Supreme Court of New Jersey
Disciplinary Review Board
Docket No. DRB 20-072
District Docket No. XIV-2019-0267E

In the Matter of	:
Dawn A. Segal	:
An Attorney at Law	:

Decision

Argued: September 17, 2020

Decided: February 11, 2021

Ashley L. Kolata-Guzik appeared on behalf of the Office of Attorney Ethics.

Respondent appeared pro se.

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

This matter was before us on a motion for reciprocal discipline filed by the Office of Attorney Ethics (OAE), pursuant to R. 1:20-14(a). The motion follows respondent's one-year and one-day suspension in Pennsylvania, via a Joint Petition in Support of Discipline on Consent, wherein respondent admitted having violated Pennsylvania RPC 8.3(b) (a lawyer who knows that a judge has

committed violations of applicable rules of judicial conduct that raise a substantial question as to the judge's fitness for office shall inform the appropriate authority); RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation); RPC 8.4(d) (conduct prejudicial to the administration of justice); and RPC 8.4(f) (knowingly assist a judge or judicial officer in conduct that is in violation of applicable rules of judicial conduct or other law).

The OAE asserted that respondent was found guilty of violations of the equivalent of New Jersey RPC 8.3(b); RPC 8.4(c); RPC 8.4(d); and RPC 8.4(f), which are identical to the Pennsylvania RPCs.

For the reasons set forth below, we determine to grant the OAE's motion and recommend to the Court that respondent be disbarred.

Respondent earned admission to the New Jersey and Pennsylvania bars in 1984. At all relevant times, she maintained an office for the practice of law in Philadelphia, Pennsylvania.

Respondent has no prior discipline in New Jersey.

This case arises from respondent's repeated engagement in ex parte communications with a fellow municipal court judge, and her associated misconduct in the administration of her court, motivated by her belief that the other judge's political connections could personally benefit her and secure her re-appointment as a judge. The OAE asserted that respondent failed to report the

other judge's misconduct; unethically entertained and ruled on his requests in cases in which she presided; failed to recuse herself in those cases; and ruled favorably for his position in order to curry his political favor, for her own benefit.

Specifically, in 2009, respondent was a judicial candidate for the Philadelphia Municipal Court. During her campaign, she became familiar with Joseph C. Waters, a fellow candidate. Respondent viewed Waters as politically well-connected and knowledgeable about the political process. Conversely, respondent considered herself an outsider to Philadelphia politics. Both Waters' and respondent's campaigns were successful and, on January 4, 2010, respondent became a municipal court judge. As a result of her own perceived outsider status, however, respondent had concerns that the Democratic Party would not support her retention, in 2015.

On September 30, 2011, the Philadelphia Inquirer published an article, quoting a Democratic Party leader, who stated that the Philadelphia judges running for retention in the November 2011 election would have to contribute money to the Democratic Party. On the same day the article was published, Waters contacted respondent by telephone. Unbeknownst to respondent and Waters, the Federal Bureau of Investigation (FBI) had obtained a wiretap warrant on Waters' telephone, was recording their conversation, and would

record subsequent telephone conversations between the two of them.

During the September 30, 2011 conversation, respondent expressed her concerns about her retention election, despite the fact it was still four years away, and disclosed to Waters that the Democratic Party leader quoted in the newspaper article previously had threatened her for not supporting the party. Waters reassured respondent that he had the backing of twenty-one ward leaders who would support her retention campaign. He then began an ex parte communication with respondent about a case pending before her. Specifically, Waters told respondent that he had "something in front of [her] at 1:00 today." Respondent directly asked Waters what the matter was and "who do we need?" Waters told respondent the name of the case and the name of the two attorneys who would be appearing for the matter, and stated that it concerned an alarm company. Moreover, Waters stated "we got the defendant," thus, telegraphing to respondent that she should assist the defendant, Donegal. Respondent replied, "say no more. Say no more. Alright."

On the same day, respondent presided over a contested motion in a small-claims case entitled Houdini Lock & Safe Co. v. Donegal Investment Property Management Services. During the proceeding, defense counsel, whom Waters supported, requested a continuance, which respondent granted over the objection of plaintiff's counsel. Respondent further ordered that the case

proceed to trial without further delay.

Later that day, respondent informed Waters that she had continued the Donegal matter, stating that "she did the best [she] could" because counsel for Houdini was "jumping up and down," "so hopefully that's enough" help for Donegal. Waters replied that he appreciated that she granted the continuance. Respondent ended the call by saying it was "All for you. Anything."

On June 12, 2012, respondent presided over the matter of City of Philadelphia v. Rexach, a petition to open a default judgment. Respondent denied the petition on the grounds that the pro se petitioner, Rexach, had failed to set forth a meritorious defense.

On June 29, 2012, Waters called respondent to discuss his "friend," Ian Rexach, who had filed a petition for reconsideration after respondent had denied his petition to open the default judgment. Rexach is the son of Angeles Roca, who, at that time, was a Philadelphia Court of Common Pleas Judge. At a later hearing, respondent granted Rexach's petition for reconsideration.

On July 1, 2012, respondent called Waters to inform him that she had "figured" out the Rexach case and "took care of it." She then told Waters to tell "her," presumably Roca, that it was "done." Waters replied, "[t]hank you very much, honey."

