Supreme Court of New Jersey
Disciplinary Review Board
Docket No. DRB 21-200
District Docket No. XIV-2020-0429E

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| In the Matter of | : |
| Milena Mladenovich | : |
| An Attorney at Law | : |

Decision

Argued: January 20, 2022

Decided: March 11, 2022

Michael S. Fogler appeared on behalf of the Office of Attorney Ethics.

Respondent waived appearance.

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 convictions, in the Court of Common Pleas of Philadelphia County, Pennsylvania, for first-degree misdemeanor terroristic threats, in

violation of 18 Pa. C.S. § 2706(a)(1), and first-degree misdemeanor stalking, in violation of 18 Pa. C.S. § 2709.1(a)(1). The OAE asserted that these offenses constitute a violation of RPC 8.4(b) (criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer).

For the reasons set forth below, we determine to grant the motion for final discipline and impose a three-month suspension, with conditions.

Respondent earned admission to the New Jersey and Pennsylvania bars in 2010. She has no prior discipline in New Jersey. Although respondent did not maintain a practice of law, she was previously employed, during an undisclosed period, as a document review attorney.

Since July 19, 2021, respondent has been ineligible to practice law in New Jersey for failure to pay the annual assessment to the New Jersey Lawyers' Fund for Client Protection.

We now turn to the facts of this matter.

**The February 2019 DWI Conviction**

On August 1, 2018, a Pennsylvania State Police officer observed respondent driving erratically and committing traffic violations[1] on local roads in Thornbury Township, Pennsylvania. Based on her erratic driving, the officer initiated a traffic stop and advised respondent to remain in her vehicle. However, respondent repeatedly exited her vehicle, against the officer's instructions, and stood in the roadway while sweating profusely with bloodshot, glassy eyes. The officer moved respondent to safety and inquired whether she had been drinking, to which she replied, "I cook with vodka." The officer then requested that respondent perform field sobriety tests. However, she could not comprehend the instructions and, thus, failed to perform the tests. Moreover, the officer observed that respondent failed to maintain her balance and exuded an odor of alcohol from her breath. Consequently, the officer arrested respondent and charged her with driving while intoxicated (DWI).[2] At the time of her arrest, respondent's blood alcohol content was 0.362.

[1] Specifically, respondent failed to come to a complete stop at a stop sign and failed to keep her vehicle within her lane of traffic.

[2] The officer charged respondent with several other traffic violations, all of which were withdrawn.

On October 17, 2018, the Commonwealth of Pennsylvania formally charged respondent with four counts of DWI, in violation of 75 Pa. C.S. § 3802, based on the August 1, 2018 incident. Count one charged that respondent unlawfully operated her vehicle while intoxicated without noting her blood alcohol content. Counts two through four each charged respondent with DWI and noted a different range of respondent's possible blood alcohol content for each count.

On February 25, 2019, respondent pleaded guilty to one count of first-degree misdemeanor driving while intoxicated with a blood alcohol content greater than 0.16, in violation of 75 Pa. C.S. § 3802(c). During the plea hearing, respondent admitted that she was a first-time DWI offender and explained that she had been receiving psychiatric treatment related to her alcohol use. Following her guilty plea, the court sentenced respondent to a custodial term of between seventy-two hours and six months, required her to undergo a drug and alcohol evaluation, and directed that she complete a safe driving course.

**The September 2020 Stalking and Terroristic Threats Convictions**

Between October 16 and 17, 2019, respondent called the home of her former psychologist four times, without leaving any messages. Beginning on

October 19, 2019, however, respondent started leaving threatening voicemails and text messages on the psychologist's home landline, personal cellular telephone, and business telephone. Specifically, respondent's voicemails and text messages contained numerous death threats against the psychologist's life and vulgar, anti-Semitic language directed at the psychologist's Jewish faith. In one message, respondent threatened that she would "bury" the psychologist with her "bare hands." In another message, respondent stated that she would "end" the psychologist with a firearm and, to illustrate the threat, sent the psychologist a picture of an unloaded handgun resting on a religious text. Additionally, respondent left long voicemails in which she rambled in a foreign language, accused the psychologist of owing her trillions of dollars, and threatened to shut down the psychologist's business.

