Supreme Court of New Jersey
Disciplinary Review Board
Docket No. DRB 21-169
District Docket No. XIV-2020-0410E

In the Matter of	:
Wayne Robert Rohde	:
An Attorney at Law	:

Decision

Argued: November 18, 2021

Decided: January 21, 2022

Hillary K. Horton 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 final discipline filed by the Office of Attorney Ethics (the OAE), pursuant to R. 1:20-13(c)(2), following respondent's 2005 guilty plea and conviction, in the Circuit Court of Arlington, Virginia, for one count of felony leaving the scene of an accident,

in violation of Va. Code § 46.2-894. The OAE asserted that this offense constitutes a violation of RPC 8.4(b) (committing a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer) and RPC 8.4(c) (engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation).

For the reasons set forth below, we determine to grant the motion for final discipline and to impose a six-month bar on respondent's ability to apply for future pro hac vice or plenary admission in New Jersey.

Respondent was admitted in New Jersey, pro hac vice, from 2004 through 2007. As detailed below, respondent's criminal conduct occurred in 2004 through 2005, while he was authorized to practice law in New Jersey. Pursuant to R. 1:20-1(a), which provides that "[e]very attorney . . . authorized to practice law in the State of New Jersey, including those attorneys specially authorized for a limited purpose or in connection with a particular proceeding . . . shall be subject to the disciplinary jurisdiction" of the Court. Therefore, the Court has jurisdiction to impose discipline for respondent's misconduct.

Respondent has no prior discipline in New Jersey.

Respondent earned admission to the District of Columbia bar in 1989. From 1991 through September 2010, he practiced law as an associate in the District of Columbia law office of Sher & Blackwell, LLP. Since the

September 2010 merger of Sher & Blackwell with the Cozen O'Connor law firm, respondent has practiced law as a member of Cozen O'Connor's District of Columbia law office.

On August 30, 2018, the District of Columbia Court of Appeals (the D.C. Court of Appeals) suspended respondent from the practice of law for two years in connection with his 2005 criminal conviction for leaving the scene of an accident. In re Rohde, 191 A.3d 1124 (D.C. 2018) (Rohde I).[1] The D.C. Court of Appeals, however, stayed respondent's suspension in favor of a three-year probationary period in which respondent was ordered to (1) refrain from the commission of additional ethics infractions; (2) maintain sobriety; (3) be subject to sobriety monitoring; (4) meet with a Lawyers Assistance Program (LAP) representative to maintain his sobriety; and (5) attend Alcoholics Anonymous (AA) as often as he, his LAP representative, and other involved experts deemed necessary. Ibid.

On August 13, 2020, the D.C. Court of Appeals censured respondent for failing to disclose his 2005 criminal conviction and related disciplinary proceedings in Rohde I in connection with his application for pro hac vice

[1] As described in greater detail below, the ethics proceedings in Rohde I spanned more than twelve years, from March 2006 through August 2018, when the D.C. Court of Appeals issued its opinion requiring respondent to undergo a supervised probationary period. The record provides no explanation for the delay.

admission to the United States District Court for the Eastern District of Virginia (EDVA), in violation of Virginia Rule of Professional Conduct 3.3(a)(1) (false statement of material fact to a tribunal) and Virginia Rule of Professional Conduct 8.4(c). In re Rohde, 234 A.3d 1203 (D.C. 2020) (Rohde II).

We now turn to the facts of this matter.

The *Rohde I* Matter

On October 20, 2004, respondent consumed large quantities of alcohol at a District of Columbia bar across from his law office. After reaching the point of an alcoholic blackout, he began driving home and collided, head-on, with another vehicle, severely injuring the other driver and totaling her vehicle.[2] Following the collision, respondent immediately left the scene and drove home, with a flat tire and an exposed rim, causing sparks to fly. Law enforcement authorities recovered respondent's license plate at the scene of the accident and drove to respondent's home, where they observed his heavily damaged vehicle parked in the driveway. Thereafter, law enforcement

[2] Following the collision, the victim was immediately transported to the hospital, where she spent several weeks undergoing surgeries for spinal damage and a broken foot. The victim never regained complete mobility.

authorities forcefully knocked on respondent's front door for approximately thirty minutes; however, respondent failed to answer.

