Supreme Court of New Jersey
Disciplinary Review Board
Docket No. DRB 22-140
District Docket No. XIV-2021-0316E

In the Matter of	:
Julie Anna LaVan	:
An Attorney at Law	:

Decision

Argued: October 20, 2022

Decided: January 30, 2023

Rachael Weeks appeared on behalf of the Office of Attorney Ethics.

John McGill, III appeared on behalf of respondent.

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

This matter was before us on a motion for final discipline filed by the Office of Attorney Ethics (the OAE), pursuant to R. 1:20-13(c)(2), following respondent's guilty plea and adjudication, in the Shelby Town Court, Orleans County, New York, to misdemeanor obstructing governmental administration,

in violation of New York Penal Law § 195.05. The OAE asserted that respondent's misconduct constituted 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).

For the reasons set forth below, we determine to grant the OAE's motion for final discipline and conclude that a three-month suspension is the appropriate quantum of discipline for respondent's misconduct.

Respondent earned admission to the New Jersey and Pennsylvania bars in 2006 and to the District of Columbia bar in 2011. During the relevant timeframe, she maintained a practice of law in Moorestown, New Jersey.

In 2018, respondent received a reprimand for her violation of RPC 8.4(a) (knowingly assisting or inducing another to violate the Rules of Professional Conduct) and RPC 8.4(c) (engaging in conduct involving dishonesty, fraud, deceit or misrepresentation). In re LaVan, 238 N.J. 474 (2019) (LaVan I). In that matter, respondent misrepresented to the United States District Court for the District of New Jersey and her adversary that a fee agreement between her and her client, which she produced in response to her adversary's motion to compel production of that agreement, was the original agreement. In truth, respondent had re-created and backdated the document, and had her client re-execute it,

after the filing of the motion, because respondent could not locate the original in connection with her agreement to produce it.

In 2021, respondent received a censure for engaging in a conflict of interest, in violation of RPC 1.7(a). In re LaVan, 249 N.J. 5 (2021) (LaVan II). In that matter, the Court also required that respondent complete two continuing legal education courses, in ethics, approved by the OAE.

We now turn to the facts of this matter.

On July 4, 2021, N.W.[1] reported to the New York Orleans County Sheriff's Office (the NY OCSO) that respondent, who was a family friend, and her boyfriend, Mark Anson, had come to his residence, in Yates, New York, and threatened him. N.W. had not seen respondent for some time, but knew she practiced law in New Jersey. During their visit, respondent and Anson inquired about the value of a farm N.W. owned with his estranged wife, from whom he was getting divorced. N.W. told Anson "I don't know you. Stop asking me questions. Shut up." Anson responded by pulling out an 8-to-10-inch curved knife, which he then held to N.W.'s throat and stated "[g]ive her a good settlement. If this isn't done by Friday I'll be back and it won't be good."

[1] The identifying information of N.W., the victim, and P.W., the victim's son, were redacted from the police report in the record. The initials used herein were taken from the OAE's brief.

Respondent told N.W., "I'm filing paperwork tomorrow and this will be settled by Friday." Then she and Anson left the residence.

P.W. reported that he had received harassing text messages from respondent after she left the residence. In fact, while he was with a NY OSCO officer, P.W. received a telephone call from respondent, who said "you and your father better figure it out by Friday or we[']re filing papers and selling the . . . farm. Got it." The officer then identified himself on the telephone call and questioned respondent about her tactics. In reply, respondent laughed and stated "[o]h this is the leverage they're going to use now." The officer told respondent to expect a visit shortly. In reply, respondent again laughed and stated "we will be waiting for you."

Later, three police officers arrived at respondent's location. When questioned by the officers, Anson gave evasive answers and a fake name. The officers attempted to place Anson under arrest and, when he resisted, respondent interfered by placing her hand on an officer's arm. Subsequently, when the officers attempted to place Anson into the patrol vehicle, respondent approached them from behind and officer Martin Stirk, Jr. "pulled her away again." Allegedly, respondent then intentionally struck officer Stirk in the face with her fist, causing him to experience redness and pain on the right side of his face.

Consequently, on July 4, 2021, the NY OCSO arrested respondent and charged her with (1) second-degree obstructing governmental function, in violation of New York Penal Law § 195.05, for intentionally interfering with officer Stirk's arrest of Anson, and (2) second-degree assault, in violation of New York Penal Law § 120.05, for intentionally striking officer Stirk.[2] The following day, on July 5, 2021, the Shelby Town Court also entered a temporary order of protection against respondent, on behalf of officer Stirk.