Respondent's alarming messages to the psychologist continued until November 2019, at which point she had left her no less than seventeen threatening voicemails and numerous text messages. In November 2019, the psychologist reported respondent's menacing behavior to law enforcement and explained that she was terrified by respondent's messages, which caused her significant emotional distress – to the point where she was afraid to leave her home. The psychologist also informed law enforcement that respondent

previously had threatened and stalked her, in 2017.[3]

On June 15, 2020, the Commonwealth of Pennsylvania formally charged respondent with first-degree misdemeanor terroristic threats, in violation of 18 Pa. C.S. § 2706(a)(1) (count one); first-degree misdemeanor stalking, in violation of 18 Pa. C.S. § 2709.1(a)(1) (count two); summary harassment, in violation of 18 Pa. C.S. § 2709(a)(1) (count three); and third-degree felony ethnic intimidation, in violation of 18 Pa. C.S. § 2710(a) (count four). Respondent failed to notify the OAE of these charges, as R. 1:20-13(a)(1) requires.[4]

On September 17, 2020, respondent appeared in the Court of Common Pleas of Philadelphia County and pleaded guilty to first-degree misdemeanor terroristic threats and first-degree misdemeanor stalking. During the proceeding, although respondent admitted to the facts underlying her convictions and expressed remorse, she attributed her actions to her ongoing mental health problems. Specifically, she claimed that she suffered from anxiety; depression; bipolar disorder; post-traumatic stress disorder; and

[3] In 2017, the psychologist filed a police report regarding respondent's threatening behavior. However, that report was not included with the OAE's motion.

[4] R. 1:20-13(a)(1) requires an attorney who has been charged with the equivalent of an indictable offense in New Jersey to promptly inform the OAE, in writing, of the charge, as well as any disposition of the matter.

intermittent explosive disorder, all of which she was treating with medication and psychotherapy. At the time of the offense, respondent alleged that she was suffering from "some kind of manic episode," was "changing medication," and had experienced the death of a close relative, all of which may have triggered her threatening conduct towards the psychologist. Respondent, however, testified that she had never acted in a physically violent manner, had not contacted the psychologist since November 2019, and was actively continuing her mental health treatment.

Following respondent's guilty plea, the court sentenced her to a seven-year term of supervised probation and required her to have no contact with the psychologist, to possess no firearms, and to continue her mental health treatment under the supervision of the Philadelphia District Attorney's Office.

On October 9, 2020, respondent notified the OAE, via letter, of her convictions for stalking and terroristic threats, as well as her 2019 DWI conviction.

On November 1, 2021, respondent provided the OAE and the Office of Board Counsel (the OBC) with a Philadelphia County Court of Common Pleas criminal docket sheet, which indicated that, on February 18, 2021, she committed new offenses that appeared to involve threatening behavior. Specifically, on March 12, 2021, she was arrested and charged with third-

degree felony retaliation against a witness or victim, in violation of 18 Pa. C.S. § 4953(a); third-degree felony intimidation of a witness or victim, in violation of 18 Pa. C.S. § 4952(a)(1); two counts of first-degree misdemeanor terroristic threats, in violation of 18 Pa. C.S. § 2706(a)(1); and third-degree misdemeanor harassment, in violation of 18 Pa. C.S. § 2709(a)(4). The details underlying these charges and the identity of the victim(s), however, are unclear.

According to the criminal docket sheet, on September 23, 2021, respondent pleaded guilty to one count of first-degree misdemeanor terroristic threats and one count of third-degree misdemeanor harassment. Because she was scheduled to be sentenced for these offenses on November 18, 2021, the OBC re-scheduled the instant matter, with the OAE's consent,[5] from our November 18, 2021 session to the January 20, 2022 session.

Although the OAE's brief discussed the facts underlying respondent's DWI conviction, the OAE's motion for final discipline is premised only on respondent's September 2020 convictions for first-degree misdemeanor terroristic threats and first-degree misdemeanor stalking. At oral argument and in its brief to the Board, the OAE noted that a censure could be supported, but, ultimately, urged a three-month term of suspension because respondent

[5] Although the OAE consented to the adjournment, respondent failed to notify the OAE of her March 12, 2021 criminal charges until November 1, 2021.

previously had threatened and stalked the psychologist, in 2017.