On April 18, 2005, an Arlington County, Virginia grand jury indicted respondent for one count of felony-level leaving the scene of an accident, in violation of Va. Code § 46.2-894. On August 10, 2005, respondent appeared in the Circuit Court of Arlington County, pleaded guilty, and was convicted of that charge. During the plea hearing, respondent accepted responsibility for his actions and noted that he had begun treatment for alcohol abuse.

On October 18, 2005, respondent notified the D.C. Court of Appeals of his conviction and requested that the court determine not to impose a temporary suspension for his misconduct. Respondent, however, who was then admitted pro hac vice in New Jersey, failed to notify the OAE of his conviction, as R. 1:20-13(a)(1) requires.

On November 18, 2005, the Arlington County Circuit Court sentenced respondent to a suspended two-year custodial term, a two-year probationary term, and required him to undergo substance abuse counseling, testing, and treatment.

Meanwhile, on December 5, 2005, the D.C. Court of Appeals determined not to temporarily suspend respondent for his conviction and, on March 16, 2006, ordered the institution of formal ethics proceedings against him to

determine the appropriate discipline for his misconduct. Thereafter, a formal ethics hearing was held before a D.C. hearing committee, in December 2007 and January 2008, where respondent testified that, due to his alcoholic blackout, he had no recollection of his collision with the victim's vehicle. Respondent, however, presented evidence that he had successfully completed his probationary sentence, in 2007; had become an active member in AA; had regularly participated in the LAP; and had an "excellent prognosis for recovery."

On June 27, 2013, prior to the issuance of a hearing panel report, the ethics hearing committee requested an update regarding respondent's treatment and rehabilitation for alcohol abuse. In response, respondent presented evidence of his continued participation in AA and the LAP, which included meeting with other attorneys with alcohol problems and speaking at local law schools.

On January 16, 2015, the ethics hearing committee issued a report finding that respondent's conviction for felony-level leaving the scene of an accident constituted a "serious crime," in accordance with D.C. Bar Rule XI §

10(b).[3, 4] Balancing respondent's criminal conduct against his successful rehabilitation for alcohol use, the committee recommended that respondent receive a two-year suspension, which would be stayed in favor of a three-year probationary period, during which respondent was to maintain sobriety and continue treatment for alcohol abuse.

On August 3, 2015, the D.C. Board on Professional Responsibility issued a report adopting the ethics hearing committee's disciplinary recommendation and urging the D.C. Court of Appeals to impose the same discipline. Id. at 32-33.

In an August 30, 2018 opinion, the D.C. Court of Appeals adopted the D.C. Board's recommendation and suspended respondent for two years; however, the court stayed the suspension "in favor of a three-year period of supervised probation," conditioned upon respondent committing no additional ethics infractions, maintaining his sobriety, and continuing his treatment and monitoring for alcohol abuse. The court explained that, although respondent committed a serious crime in which he totaled the victim's vehicle, severely

[3] A serious crime includes, among other things, "any felony" conviction. D.C. Bar Rule XI § 10(b). The only issue in disciplinary proceedings involving "serious crimes" is the quantum of final discipline to be imposed. D.C. Bar Rule XI § 10(d).

[4] The January 16, 2015 hearing panel report was not provided in the OAE's motion for final discipline. However, the D.C. Board on Professional Responsibility summarized the ethics hearing committee's findings in its August 3, 2015 report.

injured her, and fled the scene without rendering assistance, he, nevertheless, was suffering from alcoholism at the time of the incident, which he had successfully treated, with sustained sobriety, in the years since his offense.