On July 23, 2012, Waters called respondent to discuss the matter of Commonwealth v. Khoury, a case that was scheduled before respondent for a preliminary hearing the following day. Khoury was charged with a felony firearms crime. Waters asked respondent if she could "take a good hard look at it," because counsel for Khoury was a "friend of [his]." Waters told respondent not to "hurt [her]self, but if [she] can help him," he would appreciate it. In response, she stated, "[n]o, I will, if he's a friend of yours. I'll look hard at the case. Don't worry about it."

On July 24, 2012, respondent presided over the preliminary hearing and reduced Khoury's firearm charge from a felony to a misdemeanor. After the hearing, respondent called Waters to inform him that she "remanded your friend's thing," and he expressed his appreciation and told her she was "the best."

On May 15 and June 3, 2014, two Assistant United States Attorneys and two FBI Special Agents interviewed respondent as part of an investigation of Waters. During these interviews, respondent admitted that she was concerned about her future retention campaign and that she tried to keep Waters "happy," because she wanted his support, as an influential member of the Democratic Party. Further, she admitted that she knew Waters was trying to influence her with his requests in the Donegal and Khoury matters; that her telephone

conversations with Waters were inappropriate; and that she should have recused herself, especially from Khoury, in which she made a substantive, legal decision to downgrade a felony charge.

Respondent also admitted that she neither disclosed her conversations with Waters to any of the parties or counsel nor recused herself after having these conversations. She further admitted that she had engaged in repeated inappropriate communications with Waters concerning pending matters, and she did so to curry favor with him for her retention campaign. Finally, respondent admitted that she failed to report Waters' misconduct to the Pennsylvania Judicial Board or any other authority.

On September 5, 2014, the United States Attorney's Office for the Eastern District of Pennsylvania filed, under seal, a two-count information against Waters, charging two felonies: one count of mail fraud, in violation of 18 U.S.C. §§ 1341 and 2, and one count of honest services fraud, in violation of 18 U.S.C. §§ 1343, 1346, and 2. On September 24, 2014, Waters entered guilty pleas to both counts, before the Honorable Juan R. Sanchez, in the United States District Court for the Eastern District of Pennsylvania. On January 22, 2015, Judge Sanchez sentenced Waters to two years in prison, followed by three years of supervised release, a special assessment of $200, and a fine of $5,500.

Previously, on November 25, 2014, the Pennsylvania Supreme Court had entered an order accepting Waters' resignation and disbarring him, on consent, from the practice of law in Pennsylvania. On January 12, 2016, the Court of Judicial Discipline issued an order removing Waters from judicial office and deeming him ineligible to hold judicial office in the future.

On January 28, 2016, a trial was held in the Court of Judicial Discipline regarding ethics charges filed against respondent for her misconduct as a municipal judge. On July 21, 2016, the Pennsylvania Judicial Conduct Board issued an opinion finding that respondent violated the following judicial Canons and Pennsylvania constitutional provisions: Canon 2B (a judge should not convey or knowingly permit others to convey the impression that they are in a special position to influence the judge); Canon 3A(4) (judges . . . except as authorized by law, must not consider ex parte communications concerning a pending matter); Canon 3B(3) (a judge should take or initiate appropriate disciplinary measures against a judge or lawyer for unprofessional conduct of which the judge becomes aware); Canon 3C(1) (judges should disqualify themselves in proceedings in which their impartiality might reasonably be questioned); Article V, § 17(b) (judges shall not violate any canon of legal or judicial ethics prescribed by the Pennsylvania Supreme Court); and Article V § 18(d)(1) (conduct that prejudices the proper administration of justice and brings

the judicial office into disrepute).

On December 16, 2016, following a sanctions hearing, the Court of Judicial Discipline issued an order removing respondent from judicial office, and deeming her ineligible to hold a judicial office in the future.

Two weeks later, on December 30, 2016, respondent filed her administrative change in status with the Pennsylvania Attorney Registration Office and resumed the practice of law.

On November 22, 2017, the Supreme Court of Pennsylvania affirmed the sanctions order. In re Dawn A. Segal, Municipal Court Judge First Judicial District Philadelphia, 173 A.3d 603 (Pa. 2017). The court found that (1) respondent's actions of having ex parte communications with another judge, to secretly favor one party over another in three cases, were an affront to the administration of justice; (2) respondent's behavior diminished confidence in the judiciary at large; and (3) respondent violated the ethics directives prohibiting ex parte communications concerning a pending matter, and obligating her to refrain from presiding over cases in which her impartiality might reasonably have been questioned. Id.

On March 4, 2019, respondent and the Pennsylvania Office of Disciplinary Counsel (ODC) filed with the Supreme Court of Pennsylvania a Joint Petition in Support of Discipline on Consent, stipulating that she had

violated Pennsylvania RPC 8.3(b); RPC 8.4(c); RPC 8.4(d); and RPC 8.4(f).

The joint petition cited, as mitigation, respondent's admission to the misconduct; her cooperation with the investigation of the Judicial Conduct Board, by giving grand jury testimony against Waters without any promise of immunity or legal protection; her presentation of strong character witnesses; her removal from the bench; and her ineligibility to hold judicial office in the future. The ODC advanced, as an aggravating factor, respondent's status as a judge when she engaged in misconduct. On April 9, 2019, the Supreme Court of Pennsylvania suspended respondent for one year and one day.[1]

The OAE argued that respondent's unethical conduct equates to violations of New Jersey RPC 8.3(b); RPC 8.4(c); RPC 8.4(d); and RPC 8.4(f), which are identical to their Pennsylvania counterparts. Citing R. 1:20-14(a)(4), the OAE asserted that respondent's conduct in Pennsylvania warrants similar discipline in New Jersey and that we should impose a one-year suspension. In support of this recommended quantum of discipline, the OAE correctly noted that no New Jersey disciplinary cases are directly on point, and primarily relied on cases arising from municipal court judges and municipal court prosecutors disciplined

[1] On February 28, 2019, Roca and the ODC entered into a Joint Petition in Support of Discipline on Consent. On April 9, 2019, the Supreme Court of Pennsylvania disciplined Roca for, among other things, contacting Waters to solicit help in her son's case. She, too, was removed from judicial office, was deemed ineligible to hold judicial office in the future, and was suspended from the practice of law for one year and one day.

for their involvement in ticket-fixing schemes, as discussed below.