In support of its position, the OAE analogized respondent's conduct to the attorneys in In re Frankfurt, 159 N.J. 521 (1999), and In re Beatty, 196 N.J. 153 (2008), who, as discussed in greater detail below, received three-month suspensions based on their convictions for fourth-degree stalking, in violation of N.J.S.A. 2C:12-10(b). In Frankfurt, the attorney, during a one-month period, repeatedly visited a judge's chambers and asked to speak with the judge, even though the attorney had no pending matters before the judge and was told that the judge would not speak with him. The attorney's conduct was distressing to the judge, who feared that the attorney could cause her bodily harm. In the Matter of Stanley S. Frankfurt, DRB 98-312 (April 5, 1999) (slip op. at 2-4).

In Beatty, the attorney, in his capacity as a racetrack security guard, became fixated on a young woman who was a frequent visitor of the racetrack. When the young woman stopped appearing at the racetrack, the attorney, without any basis in fact, convinced himself that something terrible had happened to the woman and attempted to locate her by following her to her South Carolina home. The attorney admitted that his conduct was alarming to the woman; however, he claimed that he was suffering from mental illness. In the Matter of Paul Stephen Beatty, DRB 08-006 (June 10, 2008) (slip op. at 3-6).

The OAE argued that, as in Frankfurt and Beatty, respondent's conduct was distressing to the victim, her former psychologist, who was put in reasonable fear of serious bodily harm based on respondent's repeated threats to her life. The OAE also emphasized that respondent's numerous threatening messages disparaged the psychologist's religious beliefs.

In mitigation, however, the OAE noted that no one was injured as a result of respondent's misconduct and that she has continued to treat her mental health issues. Additionally, the OAE did not consider respondent's 2019 DWI conviction an aggravating factor because it was her first DWI offense. The OAE also did not consider, as an aggravating factor, respondent's failure to promptly report her criminal charges for stalking; terroristic threats; harassment; and ethnic intimidation, as R. 1:20-13(a)(1) requires, because she eventually notified the OAE of her convictions.

Finally, based on respondent's purported mental illness and her history of alcohol abuse, the OAE requested that we impose two conditions: (1) that respondent be required to provide proof of fitness to practice law, as attested to by a qualified mental health professional approved by the OAE, and (2) that respondent be required to enroll in an OAE-approved alcohol treatment program and to submit proof of attendance to the OAE, on a schedule to be determined.

Although respondent did not submit a brief for our consideration, in her October 9, 2020 letter to the OAE, she expressed her belief that her convictions for DWI, stalking, and terroristic threats did not raise any doubts as to her fitness as an attorney because "they [did] not involve fraud [or] financial crimes," and she has not represented private clients. Additionally, respondent emphasized that her mental health issues "played a role" in her criminal convictions and that she has continued to seek mental health treatment. Finally, respondent noted that the imposition of any discipline would not only intensify the personal and professional consequences she has already suffered from her convictions, but also would interfere with her quality of life.

Following our de novo 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 pleas and convictions for first-degree misdemeanor terroristic threats, in violation of 18 Pa. C.S. § 2706(a)(1), and first-degree misdemeanor stalking, in violation of 18 Pa. C.S. § 2709.1(a)(1), thus, establish a violation of RPC 8.4(b). Pursuant to that Rule, it is professional

misconduct for an attorney to "commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer." Hence, the sole issue before us is the extent of discipline to be imposed on respondent for her 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.

In determining the appropriate measure of discipline, we must consider the interests of the public, the bar, and respondent. "The primary purpose of discipline is not to punish the attorney but to preserve the confidence of the public in the bar." In re Principato, 139 N.J. at 460 (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, [her] 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." 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).

Although the scope of disciplinary review is not restricted, even if the attorney was neither charged nor convicted of a crime, In re Gallo, 178 N.J. 115, 121 (2003), typically, "the attorney disciplinary system does not address [DWI] violations, standing alone." In the Matter of A. Dennis Terrell, DRB 10-052 (June 21, 2010) (slip op. at 4). See also In re Cardullo, 175 N.J. 107 (2003) (reprimand for attorney convicted of fourth-degree assault by auto and driving while intoxicated; in imposing a reprimand, we noted that it was the attorney's conviction for assault by auto that required disciplinary action).

However, attorneys have been disciplined for offenses arising out of alcohol-related automobile accidents. See 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), and 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 over 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).