The *Rohde II* Matter

In September 2010, while the Rohde I disciplinary proceedings were pending before a hearing committee, Cozen O'Connor requested that respondent file an application for pro hac vice admission to the EDVA, which would allow him to enter his appearance in ongoing litigation. According to the application, respondent was required to personally certify that he had "not been reprimanded in any court nor [had] there been any action in any court pertaining to [his] conduct or fitness as a member of the bar." Respondent discussed the application with his supervisor, who advised respondent not to disclose the ongoing Rohde I matter because it was only pending before a "hearing committee" and was never the subject of any prior "court" action. Although respondent acknowledged that, in March 2006, the D.C. Court of Appeals itself had ordered the institution of ethics proceedings against him, respondent noted that he did not have those court proceedings "in [his] mind" at the time of his 2010 pro hac vice application to the EDVA. Additionally, respondent and his supervisor both rationalized that respondent was never,

technically, "reprimanded" by a court, despite his 2005 felony conviction for leaving the scene of an accident.

Following his discussion with his supervisor, respondent met with a Virginia-barred Cozen O'Connor attorney, who was to move for respondent's pro hac vice admission. During the meeting, respondent reviewed the application for accuracy, however, he failed to disclose to the Virginia attorney his 2005 felony conviction or the ongoing disciplinary proceedings in Rohde I. According to the Virginia attorney, had she known of respondent's felony conviction or the pending disciplinary proceedings, she would not have filed the application.

On November 16, 2010, respondent and the Virginia attorney filed the pro hac vice application, in which respondent falsely certified that there had been no court action pertaining to his fitness as a member of the bar. That same date, the EDVA admitted respondent pro hac vice.

On December 6, 2010, the matter in which respondent was appearing pro hac vice was transferred to the United States District Court for the Southern District of New York (SDNY). Because respondent was not admitted in the SDNY, he requested that a New York-barred Cozen O'Connor attorney move for his pro hac vice admission. Unlike the EDVA application, respondent was not required to sign the application; however, the New York attorney was

required to certify that there were "no pending disciplinary proceeding[s] against [respondent] in any State or Federal court." Again, respondent failed to disclose to the New York attorney his felony conviction or the pending Rohde I disciplinary proceedings. According to the New York attorney, had he been aware of respondent's pending discipline in Rohde I, he would have consulted with the firm's ethics counsel before filing the application. Ultimately, on January 5, 2011, the SDNY granted pro hac vice status to respondent.

On September 27, 2019, a D.C. ethics hearing committee issued a report recommending a censure for respondent's violations of Virginia Rules of Professional Conduct 3.3(a)(1) and 8.4(c), citing his failure to disclose to the Virginia attorney, and in his pro hac vice application to the EDVA, his 2005 felony conviction and the resulting ethics proceedings in Rohde I.

The committee, however, declined to find that respondent's conduct regarding his pro hac vice application in the SDNY violated New York Rules of Professional Conduct 8.4(c) and 8.4(d) (conduct prejudicial to the administration of justice), because the SDNY's pro hac vice application expressly required disclosure only of pending disciplinary proceedings in any state or federal court. Because Rohde I was pending a decision before an ethics hearing committee and was not before a "court" at the time of respondent's pro hac vice application, the committee expressed its view that the New York

Rules of Professional Conduct did not require respondent to disclose his pending disciplinary proceedings.

On March 11, 2020, the D.C. Board on Professional Responsibility adopted the hearing committee's conclusions that respondent violated Virginia Rules of Professional Conduct 3.3(a)(1) and 8.4(c) and, likewise, recommended that respondent be censured. The D.C. Board also found no clear and convincing evidence that respondent violated New York Rules of Professional Conduct 8.4(c) and 8.4(d) in connection with his SDNY pro hac vice application because, although the D.C. Board found that Rohde I was pending before a "court" at the time of the SDNY pro hac vice application, there was insufficient evidence that respondent himself understood that Rohde I was pending before a "court," as opposed to a hearing committee, or that respondent had reviewed a draft of the application, had any discussions with the New York attorney regarding the application, or that he otherwise knew what representations the New York attorney would make in the application.