In her brief to us, respondent asked us to grant the OAE's motion and impose a one-year suspension, retroactive to May 9, 2019, the date of her Pennsylvania suspension. She further represented that she has not practiced law in New Jersey during the period of her Pennsylvania suspension. On September 1, 2020, following the Office of Board Counsel's request, respondent submitted a certification confirming that she has not practiced law in New Jersey since May 9, 2019.

Following a review of the record, we determine to grant the OAE's motion for reciprocal discipline. Pursuant to R. 1:20-14(a)(5), "a final adjudication in another court, agency or tribunal, that an attorney admitted to practice in this state . . . is guilty of unethical conduct in another jurisdiction . . . shall establish conclusively the facts on which it rests for purposes of a disciplinary proceeding in this state." Thus, with respect to motions for reciprocal discipline, "[t]he sole issue to be determined . . . shall be the extent of final discipline to be imposed." R. 1:20-14(b)(3).

In Pennsylvania, the standard of proof in attorney disciplinary matters is that the "[e]vidence is sufficient to prove unprofessional conduct if a preponderance of the evidence establishes the conduct and the proof . . . is clear and satisfactory." Office of Disciplinary Counsel v. Kissel, 442 A. 2d 217 (Pa.

1982) (citing In re Berland, 328 A.2d 471 (Pa. 1974)). Moreover, "[t]he conduct may be proven solely by circumstantial evidence." Office of Disciplinary Counsel v. Grigsby, 425 A. 2d 730 (Pa. 1981) (citations omitted). Notably, respondent stipulated to the facts and ethics violations by entering into the Joint Petition with Pennsylvania disciplinary officials.

Reciprocal discipline proceedings in New Jersey are governed by R. 1:20-14(a)(4), which provides in pertinent part:

> The Board shall recommend the imposition of the identical action or discipline unless the respondent demonstrates, or the Board finds on the face of the record on which the discipline in another jurisdiction was predicated that it clearly appears that:
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> (A) the disciplinary or disability order of the foreign jurisdiction was not entered;
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> (B) the disciplinary or disability order of the foreign jurisdiction does not apply to the respondent;
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> (C) the disciplinary or disability order of the foreign jurisdiction does not remain in full force and effect as the result of appellate proceedings;
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> (D) the procedure followed in the foreign disciplinary matter was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or
>
> (E) the unethical conduct established warrants substantially different discipline.

Subsection (E) applies in this matter because the unethical conduct warrants substantially different discipline. Accordingly, we determine to grant

the OAE's motion for reciprocal discipline and find that respondent's misconduct, which directly poisoned the well of justice, requires her disbarment.

Respondent's repeated ex parte communications with another judge, and her resulting efforts, in three cases, to covertly favor one party in her courtroom over another constituted an egregious affront to the administration of justice, diminished confidence in the judiciary, and violated multiple RPCs.

First, by failing to promptly inform the appropriate authorities after Waters initiated ex parte communications with her and requested that she benefit particular litigants, respondent violated RPC 8.3(b). By repeatedly acting to improperly benefit Waters' clients or friends, for the purpose of currying his personal political favor, she further violated multiple Rules. Specifically, respondent violated RPC 8.4(c), because she was both dishonest and deceitful when she ruled for Waters' friends and their clients during the three proceedings, and her motive was for personal benefit, not to oversee a fair proceeding. Further, she violated RPC 8.4(d), because her actions of ruling for one party over another for personal gain, regardless of the merits, struck at the very core of a notion that the proceedings were fair and, thus, her misconduct was prejudicial to the administration of justice. Finally, respondent violated RPC 8.4(f), because she knowingly assisted Waters in violating the applicable judicial Canons and RPCs.

In sum, we find that respondent violated RPC 8.3(b); RPC 8.4(c); RPC 8.4(d); and RPC 8.4(f). The only remaining issue for our determination is the appropriate quantum of discipline to be imposed for respondent's misconduct.

Although there are no New Jersey disciplinary cases directly on point with the facts of this case, and no New Jersey precedent for a violation of either RPC 8.3(b) or RPC 8.4(f), the following case law makes clear that the ultimate sanction of disbarment is warranted.

The core of respondent's misconduct is the significant harm she caused to the public perception of a fair and impartial judiciary. In 1984, the Court imposed a significant suspension, seven years (time served), on an attorney who attempted to persuade a witness to testify falsely before a grand jury and, thus, directly impacted the administration of justice. In re Verdiramo, 96 N.J. 183 (1984). The attorney pleaded guilty to influencing a witness, in violation of 18 U.S.C. § 371, and, in accordance with a plea agreement, other charges against the attorney were dismissed. In finding certain conduct unworthy of lawyers, the Court stated:

> [p]rofessional misconduct that takes deadly aim at the public-at-large is as grave as the misconduct that victimizes a lawyer's individual clients. Because such a transgression directly subverts and corrupts the administration of justice, it must be ranked among the most egregious of ethical violations.