Here, on August 1, 2018, respondent operated her vehicle while intoxicated and appeared to commit other minor traffic offenses, such as failing to drive within her lane of traffic and failing to stop at a stop sign. Consistent with precedent that the disciplinary system does not address stand-alone DWI violations, the OAE's motion did not seek the imposition of discipline based solely on respondent's DWI conviction. However, we consider respondent's DWI conviction 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). See also In re Dowgier, 233 N.J. 291 (2018) (reprimand for attorney convicted of third-degree eluding and DWI; the attorney, who had an exceptionally high blood alcohol content, failed to pull over after law enforcement signaled for him to stop; in aggravation, we considered the attorney's prior conviction for DWI).

Similarly, although the OAE did not charge respondent with any RPC violations based on her anti-Semitic remarks, consistent with our obligation to examine the "full picture" of the offense, we consider such remarks, as aggravating conduct, in imposing discipline. See Spina, 121 N.J. at 389 (noting that, in motions for final discipline, ethics authorities may review any relevant information in examining the totality of the circumstances of the offense), and Gallo, 178 N.J. at 120 ("in the context of attorney discipline, [the Board] cannot ignore relevant information that places an attorney's conduct in its true light").

The sole issue before us is the extent of discipline to be imposed on respondent for her 2020 stalking and terroristic threats convictions, in 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.

There is no typical or "baseline" measure of discipline in matters involving an attorney's violent behavior. See In re Buckley, 226 N.J. 478 (2016), and In re Goiran, 224 N.J. 446 (2016). Rather, such cases require fact-sensitive analyses. Ibid.

Attorneys who have engaged in threatening or menacing behavior have received discipline ranging from a reprimand to a term of suspension depending on the unique circumstances of each matter, including the presence of physical violence, whether the behavior was a result of mental illness, and the attorney's disciplinary history. See, e.g., In re Ziegler, 199 N.J. 123 (2009) (reprimand for attorney who told the wife of a client in a domestic relations matter that he would "cut [her] up into little pieces . . . put [her] in a box and send [her] back to India;" in a letter to his adversary, the attorney accused his client's wife of being an "unmitigated liar," that he would prove it and have her punished for perjury, and threatened his adversary with a "Battle Royale" and ethics charges; in mitigation, the attorney had an otherwise unblemished forty-year ethics history, recognized that his conduct had been intemperate, and the incident had occurred seven years earlier); In re Ingilian, 246 N.J. 458 (2021) (censure for attorney who engaged in a physical altercation with a teenager; following the altercation, the attorney remained physically and verbally aggressive; although the attorney denied making explicit death

threats, the teenager reported to law enforcement that the attorney also told him, "I will kill you[;]" in mitigation, the attorney had no prior discipline in nineteen years at the bar and stipulated to many of the facts); In re Milita, 217 N.J. 19 (2014) (censure for attorney who perceived he was being tailgated and initially exchanged hand gestures with the occupants of the other vehicle; the attorney's conduct escalated when he pulled over to the side of the road, partially emerged from his vehicle, and brandished a knife at the two young men in the other vehicle; the attorney then proceeded to follow the other vehicle through several towns and continued to brandish the knife; in imposing a censure, we stressed that, although the attorney's behavior was menacing, he had no physical contact with the occupants of the other vehicle, he was receiving treatment for psychological and medical issues that contributed to his behavior, and he was not actively practicing law; thus, the concern for protection of the public was reduced); In re Gonzalez, 229 N.J. 170 (2017) (three-month suspension for attorney who was indicted for third-degree possession of a weapon for an unlawful purpose, in violation of N.J.S.A. 2C:39-4(d), and fourth-degree criminal mischief, in violation of N.J.S.A. 2C:17-3(a)(1); the attorney initiated a "road rage" incident and, after the victim stopped her vehicle at an intersection, the attorney exited his vehicle, retrieved a golf club, swung the club at the victim's vehicle, and threw it at her