On August 13, 2020, the D.C. Court of Appeals issued an order censuring respondent for his violations of Virginia Rules of Professional Conduct 3.3(a)(1) and 8.4(c). In re Rohde, 234 A.3d 1203 (D.C. 2020).

Although the OAE's brief detailed respondent's misconduct in Rohde I and Rohde II, the OAE's motion for final discipline is premised only on

respondent's felony conviction for leaving the scene of an accident, as set forth in Rohde I. Pursuant to R. 1:20-1(a), every attorney "authorized to practice law in the State of New Jersey, including those attorneys specially authorized for a limited purpose or in connection with a particular proceeding, shall be subject to the disciplinary jurisdiction of the Supreme Court [. . . .]" Because respondent's misconduct in Rohde II occurred after his pro hac vice admission in New Jersey had expired, our Court has no jurisdiction, pursuant to R. 1:20-1(a), to discipline respondent for that specific misconduct. Although the OAE has appeared to have tacitly acknowledged this jurisdictional limitation because its motion for final discipline is "focused upon respondent's hit and run conviction[,]" the OAE did not squarely address the Court's jurisdiction over respondent regarding either Rohde I or Rohde II. However, the OAE urged us to consider respondent's misconduct in Rohde II as an aggravating factor in fashioning the appropriate quantum of final discipline for the Rohde I misconduct.

In support of its position that respondent receive a six-month bar on future pro hac vice admissions, the OAE relied on In re Murphy, 200 N.J. 427 (2009), and In re Saidel, 180 N.J. 359 (2004), where both attorneys received six-month retroactive suspensions for causing serious, alcohol-induced traffic accidents resulting in serious injuries to other drivers. In the Matter of Michael

P. Murphy, Jr., DRB 09-011 (July 16, 2009) (slip op. at 3); In the Matter of Scott F. Saidel, DRB 04-021 (May 4, 2004) (slip op. at 2-3). Those cases are discussed in detail below.

Here, as in Murphy, the OAE noted that, in mitigation, respondent had taken significant steps to combat his alcoholism. In aggravation, however, the OAE argued that respondent failed to disclose to the EDVA, and to the OAE while admitted pro hac vice in New Jersey, his conviction and related disciplinary proceedings in Rohde I.[5]

At oral argument and in his reply brief to the OAE's motion, respondent argued for a sanction short of a term of suspension, emphasizing the significant passage of time since his 2005 conviction, his successful treatment for alcohol abuse, and his assertion that he poses little danger to the New Jersey public because he neither holds a New Jersey plenary law license nor has been admitted, pro hac vice, in New Jersey for fourteen years. In addition, respondent alleged that a term of suspension would be inconsistent with R. 1:20-14(a)(4), which governs reciprocal discipline proceedings, given that the D.C. Court of Appeals, in its Rohde I opinion, stayed respondent's two-year suspension in favor of a three-year probationary period. Finally, without

[5] In analyzing the appropriate quantum of discipline, the OAE's brief contained no discussion regarding respondent's pro hac vice application to the SDNY.

squarely addressing jurisdictional considerations, respondent urged us to disregard his misconduct in Rohde II because the misrepresentations in his 2010 EDVA and SDNY pro hac vice applications occurred three years after his pro hac vice admission in New Jersey had terminated.

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 and conviction for felony-level leaving the scene of an accident, in violation of Va. Code § 46.2-894, thus, 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."

Regarding the OAE's additional charge that respondent violated RPC 8.4(c), we determine that there is insufficient evidence to clearly and convincingly find that respondent, at the time of the Rohde I accident, had the requisite intent to engage in dishonest, fraudulent, or deceitful conduct. It is well-settled that a violation of RPC 8.4(c) requires proof of intent. See In the Matter of Ty Hyderally, DRB 11-016 (July 12, 2011) (case dismissed for lack

of clear and convincing evidence that the attorney had knowingly violated R. 1:39-6(b), which prohibits the improper use of the New Jersey Board of Attorney Certification emblem; attorney's website, which was created by a nonlawyer who wanted it to look "attractive and appealing," contained the emblem, even though the attorney was not a certified civil trial lawyer; the attorney was unaware of the emblem's placement on the website and, upon being told of its presence, had it removed immediately; the emblem was not on his letterhead or business cards, and he did not tell anyone that he was a certified civil trial attorney).