> We have not, in the past, been uniform in our approach to appropriate sanctions for serious ethical violations of this kind -- those that involve criminal acts of dishonesty that directly impact the administration of justice. Compare In re Rosen, supra, 88 N.J. 1 [1981] (respondent's conviction of attempted subornation of perjury resulted in suspension of three years in view of mitigating factors) and In re Mirabelli, 79 N.J. 597 (1979) (respondent's guilty plea to accusation charging bribery warranted three year suspension and not disbarment due to mitigating circumstances) with In re Hughes, 90 N.J. 32 (1982) (respondent's guilty plea to charges of bribing public official and forging public documents warrants disbarment despite mitigating factors). We believe that ethical misconduct of this kind -- involving the commission of crimes that directly poison the well of justice -- is deserving of severe sanctions and would ordinarily require disbarment. See, e.g., In re Hughes, supra, 90 N.J. 32.
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> [In re Verdiramo, 96 N.J. at 187.]

Verdiramo was spared from disbarment, however, because the misconduct underlying his discipline had occurred more than eight years earlier. The Court remarked that "the public interest in proper and prompt discipline is necessarily and irretrievably diluted by the passage of time," and that disbarment would have been "more vindictive than just."

In In re Giordano, 123 N.J. 362 (1991), the Court remarked that crimes of dishonesty touch on an attorney's central trait of character. The Court declared that, when an attorney "participate[s] in criminal conduct designed to subvert fundamental objectives of government, objectives designed to protect the health,

safety, and welfare concerns of society, the offense will ordinarily require disbarment." Id. at 370 (citation omitted).

In In re Kornreich, 149 N.J. 346 (1997), the Court, building on both Verdiramo and Giordano, once again underscored that "[d]isbarment is normally the appropriate discipline for attorney misconduct that undermines the integrity of the administration of justice." Id. at 365. In that case, the attorney was involved in a motor vehicle accident in a shopping center parking lot. After the incident, the other driver, Susan Yezzi, exited her vehicle and began to fumble through her purse for her insurance information to exchange with Kornreich. Meanwhile, Kornreich remained sitting in her car, "staring" at Yezzi. After writing down the license plate on Kornreich's car, Yezzi approached the vehicle and confronted Kornreich, who said nothing and continued to stare at her. As Yezzi tried to coax Kornreich out of her car to exchange information, Kornreich "just took off."

Yezzi reported the incident to the police. When the police questioned Kornreich, she denied that she had been involved in an accident but admitted that she had been in the parking lot at the time.

When the police officer returned to Kornreich's home to question her, she again denied having been involved in a car accident. She and her attorney-husband threatened the officer with a lawsuit, if he did not "drop the

investigation." Despite Kornreich's denials, she was issued summonses for failure to report a motor vehicle accident and leaving the scene of the accident.

When Yezzi, who was required to appear as a witness at Kornreich's municipal court trial, arrived in the courtroom, she was told that she could leave because the case against Kornreich had been dismissed, and charges would be filed against her former live-in babysitter, Angelique Franson. Prior to Yezzi's arrival, Kornreich's attorney had informed the court that Franson had been driving the car at the time of the accident. His statement to the court was prompted by a detailed story by Kornreich and her husband, both of whom agreed to testify against Franson. Kornreich later denied that she had told her attorney that Franson was driving the car.

Prior to Franson's trial, she called Kornreich for advice. By this time, Franson had moved to the west coast. Although Kornreich told Franson that she did not need to appear, that it was "no big deal," and that "they would not come after [her]," Franson appeared. When Yezzi arrived in the courtroom for Franson's trial, she did not recognize Franson. However, when Kornreich entered the courtroom, Yezzi informed the investigating police officer that Kornreich had been the driver of the car. Consequently, the case against Franson was dismissed. Ultimately, Kornreich pleaded guilty and was accepted into the Pre-Trial Intervention program.

We emphasized in our decision that, as of the date of oral argument, Kornreich continued to deny any wrongdoing or to show any remorse. In assessing the appropriate measure of discipline to impose, we considered two cases that the OAE had cited in support of its request for a six-month suspension: In re Poreda, 139 N.J. 435 (1995), and In re Lunn, 118 N.J. 163 (1990). In Poreda, the attorney received a three-month suspension for fabricating and submitting a motor vehicle insurance card in defense of a charge of driving without insurance. We noted that Kornreich's conduct "was much more serious than attorney Poreda's" and, thus, deserving of a longer term of suspension.

In Lunn, the attorney was suspended for three years for fabricating a certification, on behalf of his deceased wife, to support allegations in a personal injury suit. He then refused to admit, for two years, that he had done so. We noted that Kornreich's conduct was as serious – if not more serious – than Lunn's. We considered, however, that, once caught in a web of lies, Kornreich might have found it difficult to extricate herself. In addition, we believed that Kornreich's character was not unsalvageable, because she was young and potentially capable of learning from her mistakes. A five-member majority, thus, voted to suspend Kornreich for one year.

The Court disagreed with our assessment of Kornreich's mitigation, determining that Kornreich's offense was more serious than the conduct

presented in Lunn, and imposed a three-year suspension. In so doing, the Court stressed that the specific subject matter of attorneys' criminal misconduct was not the factor upon which disbarment depends, "but rather the perversion of the justice system by the attorneys." Id. at 368. The Court, however, found compelling mitigation, including Kornreich's "youth and inexperience" at the time of her misconduct, that spared her from the ultimate sanction of disbarment. Id. at 370-72.

