence of guilt in a disciplinary proceeding. R. 1:20-13(c)(1); In re Magid, 139 N.J. 449, 451 (1995); In re Principato, 139 N.J. 456, 460 (1995). Respondent's guilty plea to second-degree manslaughter, second-degree assault, driving under the influence of alcohol, and driving while impaired establishes a violation of RPC 8.4(b). Pursuant to that Rule, it is professional misconduct for an attorney to "commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer." Hence, the sole issue is the extent of discipline to be imposed. R. 1:20-13(c)(2); In re Magid, 139 N.J. at 451-52; In re Principato, 139 N.J. at 460.

In determining the appropriate measure of discipline, we must consider the interests of the public, the bar, and the respondent. "The primary purpose of discipline is not to punish the attorney but to preserve the confidence of the public in the bar." Ibid. (citations omitted). Fashioning the appropriate penalty involves a consideration of many 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 an attorney's conduct did not involve the practice of law or arise from a client relationship will not excuse an ethics transgression or lessen the degree of sanction. In re Musto, 152 N.J. 165, 173 (1997). Offenses that evidence ethics shortcomings, although not committed in the attorney's professional capacity, may, nevertheless, warrant discipline. In re Hasbrouck, 140 N.J. 162, 167 (1995). The obligation of an attorney to maintain the high standard of conduct required by a member of the bar applies even to activities that may not directly involve the practice of law or affect his or her clients. In re Schaffer, 140 N.J. 148, 156 (1995).

Here, after drinking in New York City, and while under the influence of alcohol and Xanax, respondent drove his automobile onto the Long Island Expressway, colliding with Ragotte's vehicle and fatally injuring Ragotte after he had stopped in the roadway to avoid vehicles that had just been involved in an unrelated accident.

Respondent was sentenced to one to three years of imprisonment for manslaughter, two years for assault, and one year each for driving while under the influence of alcohol, and driving under the influence of alcohol and drugs. The sentences were to be served concurrently. Respondent was also fined, had his driving privileges suspended, and was required to have an ignition interlock device placed in his automobile upon the reinstatement of his driving privileges.

The OAE correctly analogized this case to In re Guzzino, a two-year suspension case. On August 30, 1996, while under the influence of alcohol, Guzzino was traveling at an undetermined high rate of speed in a Nissan 300ZX sports car, on a 45 mile per hour section of Route 287 North, when he lost control of the vehicle, causing it to strike the rear of a Ford Taurus traveling in the center-left lane of the four northbound lanes. Guzzino's vehicle continued in a northerly direction and struck the left

rear section of a Dodge Raider SUV traveling in the center-right lane. The impact caused the Raider to overturn in the roadway, partially ejecting a passenger, and coming to rest on that passenger's head. The remaining occupants of that vehicle had to lift the SUV off the victim, who died a short time later from multiple blunt head trauma injuries. Guzzino's blood/alcohol content was 0.132%, well over the 0.10 legal limit at the time. In the Matter of Leonard C. Guzzino, III, DRB 98-484 (December 6, 1999) (slip op. at 2).

This case is also similar to Costill, another two-year suspension case, inasmuch as alcohol was the main factor in the accident that took the life of a thirty-one year old woman, and whose great-aunt gave an impassioned tribute to her loved one at the attorney's sentencing.

While the facts in this case are truly heart-wrenching, they do not reach the level of depravity found in the disbarment case, Koufos, where the attorney severely injured a pedestrian in an auto accident and immediately sought to use a "fall guy" to conceal the attorney's role in the accident, thereby also corrupting the judicial process.

Thus, based on the similarities to both Guzzino and Costill, a two-year suspension is warranted here.

In respect of respondent's alleged failure to notify the OAE about the criminal matter, R. 1:20-13(a)(1) states,

An attorney who has been charged with an indictable offense in this state or with an equivalent offense in any other state, territory, commonwealth, or possession of the United States or in any federal court of the United States or the District of Columbia shall promptly inform the Director of the [OAE] in writing of the charge. The attorney shall thereafter promptly inform the Director of the disposition of the matter.

According to respondent, within a week of pleading guilty to the charges against him, both he and his attorney took steps to notify the OAE of the criminal case. Moreover, when a respondent has been temporarily suspended as a result of a criminal conviction, we will apply the suspension retroactively. Here, the Court temporarily suspended respondent on June 7, 2017.

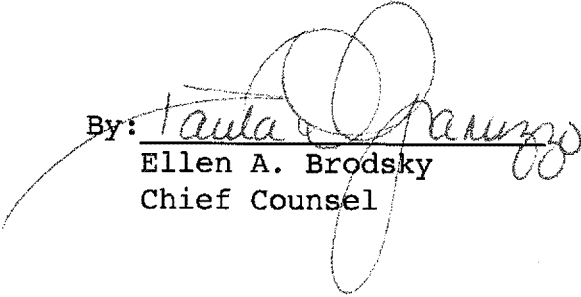
Lastly, as evidenced by the mitigation presented herein, respondent has taken substantial steps, while in prison, to become a better, sober person. Unfortunately, that betterment has come at a tragically high cost to the Ragotte family.

Under all of these circumstances, we determine to impose a two-year suspension, retroactive to June 7, 2017, the date of respondent's temporary suspension.

Prior to reinstatement, respondent must provide proof of counseling and fitness to practice law, as attested by a drug and alcohol counselor approved by the OAE.

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
Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

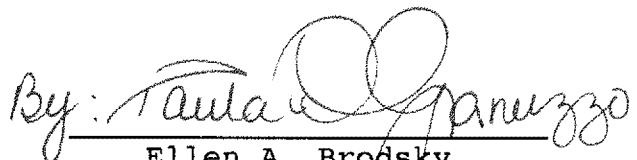
In the Matter of Rajshaktisinh D. Jadeja
Docket No. DRB 18-005

Argued: March 15, 2018

Decided: July 6, 2018

Disposition: Two-year Retroactive Suspension

<i>Members</i>	Two-year Retroactive Suspension	Recused	Did Not Participate
Frost	X		
Baugh	X		
Clark	X		
Boyer	X		
Gallipoli	X		
Hoberman	X		
Rivera	X		
Singer	X		
Zmirich	X		
Total:	9	0	0

By: 
Ellen A. Brodsky
Chief Counsel