Supreme Court of New Jersey
Disciplinary Review Board
Docket No. DRB 21-178
District Docket No. XIV-2020-0322E

In the Matter of Andrew R. Hurda An Attorney at Law	:

Decision

Argued: November 18, 2021

Decided: January 27, 2022

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

Respondent did not appear, despite proper notice.

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 guilty plea and conviction, in the Court of Common Pleas,

Northampton County, Pennsylvania, for one count of misdemeanor false swearing, contrary to 18 Pa.C.S.A. 4903(a)(1).[1] The OAE asserted that respondent's misconduct constitutes a violation of RPC 8.4(b) (committing a criminal act that reflects adversely on a lawyer's honesty, trustworthiness or fitness as a lawyer in other respects) 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 impose a deferred, four-year suspension, with conditions.

Respondent was admitted to the New Jersey bar in 2006 and to the Pennsylvania bar in 2001. He has no prior discipline in New Jersey.

On August 24, 2015, the Court entered an Order administratively revoking respondent's license to practice law, based on his failure to pay the annual assessment to the New Jersey Lawyers' Fund for Client Protection for seven consecutive years.[2]

We now turn to the facts of this matter.

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[1] 18 Pa.C.S.A. 4903(a)(1) provides: "A person who makes a false statement under oath or equivalent affirmation, or swears or affirms the truth of such a statement previously made, when he does not believe the statement to be true is guilty of a misdemeanor of the second degree if: (1) the falsification occurs in an official proceeding."

[2] R. 1:28-2(c) provides that an Order of revocation does not preclude the Court from exercising jurisdiction over misconduct that pre-dated the Order.

The facts underlying respondent's criminal conviction for false swearing are derived from the May 30, 2012, criminal complaint, as well as the January 7, 2021 Joint Petition in Support of Discipline on Consent under Rule 215(d), Pa.R.D.E., which underpinned respondent's Pennsylvania disciplinary matter. On May 6, 2011, law enforcement authorities arrested respondent for driving a vehicle while his operating privileges were suspended or revoked, based upon his prior driving under the influence (DUI) convictions in Pennsylvania.

On October 14, 2011, respondent, duly sworn, appeared before the Honorable Michael Koury, Jr. of the Court of Common Pleas of Northampton County, Pennsylvania and pleaded guilty to driving while suspended due to his prior DUI convictions. Upon entry of the plea, Judge Koury granted respondent's request to delay his sentencing so that respondent could complete an inpatient alcohol abuse treatment program.

Thereafter, on January 6, 2012, respondent again appeared before Judge Koury. After being duly sworn, respondent informed the court that he had a letter documenting his completion of a four-month long drug and alcohol treatment program. Judge Koury then deferred sentencing until January 20,

2012, so that respondent could complete Pennsylvania's required Court Reporting Network (CRN) evaluation.[3]

On January 20, 2012, respondent provided the court with a letter attesting to his participation in inpatient treatment, from July 21 through October 21, 2011, at the Lenape Valley Foundation in Doylestown, Pennsylvania. The letter, which was addressed to respondent and dated October 21, 2011, purported to be a "Certification of Completion of Treatment," signed by Todd Fabryk, M.Ed., LPC, LCDC.

Thereafter, Judge Koury sentenced respondent to a ninety-day prison term and granted him time served at the Lenape Valley Foundation. Respondent was ordered to report to Northampton County Correctional Facility on January 30, 2012, at which time he would provide officials with the information necessary to calculate his credits.

Five days after respondent's sentencing hearing, the Intake Administrator of the Northampton County Correctional Facility sent Fabryk's purported letter, via facsimile, to the Director of the Lenape Valley

[3] In Pennsylvania, a CRN evaluation is required for every DUI offense. A CRN is a pre-screening tool used to determine whether a defendant will be referred for a more comprehensive drug and alcohol assessment.

Foundation, seeking to verify respondent's successful completion of the Foundation's inpatient program.

The Director advised the administrator that the letter was fraudulent, noting that she did not employ an individual named Todd Fabryk, that the Foundation did not offer long-term inpatient adult drug and alcohol treatment programs, and that the letter was written on the Foundation's "unofficial" letterhead.

At a later, unspecified date, Detective Robert A. Miklich, of the Northampton County District Attorney's Office, lawfully monitored a conversation respondent had with an unidentified individual at the Northampton County Correctional Facility, while incarcerated, wherein respondent admitted he had forged the letter from Fabryk and lied under oath.