Justice Coleman, joined by Chief Justice Poritz, dissented, finding that Kornreich "was dishonest, committed crimes, demonstrated contempt for the administration of justice, and poisoned the well of justice." Id. at 375. The dissenting members of the Court, thus, determined that they would "disbar [Kornreich] because her conduct was so egregious and so inimical to the integrity of the judicial system that any lesser sanction would fail to protect the public." Id. at 376.

In addition to the line of cases addressing conduct that "poisons the well" of justice, the OAE suggested that we consider cases in which municipal judges or municipal prosecutors were involved in ticket-fixing schemes. The discipline imposed in cases involving such misconduct in municipal court proceedings has ranged from a reprimand to disbarment, depending on the facts of the offense,

the presence of other unethical conduct, and the analysis of aggravating and mitigating factors.

In In re DeLucia and In re Terkowitz, 76 N.J. 329 (1978), the Court imposed a one-year suspension on each attorney, who, at the time of their misconduct, were municipal court judges in Rutherford, New Jersey. Id. at 330. Barbara Spencer, Terkowitz's secretary, received a ticket for improperly passing a school bus on her way to work. Id. at 331. Later that day, she informed Terkowitz that she had not seen the school bus because of other traffic. Id. at 331-32. Terkowitz telephoned DeLucia and explained that Spencer had been experiencing physical problems due to her pregnancy, her view had been obstructed and, therefore, she had not seen the school bus before passing it. Id. at 332. DeLucia then contacted the ticketing officer, explained the circumstances, and asked whether he would object if they "took care of it." Ibid. The officer responded that he did not care. Ibid.

While in chambers, without anyone appearing before him, DeLucia "personally noted a not guilty plea on the court copy of [Spencer's] summons and entered a judgment of not guilty." Ibid. In the portion of the summons for the witness' testimony, in the absence of a court hearing or any testimony, DeLucia wrote "testimony . . . defendant states view was obstructed by trees

. . .” Ibid. Spencer’s acquittal was based solely on the information that DeLucia had received from Terkowitz. Ibid.

When the prosecutor’s office investigated the Spencer summons, DeLucia arranged for Spencer to prepare an affidavit reciting what had occurred, and to back-date it to the date of the summons, which was the same date that she had conveyed the information to Terkowitz. Id. at 332-33. DeLucia testified before the Advisory Committee on Judicial Conduct that, as to Spencer’s affidavit, he had known that he was “arranging for the filing of a false document.” Id. at 335.

The Court noted that it had previously denounced ticket-fixing, “with its ramifications of false records, false reports, favoritism, violation of court rules, and cover-up, all of which exist in this case . . . Such conduct compromises the integrity of the judicial process and violates the fundamental principles of impartial justice.” Id. at 336.

Although DeLucia resigned his position as municipal court judge, suffered great mental anguish, and did not personally profit from the misconduct, the Court imposed a one-year suspension, stating:

> [a] judge who does “favors” with his office is morally an embezzler. He is also a fool, for a judge who plays a “good” fellow for even a few must inevitably be strained with the reputation of a man who can be reached. [citations omitted.]
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> [Ibid.]

As to Terkowitz, the Court found that he knowingly participated in the improper dismissal of the traffic summons and attempted to conceal the wrongdoing by permitting the preparation of an affidavit with a back-dated acknowledgement and by executing a false jurat. Id. at 338.

In the companion cases of In re Hardt, 72 N.J. 160 (1977) (municipal court judge) and In re Weishoff, 75 N.J. 326 (1978) (municipal prosecutor), Hardt was removed from his position and reprimanded, while Weishoff was suspended for one year for participating in fixing a speeding ticket.

In Hardt, after Muriel Mansmann received a speeding ticket, the return date of the summons was adjourned and rescheduled at the request of her attorney. Id. at 162. When the officer who issued the ticket discovered that his and Mansmann's name had been crossed off the calendar, he assumed that the case had been postponed or that Mansmann had entered a guilty plea, so he left court. Id. at 163.

Later that day, when only Hardt, the court clerk, the deputy clerk, and Weishoff remained in the courtroom, Weishoff called Mansmann's name and simultaneously beckoned the deputy clerk to come forward, as if she were Mansmann. Id. at 163-64. When Hardt asked the deputy clerk how she pleaded, Weishoff whispered to her to reply "not guilty," which she did. Ibid. Hardt then

announced that he would deny a continuance and direct a verdict of not guilty. He entered a finding of not guilty on the back of the summons. Id. at 164.

The Court found that Hardt had not known in advance that any fraud or ticket-fixing was about to occur. Ibid. Although, at the hearing before the Court, Hardt had insisted that the entire "affair was a 'farce'" and that they were "simply clowning around," the Court found that Hardt permitted himself to be used and to become a part of a ticket-fixing attempt. Id. at 164-65. The Court was not swayed by Hardt's efforts to minimize the seriousness of his misconduct based on his lack of advance knowledge of the plot, because of "his incorrect completion of the summons, his signature and stamp of approval thereon, his failure thereafter to do anything to correct or rectify it, his knowledge that [the deputy clerk] stood before him --- not Muriel Mansmann, and his awareness that the Prosecutor's statements were inaccurate." Id. at 165. In addition, the Court considered Hardt's knowledge that the defendant's failure to appear did not justify a finding of not guilty. Ibid.

In imposing only a reprimand, the Court considered that the transgression had constituted a single aberrational act and was not part of a course of conduct; Hardt had an otherwise unblemished record; and, as a member of the bar, maintained a general reputation for integrity and high character. Id. at 168-69.