Here, because the record before us provides that respondent was so impaired as to be in a "blackout" status at the time of accident, there is insufficient evidence to conclude that respondent had the requisite deceptive intent when he fled the scene of the accident. Although he managed to drive home with a flat tire and an exposed rim, this fact alone does not clearly and convincingly demonstrate that respondent acted deceptively. Indeed, the record fails to conclusively establish any mens rea for respondent regarding the accident. In contrast to the RPC 8.4(c) analysis, no specific level of intent is necessary to sustain a conviction for felony leaving the scene of an accident under Va. Code § 46.2-894. See Daniels v. Commonwealth, 2013 Va. App. LEXIS 81 (Mar. 12, 2013).

Hence, the sole issue left to determine is the extent of discipline to be imposed on respondent for his violation of RPC 8.4(b). R. 1:20-13(c)(2); In re Magid, 139 N.J. at 451-52; In re Principato, 139 N.J. at 460.

As a preliminary matter, although respondent relied on R. 1:20-14(a)(4) in support of his argument for a sanction short of a term of suspension, that Rule governs reciprocal discipline proceedings, in which the Board "shall recommend the imposition of [. . .] identical [. . .] discipline unless" among other exceptions, "the unethical conduct established warrants substantially different discipline." However, as noted above, the instant matter is before us on a motion for final discipline, pursuant to R. 1:20-13(c), which contains no presumption of identical discipline to that imposed in a foreign jurisdiction.

The Court has noted that, although it does not conduct "an independent examination of the underlying facts to ascertain guilt," it will "consider them relevant to the nature and extent of discipline to be imposed." Magid, 139 N.J. at 452. In motions for final discipline, it is acceptable to "examine the totality of the circumstances," including the "details of the offense, the background of respondent, and the pre-sentence report" before "reaching a decision as to [the] sanction to be imposed." In re Spina, 121 N.J. 378, 389 (1990). The "appropriate decision" should provide "due consideration to the interests of the attorney involved and to the protection of the public." Ibid.

That an attorney's misconduct 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 an 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).

As noted above, although the OAE appeared to recognize the jurisdictional issues attendant to respondent's post-2007 misconduct, which is addressed in Rohde II, the OAE urged us to consider that additional unethical conduct as an aggravating factor in determining the appropriate quantum of discipline. See In re Kim, 227 N.J. 455 (2017), and In re Steiert, 201 N.J. 119 (2010) (evidence of unethical conduct contained in the record can be considered in aggravation, despite the fact that such unethical conduct was not charged in the formal ethics complaint). In turn, also without squarely addressing jurisdictional considerations, respondent urged us to disregard his misconduct in Rohde II. Yet, respondent argued that we should consider – and assign significant weight to – mitigation that occurred after his period of pro

hac vice admission in New Jersey had expired.

Here, to craft the appropriate discipline, we consider "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." Magid, 139 N.J. at 452 (citations omitted). Thus, to obtain the "full picture" of respondent, Spina, 121 N.J. 378 at 389, we consider both his aggravating conduct in Rohde II and his mitigating conduct that occurred after his pro hac vice admission had ended in 2007, including his sustained sobriety and community involvement. However, given the jurisdictional limitations inherent in this matter, we accord minimal weight to respondent's post-2007 aggravating and mitigating conduct and, instead, focus our analysis on the appropriate quantum of discipline for respondent's conviction for fleeing the scene of an accident in Rohde I.