On May 30, 2012, the County of Northampton issued a criminal complaint against respondent containing the aforementioned allegations. Subsequently, on October 12, 2012, respondent was charged by Information in the Court of Common Pleas of Northampton County with one count of second-degree misdemeanor false swearing in an official proceeding.

On April 8, 2013, respondent appeared before the Honorable Leonard N. Zito and pleaded guilty to second-degree misdemeanor false swearing in an official proceeding, in violation of 18 Pa.C.S.A. § 4903(a)(1). During his

guilty plea allocution, respondent adopted the facts as set forth in Detective Miklich's Affidavit of Probable Cause. Additionally, respondent represented that he had taken steps to address his alcoholism, as well as his bipolar disorder. Respondent stated that, after serving his prison term, he wished to organize "meetings" in the prison, noting the lack of volunteers willing to do so. Judge Zito sentenced respondent to eighteen months of supervised probation and ordered him to remain drug and alcohol free.

The Pennsylvania Office of Disciplinary Counsel (the ODC) later initiated an investigation into respondent's criminal conviction, as well as additional allegations of misconduct regarding respondent's practice of law. By order dated June 11, 2020, the Supreme Court of Pennsylvania temporarily suspended respondent, effective July 11, 2020. On January 7, 2021, respondent entered into a Joint Petition and stipulated that he had committed the following misconduct.

The Bucks County Case

In 2010, a criminal case was filed against respondent in the Court of Common Pleas of Bucks County. On April 22, 2010, respondent appeared before the Honorable Rea B. Boylan and pleaded guilty to two separate DUI offenses; General Impairment, a misdemeanor, in violation of 75 Pa.C.S.A §

3802(a)(1),[4] and High Rate of Alcohol, a misdemeanor, in violation of 75 Pa.C.S.A § 3802(b).[5] Both offenses were punishable by a term of imprisonment not to exceed six months.

During his plea allocution, respondent admitted that, on December 15, 2009, in Quakertown Borough, Pennsylvania, he had operated a vehicle while he had a blood alcohol level of .12%. For the High Rate of Alcohol offense, Judge Boylan sentenced respondent to a flat term of forty-eight hours' imprisonment; imposed a fine and court costs; directed respondent to surrender his driver's license; and required respondent to complete a highway safety class. Judge Boylan did not impose a penalty for the General Impairment misdemeanor.

Under former Pa.R.D.E. 214(i), respondent was not required to report his conviction to the ODC because his offense did not constitute a "serious crime."

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[4] 75 Pa.C.S.A. § 3802(a)(1) provides: "An individual may not drive, operate or be in actual physical control of the movement of a vehicle after imbibing a sufficient amount of alcohol such that the individual is rendered incapable of safely driving, operating or being in actual physical control of the movement of the vehicle."

[5] 75 Pa.C.S.A. § 3802(b) provides: "An individual may not drive, operate or be in actual physical control of the movement of a vehicle after imbibing a sufficient amount of alcohol such that the alcohol concentration in the individual's blood or breath is at least 0.10% but less than 0.16% within two hours after the individual has driven, operated or been in actual physical control of the movement of the vehicle."

The Montgomery County Case

On March 30, 2011, before the Honorable Thomas C. Branca, in the Court of Common Pleas of Montgomery County, respondent pleaded guilty to an amended offense of second-degree misdemeanor recklessly endangering another person, contrary to 18 Pa. C.S.A. § 2705.[6] The offense occurred in 2010, subsequent to the Bucks County offense, although details of the offense are unknown. Judge Branca sentenced respondent to two years of probation.

Although this conviction constituted a "serious crime," and respondent was required to report his conviction to the ODC, he failed to do so.

The 2011 Northampton County Case

On October 14, 2011, respondent appeared before Judge Koury and pleaded guilty to DUI – General Impairment, a misdemeanor, in violation of 75 Pa.C.S.A. § 3802(a)(2),[7] and Driving While Operating Privilege is

[6] 18 Pa.C.S.A. § 2705 provides: "A person commits a misdemeanor of the second degree if he recklessly engages in conduct which places or may place another person in danger of death or serious bodily injury."