As to Weishoff, the Court determined that he was a knowing participant to the improper disposition of the traffic ticket, and found not credible his explanation that they were "just fooling around." Id. at 330. Although the Court held that Weishoff's behavior involved misrepresentation and conduct prejudicial to the administration of justice, the Court was satisfied that Weishoff sought no personal profit and thought he was doing someone a "favor." Id. at 331.

The Court rejected Weishoff's argument that, because he had resigned as municipal prosecutor, he should be reprimanded, like Hardt. Id. at 331-32. The Court distinguished the two cases, finding that Hardt had "suffered the ignominy of being removed from his judgeship for misconduct in office" and that, by virtue of such removal, could not thereafter hold judicial office. Id. at 331.

The Court found applicable to municipal prosecutors the following principles enunciated in In re Mattera, 34 N.J. 259, 275-276 (1961): "[j]ustice is the right of all men and private property of none. The judge holds this common right in trust, to administer it with an even hand in accordance with the law. A judge who does 'favors' with his office is morally an embezzler." In imposing a one-year suspension, the Court determined that Weishoff's conduct could not be condoned, that the improper disposition of a traffic ticket undermines the

judicial process, and that "[p]articipation in such disposition by the municipal prosecutor makes it that much more grievous." Id. at 331-32.

In the companion cases of In re Spitalnick, 63 N.J. 429 (1973), and In re Sgro, 63 N.J. 538 (1973), municipal judges received two-year and six-month suspensions, respectively, for their involvement in fixing a ticket for driving while intoxicated (DWI).

Spitalnick approached Sgro about dismissing a DWI ticket for his former client. Id. at 431. Spitalnick marked the ticket "not guilty" and noted on it that the defendant was under medical treatment at the time of the DWI. Ibid. He did nothing to verify the defendant's excuse to him about his medical condition. Ibid. Sgro dismissed the ticket. Ibid. In imposing discipline, the Court considered mitigating circumstances, including Spitalnick's prior clean record, voluntary admission of guilt, ultimate cooperation with law enforcement, lack of personal gain, and the fact that it was a single incident in a "wrongheaded and highly improper attempt to 'aid' a despondent client." Id. at 432. In imposing a two-year suspension, the Court wrote:

> [r]espondent's activities, however, hold a deeper significance in that they expose the probity of the Bench and Bar to question. This Court cannot allow the integrity of the judicial process to be compromised in any way by a member of either Bench or Bar. This is especially so where, as here, the particulars demonstrate that the proper channels of justice had been diverted. We must guard not only against the

> spectacle of justice corrupted in one instance, but against the subversion of confidence in the system itself. A community without certainty in the true administration of justice is a community without justice.
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> Nowhere can the community be more sensitive to the regularities -- and irregularities -- of judicial administration than at the local level. While on the grand scale of events a traffic violation may be of small significance, the corruption of judicial administration of a Municipal Court is of paramount importance. Such conduct, visible and apparent to the community, destroys the trust and confidence in our institutions upon which our entire governmental structure is predicated. We cannot and will not tolerate members of the profession subverting judicial integrity at any level, for the damage is irreparable.
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> [Ibid.]

As to Sgro (six-month suspension), the Court considered that he had resigned his position as a municipal court judge; that, although he knew that dismissing the ticket without the appropriate medical information was improper, he did so relying on Spitalnick, who had considerable experience and had persuaded him to act improperly; that he received no financial gain; and that he had a good reputation in the community. In re Sgro, 63 N.J at 539.

More recently, the Court has disciplined multiple municipal court judges for fixing tickets. In In re Molina, 216 N.J. 551 (2014), the attorney, who was the chief judge of the Jersey City Municipal Court, adjudicated nine parking tickets issued to her significant other. Molina had entered a guilty plea to the

third-degree crime of tampering with public records and the fourth-degree crime of falsifying records. In the Matter of Wanda Molina, DRB 13-097 (November 7, 2013) (slip op. at 1). Molina dismissed the tickets, sometimes writing "Emergency" on them before doing so, knowing that no emergency had existed. Id. at 1-2. The purpose of her actions was to avoid her significant other's payment of fines to the city. Id. at 3. Molina conceded that, as the chief judge, she should have requested a change of venue, because of the conflict, or ensured that the tickets were paid. Ibid.

Molina presented significant mitigation, both at her sentencing hearing and before us: she deeply regretted and was embarrassed by her misconduct; for most of her life, she had served her community and helped women and minorities; she intended to compensate the city for the improperly dismissed tickets; she had no criminal history; her conduct was unlikely to recur; she resigned from her position as chief judge; she cooperated with law enforcement; she accepted responsibility for her conduct; she submitted eighteen character letters on her behalf; and she apologized publicly for her misconduct. Id. at 3-4.

In imposing the criminal sentence, the judge in Molina remarked that judges should be held to the highest standards to maintain the integrity of the judicial system and the public's faith in the system, and cited the need to deter Molina and others from engaging in similar conduct. Id. at 5. The judge

sentenced Molina to three years' probation, "364 [days] in the Bergen County Jail as a reverse split;" ordered her to perform 500 hours of community service; prohibited her from holding public employment; and directed her to pay restitution and penalties. Id. at 5.

In Molina, we balanced the fact that suspensions were imposed on other municipal court judges who had been involved in only one instance of ticket fixing, who received no personal benefit from their conduct, and who forfeited their positions, against Molina's compelling mitigation and her lack of a disciplinary history. We determined to impose a six-month suspension. Id. at 20. The Court agreed with that measure of discipline.