car as she attempted to drive away; the club struck her vehicle multiple times, causing damage; the attorney then retrieved the club and approached the victim's vehicle, where he could see the victim crying and attempting to explain herself; however, the attorney was unmoved and stated "this could have been my daughter and this is a lesson[,] [y]ou don't go running people off the side of the road;" the attorney left the scene without contacting the police; the attorney successfully completed the Pre-Trial Intervention program with conditions of restitution for the damage to the victim's car and completion of an anger management course; the victim stated that she was unable to sleep for fear of another attack); In re Gonzalez, 204 N.J. 75 (2010) (three-month suspension for attorney who violated RPC 8.4(b) by engaging in terroristic threats, in violation of N.J.S.A. 2C:12-3, and criminal mischief, in violation of N.J.S.A. 2C:17-3(b)(2); after the attorney's former client had called to inquire about the appeal status of a prior matter, the attorney arrived at his client's home at 9:00 p.m. in an intoxicated and belligerent state; although the attorney left his client's home without incident, several hours later, at 2:00 a.m., the attorney called his client's home three times and left violent, vulgar, and sexually obscene messages, including a threat on his client's life; the attorney then returned to his client's home at 3:00 a.m. and threw a hammer through his client's living room window; in imposing a three-month suspension, we noted

that, although the attorney's menacing behavior was impulsive, it was still extremely serious and required at least a censure; however, because the attorney had allowed the matter to proceed as a default, we enhanced the discipline to a three-month suspension); and In re Smith, 235 N.J. 169 (2018) (six-month suspension for attorney convicted of simple assault, in violation of N.J.S.A. 2C:12-1(a)(3); the attorney, who was in an angry and aggravated state, positioned himself inches away from another person and screamed that he was going to "beat his a$@ . . . in such a way as to make him believe it;" in aggravation, the attorney had a prior admonition, two censures, and a then-pending three-month suspension, all of which demonstrated a serious lack of professional boundaries).

Attorneys found guilty of harassment or stalking have received discipline ranging from a reprimand to a term of suspension, depending on the duration of the offending behavior, whether the attorney had a history of stalking or harassment, and whether the attorney was suffering from mental illness. See, e.g., In re Thakker, 177 N.J. 228 (2003) (reprimand for attorney who pleaded guilty to harassment, in violation of N.J.S.A. 2C:33-4(a), a petty disorderly persons offense; the attorney called the home of his former client fifteen to twenty times between 7:00 p.m. and 10:45 p.m., even after she had told him to stop; additionally, the attorney was abusive and belligerent to the

police officer who had responded to the matter; when the police officer warned the attorney to stop calling his former client, the attorney invited the police officer to engage in a "hand to hand encounter between us men;" despite the police officer's warning, the attorney continued to call his former client until just after midnight); In re Beatty, 196 N.J. 153 (2008) (three-month suspension for attorney convicted of fourth-degree stalking; the attorney, in connection with his duties as a racetrack security guard, became fixated on a young woman who frequently visited the racetrack; when the young woman stopped visiting the racetrack, the attorney, without any basis in fact, convinced himself that something terrible had happened to the young woman and began asking racetrack personnel where she went; eventually, the attorney located the young woman and followed her to her South Carolina home, which alarmed the young woman; in a prior, unrelated incident, the attorney began stalking his neighbor by peering into her window while she dressed; the neighbor later moved away, however, the attorney found her and resumed his stalking; in imposing a three-month suspension, we considered that the attorney suffered from serious mental illness and required the OAE to compel his medical examination for possible placement on disability inactive status); In re Frankfurt, 159 N.J. 521 (1999) (three-month suspension for attorney convicted of fourth-degree stalking; over the course of one month, the attorney went to a

superior court judge's chambers on numerous occasions and asked to speak with the judge, despite having no pending matters before her; although the attorney was told that the judge would not speak to him, he repeatedly returned to her chambers; the attorney's behavior was distressing to the judge and caused her fear of bodily harm; in a separate matter, the attorney was found guilty of contempt for failing to appear at a trial, despite the court's specific request that he appear; at sentencing, the attorney claimed that he was undergoing psychiatric treatment and had decided to cease practicing law for the immediate future); and In re Wachtel, 194 N.J. 509 (2008) (six-month suspension for attorney convicted of two counts of fourth-degree stalking; in the first criminal matter, the attorney, during a four-month period, left several threatening voicemails for his wife's divorce lawyer; in one voicemail, the attorney told his wife's lawyer that "you're going to be dead soon . . . I know where you sleep, where you drive, where you work, one mother-f$#@!er is going to be dead soon"; the attorney also sent his wife's lawyer, whose daughter was expecting a child, a box containing feminine hygiene products with a note that said, "[h]oping the whore mother and child die in childbirth;" in the second criminal matter, the attorney left several obscene voicemail messages threatening to injure a court appointed mediator; in imposing a six-month suspension, we considered, in aggravation, the attorney's prior

harassing behavior toward his sister's attorney and his prior conviction for possessing drug paraphernalia; in mitigation, we considered that the attorney's conduct was partly the product of his severe mental health and substance abuse issues, both of which he had continued to treat).