[7] 75 Pa.C.S.A. § 3802(a)(2) provides: "An individual may not drive, operate or be in actual physical control of the movement of a vehicle after imbibing a sufficient amount of alcohol such that the alcohol concentration in the individual's blood or breath is at least 0.08% but less than 0.10% within two hours after the individual has driven, operated or been in actual physical control of the movement of the vehicle."

Suspended or Revoked, a summary offense,[8] in violation of 75 Pa.C.S.A. § 1543(b)(1)(1.1)(i).[9] As neither offense constituted a serious crime, respondent was not required to report his convictions to the ODC.

In his factual basis, respondent admitted that, on May 6, 2011, he operated a vehicle with a blood alcohol level of .09%, while his driver's license was suspended.

This matter is the criminal case in which respondent presented the fraudulent letter from Lenape Valley Foundation, at his January 20, 2012, sentencing hearing, as detailed above.

The Delaware County Case

On May 14, 2012, respondent appeared before the Honorable James P. Bradley and pleaded guilty to DUI – Highest Rate of Alcohol, a first-degree

[8] In Pennsylvania, a summary offense is designated as the most minor class of offense, less severe than a misdemeanor, and is punishable by no longer than ninety days in prison. See 18 Pa.C.S. § 106(c).

[9] 75 Pa.C.S.A. § 1543(b)(1)(1.1)(i) provides: "A person who has an amount of alcohol by weight in his blood that is equal to or greater than .02% at the time of testing [. . .] or who refuses testing of blood or breath and who drives a motor vehicle on any highway or trafficway of this Commonwealth at a time when the person's operating privilege is suspended or revoked [. . .] shall, upon a first conviction, be guilty of a summary offense and shall be sentenced to pay a fine of $ 1,000 and to undergo imprisonment for a period of not less than 90 days."

misdemeanor, in violation of 75 Pa.C.S.A. § 3802(c).[10] In his factual basis, respondent admitted that he had operated a vehicle in the Commonwealth of Pennsylvania with a blood alcohol level of .171%. Judge Bradley sentenced respondent to a term of imprisonment of ninety days to twenty-three months, with credit for time served, to be followed by three-years of probation; imposed a fine of $1,000 and court costs; directed him to make a restitution payment of $577.58; and required him to submit to a drug and alcohol evaluation and to comply with general and DUI rules and regulations governing probation and parole.

Respondent failed to report his conviction for this serious crime to the ODC.

The 2012 Northampton County Case

On April 8, 2013, respondent appeared before Judge Zito and pleaded guilty to the second-degree false swearing in official matters offense, as described above. Respondent failed to report his conviction to the ODC as required.

[10] 75 Pa.C.S.A. § 3802(c) provides: "An individual may not drive, operate or be in actual physical control of the movement of a vehicle after imbibing a sufficient amount of alcohol such that the alcohol concentration in the individual's blood or breath is 0.16% or higher within two hours after the individual has driven, operated or been in actual physical control of the movement of the vehicle."

Post-Revocation Misconduct

In the Joint Petition, in addition to his criminal conduct, respondent stipulated that he had failed to provide legal services to clients who paid his fees in advance (the Surrogate cases). Additionally, on April 25, 2019, while driving without a valid Pennsylvania driver's license, respondent rear-ended another vehicle. The car's owner was insured through Progressive Casualty Insurance Company (Progressive). The day after the accident, respondent had a telephone conversation with Chastity, an employee of Progressive, which was recorded. During the telephone conversation, Chastity asked respondent if he possessed a valid Pennsylvania driver's license at the time of the accident. Respondent indicated that he did, despite knowing that he did not, and, thus, made a misrepresentation to Progressive.

Although the OAE included respondent's additional misconduct for our consideration, we are precluded from such consideration because the additional misconduct occurred after respondent's license had been revoked in New Jersey. See R. 1:28-2(c).

In the Joint Petition, respondent stipulated that he violated RPC 8.4(b) (five counts) in connection with his criminal behavior. He further stipulated that he violated RPC 1.3, RPC 1.4(b), and RPC 8.4(c) in respect of his

misconduct in the Surrogate cases. Consequently, the Joint Petition recommended that respondent receive a four-year suspension, retroactive to June 11, 2020, the effective date of his temporary suspension in Pennsylvania.

In mitigation, the parties stipulated that respondent had admitted his misconduct; cooperated with the ODC; was remorseful for his misconduct; understood that he should be disciplined, as evidenced by his consent to a four-year suspension; and had no disciplinary history in Pennsylvania.