In In re Sica, 222 N.J. 23 (2015), a default matter, a Jersey City municipal court judge who disposed of tickets for her employer was found guilty of violating RPC 8.4(b), (c), and (d). We found that Sica's adjudication of her employer's three traffic tickets had financial and non-financial consequences attached to it and that, in adjudicating the tickets, she had violated N.J.S.A. 2C:30-2(a).

Sica had performed legal work for Victor Sison, Esq. (whose disciplinary case is discussed below), a fellow municipal court judge, on a per diem basis. In the Matter of Pauline E. Sica, DRB 14-301 (March 26, 2015) (slip op. at 8-9). We, thus, reasoned that Sica's conduct was aimed at self-benefit, because she

disposed of three tickets for her employer, with whom she wished to maintain a professional relationship. Id. at 12.

Unlike some of the other cases, neither Molina nor Sica embroiled others in their ticket-fixing schemes. Nevertheless, unlike Molina, Sica advanced no mitigating circumstances. In addition, she showed no contrition or remorse for her acts. During the criminal proceedings, she stated that, although there was no legitimate reason to waive the fine, "that's the culture." Furthermore, her letter to the OAE did not acknowledge any wrongdoing on her part, but implied that she had been pursued unfairly, since no action had been taken against her employer. Ibid.

In addition, Sica failed to reply to the grievance and then permitted the matter to proceed as a default, an aggravating factor under In re Kivler, 193 N.J. 332, 342 (2008). Finding that the aggravating factors warranted discipline harsher than that imposed in Molina, we determined to impose a one-year suspension, retroactive to the effective date of Sica's temporary suspension, which had been imposed for failure to cooperate with the OAE's investigation. Id. at 12-13.

In In re Sison, 227 N.J. 138 (2016), the attorney, who was a part-time Jersey City municipal court judge and employed Sica in his law firm, received a three-month suspension for his part in the ticket fixing schemes underlying the

Molina and Sica matters, above. He was found guilty of violating RPC 8.4(b). In the Matter of Victor G. Sison, DRB 15-333 (July 20, 2016) (slip op. at 18). By way of a plea agreement with the Attorney General's Office, Sison, who had been charged with second-degree official misconduct, was given credit for his cooperation with both law enforcement and the OAE, and was admitted into the pre-trial intervention program. Id. at 3-4. Sison approached Molina and Sica to secure the preferential treatment, including dismissal, of tickets issued to him, his wife, and his son. Id. at 4-5.

We determined that, except for his inconsistent testimony during the ethics hearing, Sison's matter did not include the aggravating factors present in Sica. Id. at 24. Like Molina, Sison presented significant mitigation for consideration: he was a relatively new judge at the time of his misconduct; his misconduct involved only four tickets; he had not tampered with public records; he was regretful and contrite; he cooperated with law enforcement; he was seventy-two years old at the time discipline was imposed; and he submitted compelling character evidence on his behalf. Id. at 24.

In In re Boylan, 162 N.J. 289 (2000), a Jersey City municipal court judge was disbarred for a scheme to defraud the city of money by reducing traffic violation fines and penalties of female defendants in exchange for sexual favors. Id. at 292. He coached the defendants to lie in open court about the

circumstances of their tickets and penalties. Ibid. Boylan acknowledged that the city lost more than $10,000 as a result of the scheme. Ibid. He entered a guilty plea to the use of the mails to perpetrate the fraud, was sentenced to thirty months in prison and three years' probation, and was ordered to make restitution to Jersey City. Ibid.

Citing In re Conway, 107 N.J. 168 (1987), the Court reasoned that "[c]ertain types of ethical violations are, by their very nature, so patently offensive to the elementary standards of a lawyer's professional duty that they per se warrant disbarment." Id. at 293. Moreover, the Court reiterated that it has "consistently subjected attorneys who commit acts of serious misconduct while serving in public office to stringent discipline, normally disbarment." Ibid. [citations omitted]. The Court continued,

> [t]herefore, it is appropriate to discipline an attorney for conduct as a judge if the conduct itself so corrupts the judicial process or evidences a lack of the character and integrity that are necessary in an attorney. Conduct by a judge may require disbarment if that conduct demonstrates such untrustworthiness, dishonesty or lack of integrity that the public must be protected from such a person as a lawyer.
>
> [Ibid.]

Given Boylan's misconduct, the Court found that "the impugnment of the integrity of the legal system" was "[s]o deep and so profound," that disbarment was the only appropriate penalty.

More recently, in In re Mott, 231 N.J. 22 (2017), the Court imposed a six-month suspension on a municipal prosecutor who improperly dismissed a speeding ticket for an employee of her family farm, failed to disclose her conflict of interest to the court, and misrepresented to the court, both verbally and in writing, that the dismissal was due to a problem with discovery.

Also, in In the Matter of Richard B. Thompson, DRB 19-062 (September 17, 2019), we recommended the disbarment of an attorney who, during a five-year period while serving in public office as a municipal court judge in nine jurisdictions, routinely suspended mandatory motor vehicle fines in cases and, instead, substituted phony, baseless contempt of court charges in their place, knowing that his criminal scheme would steer one hundred percent of the contempt proceeds to the towns over which he presided. If challenged by a defendant, he often would revert contempt charges to mandatory fines, but, on one occasion, threatened the defendant with jail time; he also improperly applied defendants' bail money toward the phony contempt charges, without notice or due process for those defendants. The attorney admitted that the purpose of his criminal scheme was to use his authority, in his public office, to direct maximum

revenue to the towns where he presided as a municipal court judge, and that, to conceal his wrongdoing, he typically falsified the contempt charges outside the presence of the defendants and their counsel. He also admitted that he continued his scheme, even after a March 2014 meeting with his superiors to discuss his contempt of court practices, by assessing smaller phony contempt fines, thus continuing to steer funds to his preferred jurisdictions, until his suspension from the bench. The Court agreed with us, and disbarred Thompson. In re Thompson, 240 N.J. 263 (2020).