In our view, respondent's misconduct lies between that of the attorney in Wachtel, who received a six-month suspension, and the attorney in the 2010 Gonzalez matter, who received a three-month suspension, in a default matter.

For several weeks, from October through November 2019, respondent sent her former psychologist at least seventeen voicemails and numerous text messages containing threatening and anti-Semitic language. The messages included death threats that respondent would "bury" the psychologist with her "bare hands" and "end" her with a firearm. To emphasize the threat, respondent sent the victim a picture of a gun above a religious text. Respondent's alarming messages caused significant emotional distress to the psychologist, who previously had experienced respondent's stalking and threatening behavior, in 2017.

Although similar to respondent's conduct, Wachtel's conduct was more severe, because it occurred during a four-month period and encompassed multiple victims. In that time, not only did Wachtel leave several menacing voicemails to multiple victims, some of which contained death threats, but he

also sent his adversary a package and a note wishing death upon the adversary's daughter and unborn grandchild.

Respondent's conduct, however, is more egregious than the attorney in the 2010 Gonzalez matter, whose threatening behavior, although alarming, was more impulsive than respondent's and lasted only a few hours. Specifically, at 2:00 a.m., Gonzalez sent his victim three violent, sexually obscene voicemails, one of which contained a threat on the victim's life. By 3:00 a.m., Gonzalez returned to the victim's house and threw a hammer through the victim's living room window. By contrast, although respondent's behavior did not involve any physical contact with her former psychologist or her home, respondent's menacing behavior and numerous death threats lasted several weeks, disparaged the psychologist's Jewish faith, and caused the psychologist severe emotional distress to the point where she was afraid to leave her home.

In aggravation, respondent has demonstrated a pattern of menacing behavior towards the psychologist, having previously stalked and threatened her, in 2017. In addition, respondent failed to notify the OAE of her June 2020 charges for stalking; terroristic threats; harassment; and ethnic intimidation, as R. 1:20-13(a)(1) requires, though she eventually notified the OAE of her convictions. Respondent's 2019 conviction for DWI is also an aggravating factor, though its weight is limited by the fact that it is unrelated to the conduct

underlying her September 2020 convictions for stalking and terroristic threats.

Moreover, respondent's September 2021 convictions for first-degree misdemeanor terroristic threats and third-degree misdemeanor harassment suggests that she has not utilized her experiences with the criminal justice system to reform her threatening behavior. However, because the September 2021 convictions are the not the subject of the OAE's motion and the details underlying those convictions are unclear, without more, there is no basis for us to enhance respondent's discipline.

In mitigation, however, respondent's conduct may partly have been the result of her mental health issues, which she has continued to treat, under the supervision of the Philadelphia District Attorney's Office. However, this mitigating factor is tempered by the fact that respondent has neither produced medical documentation in support of her claims nor established a nexus between her illness and her weeks-long tirade of threatening and anti-Semitic messages.

On balance, we determine that a three-month suspension is the appropriate quantum of discipline necessary to protect the public and preserve confidence in the bar.

Additionally, based on respondent's invocation of her mental health as an explanation for her misconduct, we require respondent to provide to the

OAE, prior to reinstatement, proof of fitness to practice law as attested to by a medical doctor approved by the OAE. Moreover, because of her history with alcohol abuse and the egregious level of her blood alcohol content at the time of her DWI, we also require respondent to enroll in an OAE-approved alcohol treatment program and to submit proof of attendance to the OAE, on a quarterly basis, for at least two years.

Chair Gallipoli and Member Petrou voted to impose a six-month suspension, with the same conditions.

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 Milena Mladenovich
Docket No. DRB 21-200

Argued: January 20, 2022

Decided: March 11, 2022

Disposition: Three-Month Suspension

| ***Members*** | Three-Month Suspension | Six-Month Suspension |
|---|---|---|
| Gallipoli | | X |
| Singer | X | |
| Boyer | X | |
| Campelo | X | |
| Hoberman | X | |
| Joseph | X | |
| Menaker | X | |
| Petrou | | X |
| Rivera | X | |
| Total: | 7 | 2 |

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