In its motion for final discipline, the OAE argued that, for the totality of respondent's misconduct in Pennsylvania, he should receive a six-month bar from reapplying for admission in New Jersey. Specifically, the OAE asserted that it filed this matter as a motion for final discipline focused upon respondent's conviction for false swearing. The OAE further asserted, however, that the appropriate quantum of discipline to be imposed on respondent should be inclusive of respondent's other criminal convictions as well as his misconduct in the Surrogate cases.

The OAE equated respondent's false swearing to a lack of candor to a tribunal. Conversely, the OAE claimed that "it is a closer question" whether discipline for respondent's DUI-related offenses should be imposed and cited to In re McLaughlin, 223 N.J. 243 (2015), and In re Dempsey, 240 N.J. 221 (2019), in support of us imposing discipline. The OAE did not analyze the

appropriate quantum of discipline to be imposed for respondent's refusal to refund the unearned legal fees in the Surrogate cases.

In mitigation, the OAE noted that respondent has no prior discipline in either New Jersey or Pennsylvania and had cooperated with Pennsylvania ethics authorities. In aggravation, the OAE noted that respondent had been convicted of false swearing and had four prior cases in the criminal justice system. Furthermore, respondent did not report any of his criminal matters or the Pennsylvania ethics case to the OAE, as the disciplinary Rules require.

At oral argument before us, the OAE maintained its position that a six-month bar on respondent's re-admission to the practice of law was the appropriate quantum of discipline for respondent's misconduct. The OAE contended that, although respondent had no disciplinary history in Pennsylvania or New Jersey, he had four prior contacts with the criminal justice system.

Respondent neither filed a brief for our consideration nor appeared before us for oral argument.

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); and In re Principato, 139 N.J. 456, 460 (1995). Respondent's conviction for false swearing, during a proceeding addressing a DUI charge and other criminal offenses, 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." Moreover, pursuant to RPC 8.4(c), it is professional misconduct for an attorney to "engage in conduct involving dishonesty, fraud, deceit or misrepresentation." Hence, the sole issue for our determination is the extent of discipline to be imposed on respondent for his violation of RPC 8.4(b) and RPC 8.4(c). R. 1:20-13(c)(2); In re Magid, 139 N.J. at 451-52; and In re Principato, 139 N.J. at 460.

"The primary purpose of discipline is not to punish the attorney but to preserve the confidence of the public in the bar." Id. (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).

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." Id.

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, respondent was convicted of one count of false swearing. Importantly, respondent's false swearing occurred during a January 2012 court hearing relating to his second DUI charge (and third criminal charge) in less than two years.

In sum, we find that respondent violated RPC 8.4(b) and RPC 8.4(c). Although the only remaining issue is the appropriate quantum of discipline to be imposed for respondent's misconduct, we cannot address respondent's false swearing conviction without first addressing the underlying criminal conduct which ultimately led to the false swearing conviction.

Respondent's lie to the court occurred during his third time before the court for criminal charges. In December 2009, respondent sustained his first DUI charge when he drove with a blood alcohol content of .12%. Consequently, the court suspended his driver's license. Thereafter, in 2011, respondent pleaded guilty to the criminal charge of recklessly endangering another, which placed the other person in danger of death or serious bodily injury – the details of which are unknown. Then, in May 2011, respondent received a second DUI charge when he drove with a blood alcohol content of .09% on a suspended driver's license.

Following his second DUI charge, respondent requested that the judge delay sentencing so that respondent could complete an inpatient alcohol abuse treatment program. Rather than actually engage in treatment, for what appears to be a severe alcohol abuse problem, respondent fabricated a letter claiming that he had completed a four-month long inpatient treatment program. We are particularly troubled by respondent's preparation of the false letter, complete

with an invented substance abuse counselor, purporting to be evidence that he completed an inpatient treatment program.

Even more troubling, after creating the fraudulent letter, respondent presented it to the court in his bid to minimize the sentence for his criminal conduct. Additionally, although the date is not clear in the record, at some point prior to lying to the court, respondent received a third DUI charge when he drove, on a suspended driver's license, with a blood alcohol content of .171%.