Moreover, the Court has found that attorneys who commit crimes that are serious or that evidence a total lack of "moral fiber" must be disbarred in order to protect the public, the integrity of the bar, and the confidence of the public in the legal profession. See, e.g., In re Quatrella, 237 N.J. 402 (2019) (attorney convicted of conspiracy to commit wire fraud after taking part in a scheme to defraud life insurance providers via three stranger-originated life insurance policies; the victims affected by the crimes lost $2.7 million and the intended loss to the insurance providers would have been more than $14 million); In re Klein, 231 N.J. 123 (2017) (attorney convicted of wire fraud for engaging in an "advanced fee" scheme that lasted eight years and defrauded twenty-one victims of more than $819,000; the attorney leveraged his status as an attorney to provide a "veneer of respectability and legality" to the criminal scheme,

including the use of his attorney escrow account); In re Seltzer, 169 N.J. 590 (2001) (attorney working as a public adjuster committed insurance fraud by taking bribes for submitting falsely inflated claims to insurance companies and by failing to report the payments as income on his tax returns; attorney guilty of conspiracy to commit mail fraud, mail fraud, and conspiracy to defraud the Internal Revenue Service); In re Lurie, 163 N.J. 83 (2000) (attorney convicted of eight counts of scheming to commit fraud, nine counts of intentional real estate securities fraud, six counts of grand larceny, and one count of offering a false statement for filing); In re Chucas, 156 N.J. 542 (1999) (attorney convicted of wire fraud, unlawful monetary transactions, and conspiracy to commit wire fraud; attorney and co-defendant used for their own purposes $238,000 collected from numerous victims for the false purpose of buying stock); In re Hasbrouck, 152 N.J. 366 (1998) (attorney pleaded guilty to several counts of burglary and theft by unlawful taking, which she had committed to support her addiction to pain-killing drugs); In re Goldberg, 142 N.J. 557 (1995) (two separate convictions for mail fraud and conspiracy to defraud the United States); In re Messinger, 133 N.J. 173 (1993) (attorney convicted of conspiracy to defraud the United States by engaging in fraudulent securities transactions to generate tax losses, aiding in the filing of false tax returns for various partnerships, and filing a false personal tax return; the attorney was involved in the conspiracy for three

years, directly benefited from the false tax deductions, and was motivated by personal gain); and In re Mallon, 118 N.J. 663 (1990) (attorney convicted of conspiracy to defraud the United States and aiding and abetting the submission of false tax returns; attorney directly participated in the laundering of funds to fabricate two transactions reported on two tax returns in 1983 and 1984).

After considering the above precedent, we determine that respondent's conduct was so egregious and so hostile to the integrity of the judicial system that any sanction less than disbarment would fail to protect the public. Stated differently, as framed by the Court in Conway and Boylan, it is appropriate to disbar an attorney for misconduct committed as a judge if the conduct itself so corrupts the judicial process or evidences a lack of the character and integrity that are necessary in an attorney. Conduct by a judge may require disbarment if that conduct demonstrates such untrustworthiness, dishonesty, or lack of integrity that the public must be protected from such a person as a lawyer. Here, respondent's misconduct is much more akin to that of the judges in Boylan and Thompson, as compared to the less serious misconduct of the judges in Molina, Sica, and Sison. She willingly, without hesitation, engaged in open, public corruption solely for self-gain, to curry Waters' political favor in pursuit of her desire to be retained as a Philadelphia municipal judge. In other words, in respondent's courtroom, justice was for sale, if the price was right. As the Court

warned in Verdiramo, misconduct that "takes deadly aim at the public-at-large" and "directly poison[s] the well of justice" will be met with disbarment.

In mitigation, we consider respondent's admission to the misconduct; her cooperation with the investigation of the Judicial Conduct Board by giving grand jury testimony against Waters; her presentation of strong character witnesses; her removal from the bench; and her ineligibility to hold judicial office in the future.

Although the significant passage of time that has passed between respondent's misconduct and the imposition of discipline should be accorded mitigating weight, based on the foregoing precedent, disbarment is required.

For respondent's subversion of one of the fundamental objectives of government, and her self-motivated attack on the integrity of the administration of justice, the ultimate sanction of disbarment is not only warranted, but required, in order to protect the public and preserve confidence in the New Jersey bar.

Chair Clark and Members Boyer and Singer voted for a three-year suspension. Members Joseph and Rivera did not participate.

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
Bruce W. Clark, Chair

By: **/s/ Timothy M. Ellis**
Timothy M. Ellis
Acting Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Dawn A. Segal
Docket No. DRB 20-072

Argued: September 17, 2020

Decided: February 11, 2021

Disposition: Disbar

Members	Disbar	Three-Year Suspension	Recused	Did Not Participate
Clark		X		
Gallipoli	X			
Boyer		X		
Hoberman	X			
Joseph				X
Petrou	X			
Rivera				X
Singer		X		
Zmirich	X			
Total:	4	3	0	2

/s/ Timothy M. Ellis
Timothy M. Ellis
Acting Chief Counsel