Typically, attorneys convicted of alcohol-induced vehicular crimes resulting in death or serious injuries will receive a term of suspension, the length of which depends on the severity of the resulting injuries and whether the attorney took rehabilitative steps following the accident. See In re Murphy, 200 N.J. 427 (2009) (six-month suspension for attorney convicted of aggravated assault by auto while driving under the influence, reckless endangerment of another person, and driving under the influence of alcohol;

the attorney, whose blood alcohol content was more than two and one-half times the legal limit, traveled in the wrong direction on the Pennsylvania Turnpike, causing a head-on collision with another vehicle and injuring three people, one of whom suffered a broken femur that required surgical repair with plates and rods; following the accident, the attorney realized that he had an alcohol problem and successfully completed a five-week intensive treatment program for alcoholism, continued to regularly attend AA meetings, and maintained his sobriety); In re Saidel, 180 N.J. 359 (2004) (six-month suspension for attorney convicted of two counts of "endangerment" in Arizona; the attorney, who was intoxicated, drove his vehicle at excessive speeds and flipped, causing serious injuries to his two passengers); In re Toland, __ N.J. __ (2007), 2007 N.J. Lexis 1064 (one-year suspension for attorney convicted of third-degree assault by auto; the attorney, who was driving while intoxicated with a blood alcohol content more than three times the legal limit, caused a multi-car accident when she made an illegal U-turn on the New Jersey Turnpike; three people suffered multiple broken bones, lacerations, and contusions, including a five-year-old boy; the attorney downplayed the extent of her drug and alcohol problems); In re Jadeja, 236 N.J. 6 (2018) (two-year suspension for attorney convicted of second-degree manslaughter, second-degree assault, driving under the influence of alcohol,

and driving while impaired; after drinking in New York City, and while under the influence of alcohol and Xanax, the attorney drove his automobile onto the Long Island Expressway, colliding with another vehicle and fatally injuring the other driver); In re Guzzino, 165 N.J. 24 (2000) (two-year suspension for 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 a result of driving at a high rate of speed); and In re Koufos, 220 N.J. 577 (2015) (disbarment for attorney who, after drinking at a local bar association function, 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 had struck, and severely injured, a seventeen-year-old man as he walked with his friends; the attorney 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, the attorney told him to expect to be entered into a pre-trial intervention program or to be sentenced to probation for the accident; however, the attorney was a certified criminal trial attorney and, thus, knew at the time that there was no presumptive sentence for such conduct, and that his friend risked

incarceration while he stood to go free; the Court disbarred the attorney for his post-accident conduct, specifically, his egregious efforts to corrupt the criminal process).

Attorneys convicted of vehicular offenses resulting in less serious injuries have received admonitions or reprimands, even if they improperly left the scene of an accident; however, greater discipline has resulted in cases where attorneys have attempted to thwart the criminal process. See In re Terrell, 203 N.J. 428 (2010) (admonition for attorney who rear-ended an automobile on his way home from an office holiday party and left the scene; the struck automobile sustained minor damage and one of the occupants was taken to the hospital for neck pain; the attorney pleaded guilty to fourth-degree assault by auto, driving while intoxicated, and leaving the scene of an accident; in mitigation, we considered the attorney's unblemished disciplinary record, his cooperation with the OAE, and the lack of serious injuries to the occupants of the other vehicle); In re Shiekman, 235 N.J. 167 (2018) (reprimand for attorney convicted of fourth-degree assault by auto and driving while intoxicated; the attorney, whose blood alcohol content was more than twice the legal limit, exited a highway toll booth and struck the vehicle in front of him, causing non-serious injuries to the occupants of that vehicle); In re Fedderly, 189 N.J. 127 (2007) (reprimand for attorney convicted of third-