The OAE argued that respondent violated RPC 8.4(b) and RPC 8.4(c), based on his false swearing conviction, but suggested that we could consider the totality of respondent's misconduct, in aggravation, when determining the appropriate quantum of discipline to impose.

In this matter, we have considered all of respondent's misconduct that occurred prior to the Court's Order of revocation of his license in New Jersey. See In re Steiert, 220 N.J. 103 (2014). In Steiert, we considered the totality of an attorney's unethical conduct – including charged and uncharged RPC violations. We considered the uncharged misconduct in aggravation. Similar to the framework of Steiert, in this case, our ultimate recommendation in respect of the appropriate measure of discipline encompasses the full breadth of

respondent's criminal conduct and demonstrated inability to learn from consequences.

Generally, the discipline imposed on an attorney who makes misrepresentations to a court or exhibits a lack of candor to a tribunal, or both, ranges from a reprimand to a long-term suspension. See, e.g., In re McLaughlin, 179 N.J. 314 (2004) (reprimand imposed on attorney, who had been required by the New Jersey Board of Bar Examiners to submit quarterly certifications attesting to his abstinence from alcohol, but falsely reported that he had been alcohol-free during a period within which he had been convicted of driving while intoxicated, a violation of RPC 8.4(c); in mitigation, after the false certification was submitted, the attorney sought the advice of counsel, came forward, and admitted his transgressions); In re Monahan, 201 N.J. 2 (2010) (attorney censured for submitting two certifications to a federal district court in support of a motion to extend the time within which to file an appeal; the attorney misrepresented that, when the appeal was due to be filed, he was seriously ill and confined to his home on bed rest and, therefore, either unable to work or unable to prepare and file the appeal, a violation of RPC 3.3(a)(1); the attorney also practiced law while ineligible); In re Trustan, 202 N.J. 4 (2010) (three-month suspension for attorney who, among other things, submitted to the court a client's case information statement that falsely

asserted that the client owned a home, and drafted a false certification for the client, which was submitted to the court in a domestic violence trial; violations of RPC 3.3(a)(1) and (4); other violations included RPC 1.8(a) and (e), RPC 1.9(c), and RPC 8.4(a), (c), and (d)); In re Perez, 193 N.J. 483 (2008) (on motion for final discipline, three-month suspension for attorney guilty of false swearing; the attorney, then the Jersey City Chief Municipal Prosecutor, lied under oath at a domestic violence hearing that he had not asked the municipal prosecutor to request a bail increase for the person charged with assaulting him; violations of N.J.S.A. 2C:28-2a and RPC 8.4(b)); In re Cillo, 155 N.J. 599 (1998) (one-year suspension for attorney who, after misrepresenting to a judge that a case had been settled and that no other attorney would be appearing for a conference, obtained a judge's signature on an order dismissing the action and disbursing all escrow funds to his client; the attorney knew that at least one other lawyer would be appearing at the conference and that a trust agreement required that at least $500,000 of the escrow funds remain in reserve; violations of RPC 3.3(a)(1) and (2), RPC 3.5(b), and RPC 8.4(c) and (d); two prior private reprimands [now admonitions]); and In re Kornreich, 149 N.J. 346 (1997) (three-year suspension for attorney who had been involved in an automobile accident and then misrepresented to the police, to her lawyer, and to a municipal court judge that her babysitter had been

operating her vehicle; the attorney also presented false evidence to falsely accuse the babysitter of her own wrongdoing; violations of RPC 3.3(a)(4), RPC 3.4(f), and RPC 8.4(b)-(d)).

A reprimand is the baseline measure of discipline for respondent's multiple DUIs and operating a vehicle with a suspended driver's license convictions. In In re McLaughlin, 223 N.J. 243 (2015), the first disciplinary case decided after the Legislature enacted N.J.S.A. 2C:40-26, the attorney pleaded guilty to operating a motor vehicle while his driver's license was suspended for driving while intoxicated, contrary to N.J.S.A. 2C:40-26(b). In the Matter of Michael A. McLaughlin, Sr., DRB 14-382 (June 16, 2015) (slip op. at 1-2). He was sentenced to six months in the county jail, to be served concurrently with the terms he was serving for the prior DWI, and was ordered to pay mandatory fines and assessments. Id. at 3.