degree assault by auto and driving while intoxicated; the passenger in the other vehicle suffered a broken ankle; in mitigation, after the accident, the attorney immediately stopped drinking and enrolled in an outpatient alcohol treatment program, regularly began attending AA and LAP meetings, and expressed sincere remorse for his misconduct); In re Cardullo, 175 N.J. 107 (2003) (reprimand for attorney convicted of fourth-degree assault by auto, driving while intoxicated, and leaving the scene of an accident; the driver of the other vehicle sustained neck and back injuries, requiring a month of physical therapy; the attorney initially denied involvement in the accident, until she was told that there were witnesses; mitigating factors included the absence of serious injuries; the attorney's treatment for her alcohol addiction, including six months in an in-patient treatment facility; her continued counseling for her addiction; and her compliance with a LAP plan); and In re Kornreich, 149 N.J. 346 (1997) (three-year suspension for attorney convicted of failure to report a motor vehicle accident and leaving the scene of an accident; although the attorney caused a minor motor vehicle accident in a parking lot, she misrepresented to the police, to her lawyer, and to a municipal court judge that her babysitter had been operating her vehicle; compounding matters, the attorney also presented false evidence in an attempt to accuse the babysitter of her own wrongdoing).

Here, respondent's misconduct is most similar to that of the attorney in Murphy, who received a six-month suspension. Like Murphy, respondent had consumed large quantities of alcohol and collided, head-on, with another vehicle, severely injuring the driver, who spent several weeks in a hospital undergoing surgeries to treat her spinal damage. Also like the attorney in Murphy, respondent recognized his alcoholism and has successfully engaged in treatment, with sustained sobriety, in the years since the accident.

Despite respondent's successful rehabilitation, the fact remains that he fled the scene of a serious accident, in which the other driver was grievously injured. In aggravation, respondent repeatedly concealed his misconduct from state and federal courts in the years following his offense. Specifically, respondent failed to notify the OAE of his 2005 felony conviction, despite his then-current pro hac vice admission to the New Jersey Bar, in violation of R. 1:20-13(a)(1). Further, respondent failed to disclose his conviction and his ongoing disciplinary proceedings in Rohde I when he filed for pro hac vice admission with two separate federal courts. Respondent's failure to disclose his ongoing disciplinary proceedings to the EDVA was not simply an oversight; rather, after careful deliberation with his supervisor, respondent falsely certified to the EDVA that there had been no court action pertaining to his fitness as a member of the bar, despite the fact that the D.C. Court of

Appeals itself had ordered the institution of ethics proceedings against him based on his felony conviction. Only a few weeks after his pro hac vice application to the EDVA, respondent's pro hac vice application to the SDNY, again, falsely certified that there were no pending disciplinary proceedings against him in any state or federal court. The D.C. Court of Appeals was unable to find that respondent had acted unethically in connection with his pro hac vice application to the SDNY based on a lack of evidence regarding the preparation of the application. However, respondent was well aware of his then-pending discipline and should have disclosed same to the New York attorney to avoid deceiving the SDNY as to his character and fitness for pro hac vice admission.

Despite these aggravating facts, respondent neither holds a New Jersey plenary law license nor has been admitted, pro hac vice, in this State since 2007. These facts, coupled with respondent's rehabilitation for alcohol abuse and the passage of time since respondent's 2005 conviction would, normally, demonstrate that he poses a minimal threat to the New Jersey public. However, because respondent failed to notify the OAE of his conviction at the time of his pro hac vice admission, we accord minimal weight to the passage time since his criminal act.

On balance, to protect the public and preserve confidence in the bar, we determine to impose a six-month bar on respondent's ability to apply for future pro hac vice or plenary admission in New Jersey.

Chair Gallipoli voted to impose a one-year bar on respondent's ability to apply for future pro hac vice or plenary admissions in New Jersey.

Member Boyer was absent.

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
Hon. Maurice J. Gallipoli, A.J.S.C. (Ret.),
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 Wayne Robert Rohde
Docket No. DRB 21-169

Argued: November 18, 2021

Decided: January 21, 2022

Disposition: Six-Month Bar on Future Plenary or Pro Hac Vice Admission

Members	Six-Month Bar on Future Plenary or Pro Hac Vice Admission	One-Year Bar on Future Plenary or Pro Hac Vice Admission	Absent
Gallipoli		X	
Singer	X		
Boyer			X
Campelo	X		
Hoberman	X		
Joseph	X		
Menaker	X		
Petrou	X		
Rivera	X		
Total:	7	1	1

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