We remarked that, on the one hand, unlike attorneys in previous DWI cases, McLaughlin "was not involved in a motor vehicle accident, did not harm any other individuals, and was not intoxicated at the time of his arrest." Id. at 7. On the other hand, we considered, in aggravation, the 2004 reprimand that McLaughlin had received for misrepresenting to the Board of Bar Examiners that he had abstained from the use of alcohol. Id. at 8. "Given respondent's

disciplinary history for conduct related to his alcohol addiction," we determined to impose a reprimand with conditions. Ibid. The Court agreed.

In In re Dempsey, 240 N.J. 221 (2019), the Court imposed a reprimand on an attorney who pleaded guilty to the same offense as respondent, in addition to driving while intoxicated. In the Matter of Stephen P. Dempsey, DRB 18-380 (June 25, 2019) (slip op. at 1-2). Dempsey's fourth-degree conviction and the DWI were his second violations. Id. at 2. As a result of his intoxication, Dempsey was involved in a motor vehicle accident, although no one was injured. Ibid.

For the fourth-degree crime, Dempsey was sentenced to six months in jail, or, if a room were available, at a residential treatment facility. Id. at 4. The sentencing judge also imposed penalties and fines. Ibid. For the DWI conviction, which was his fourth, the court imposed fines, costs, and surcharges, and suspended Dempsey's license for two years, to run concurrently with any existing suspension, followed by one year's use of an ignition interlock, plus an additional six months in county jail or a residential treatment facility, to be served concurrently. Id. at 4-5.

Here, the severity and pervasiveness of respondent's criminal history must be met with stern discipline. Respondent comes before us with five criminal convictions: three involving DUI, one involving the reckless

endangerment of another, and one involving false swearing during a court proceeding. Respondent's pattern of dishonest conduct, even after facing severe consequences – including imprisonment – evidences the need for a significant sanction in order to protect the public. Although respondent has no disciplinary record, and cooperated with Pennsylvania disciplinary authorities, those mitigating factors are woefully insufficient to overcome the egregious nature of respondent's misconduct. Moreover, had respondent complied with his reporting requirements, he currently would not have an unblemished record.

Respondent's misconduct is most analogous to the misconduct addressed by us in Kornreich. Like that attorney, he stands on the precipice of disbarment for his misrepresentations, which were designed to save him from the consequences of his criminal acts. Like Kornreich, respondent presented false evidence to a court following his commission of a crime. Kornreich's misconduct involved one vehicular accident, but respondent's misconduct persisted. Following multiple DUI convictions, in an attempt to reduce his criminal sentence, respondent persuaded the judge overseeing his case to delay sentencing so that respondent could complete treatment for his alcohol abuse. Even though the judge agreed, respondent failed to complete the treatment he had requested. Instead, respondent fabricated a letter from the Lenape Valley

Foundation indicating that he had completed the treatment. Respondent presented the fraudulent document to the court and was caught when correctional facility staff attempted to verify his treatment.

Furthermore, unlike Kornreich, whose criminal conduct stemmed from one vehicular accident, respondent's criminal conduct resulted in five separate criminal convictions, culminating in his false swearing conviction. Consequently, in our view, the baseline for any discipline imposed upon respondent must be at least equal to the three-year suspension imposed in Kornreich.

It is clear that respondent has demonstrated an inability to learn from past mistakes. Rather, he has demonstrated an ongoing propensity to lie to cover up his illegal and unethical conduct. Therefore, the mitigating factors of respondent's unblemished disciplinary record and his cooperation with Pennsylvania ethics authorities are insufficient to overcome his egregious false swearing conviction and other criminal conduct.

Therefore, considering respondent's criminal record and brazen attempt to escape punishment for his criminal conduct, we determine that a four-year suspension is the appropriate quantum of discipline necessary to protect the public and to preserve confidence in the bar. Because respondent's license to

practice law in New Jersey has been revoked, that suspension is deferred unless and until respondent seeks re-admission to the New Jersey bar.

Furthermore, as conditions precedent to any such re-admission, respondent shall provide to the OAE (1) proof of his continued sobriety and treatment for alcoholism; and (2) proof of his fitness to practice law, as attested to by a medical doctor approved by the OAE.

Chair Gallipoli voted to recommend to the Court that respondent be disbarred.

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 Andrew R. Hurda
Docket No. DRB 21-178

Argued: November 18, 2021

Decided: January 27, 2022

Disposition: Deferred Four-Year Suspension

Members	Deferred Four-Year Suspension	Disbar	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