Respondent failed to report her arrest and criminal charges to the OAE, as R. 1:20-13(a)(1) requires. On October 14, 2021, three months after the incident, the OAE sent a letter to respondent, informing her that it had become aware of her pending charges. In that letter, the OAE also reminded respondent of her obligation to inform the Director of the OAE, in writing, of any pending matters and the disposition of those matters.

On May 3, 2022, before the Honorable Dawn M. Keppler, Judge of the Shelby Town Court, respondent pleaded guilty to second-degree obstructing governmental administration, a misdemeanor offense. Although respondent did not plead guilty to the assault charge, the parties referred to it as being "covered"

[2] The arrest reports are silent regarding respondent's alleged assault of officer Stirk.

by the obstruction charge. Specifically, the discussion before the Shelby Town Court went as follows:

> MR. HUTCHINSON [Counsel to respondent]: Just to clarify, Judge, the Assault Third is being dismissed pursuant to the ADA [(the Assistant District Attorney)] and the colloquy is going to be related to the allocution on the Obstruction.
>
> MR. SANSONE [the ADA]: Correct.
>
> MR. HUTCHINSON: I just wanted to clarify that.
>
> THE COURT: Okay, so my sheet says reduced for jurisdiction, then - -
>
> MR. SANSONE: Should be COVO, covered by, but we can dismiss it, that's fine.
>
> THE COURT: Is covered, the Assault Third is covered?
>
> MR. SANSONE: Yeah - -
>
> THE COURT: By the Obstruction?
>
> MR. SANSONE: Yes.
>
> THE COURT: Okay.
>
> MR. SANSONE: Should say COVO.
>
> THE COURT: It doesn't, but I'll put it in there.
>
> [Ex.C,pp2-3.][3]

[3] "Ex" refers to the exhibits attached to the OAE's August 9, 2022 brief in support of its motion for final discipline. "Rb" refers to respondent's August 31, 2022 brief to us.

During her limited plea allocution, respondent admitted that, on July 4, 2021, she intentionally obstructed and impaired or prevented the administration of law and interfered with the performance of police duties. In accepting respondent's guilty plea to the obstruction charge, the court again stated that the "Assault in the Third is covered under" the obstruction charge.[4] At sentencing, respondent received a conditional discharge, along with a $195 fine, $205 surcharge, and $50 DNA fee.

Almost a year later, on June 27, 2022, respondent, through counsel, notified the OAE of her guilty plea.

The OAE asserted that respondent should receive a censure for her misconduct. Citing disciplinary precedent, discussed below, the OAE acknowledged that, typically, attorneys convicted of obstructing justice receive a reprimand. Here, however, the OAE insisted a censure was required because respondent also had been charged with assaulting a law enforcement officer. If respondent had engaged in more substantial violence, the OAE maintained that a term of suspension would be required.

Respondent, through her counsel, John McGill, Esq., urged, in her written submission and during oral argument before us, that a reprimand was the

[4] The certificate of discharge also demonstrated that respondent did not plead guilty to the assault charge, but that it had been "covered" by the obstruction charge.

appropriate discipline for her conviction of obstructing the administration of justice. Respondent claimed that the OAE's reliance on the dismissed assault charge and hearsay statements set forth in the underlying police report was improper, exceeded the record, and failed to establish, by clear and convincing evidence, her assault upon a police officer. Specifically, respondent stated:

> [t]he OAE, incorrectly and without legal support, suggests that, because [r]espondent's guilty plea to Obstruction "covered" the downgraded Assault charge, [r]espondent's guilty plea and allocution to Obstruction includes an admission to the Third Degree Assault and, therefore, the evidence of the Obstruction includes relevant evidence of the Assault upon which the Board may reasonably rely in determining the appropriate sanction in this matter.
>
> [Rbpp5-6 (emphasis in original).]

Rather, respondent asserted that the record lacked any evidence to demonstrate what "covered" even meant when used in connection with respondent's plea allocution, and that the OAE's bald assertion, that respondent's guilty plea to obstruction somehow included an admission to the assault, was mere speculation unsupported by the record. Respondent further asserted that she pleaded not guilty to the assault charge, which was dismissed as part of her guilty plea, and that she continues to maintain her innocence. In short, respondent contended there was no clear and convincing evidence to find that she committed an assault. Finally, respondent argued that the police report,

upon which the OAE relied, contained no admission to the assault by respondent and, further, constitutes inadmissible hearsay.

Although she acknowledged that we could remand the matter for an evidentiary hearing to address the assault allegations, respondent vehemently urged us to not do so. Respondent claimed that she would be unfairly prejudiced, given the lack of reasonably expected discovery, including the absence of any body-worn camera footage or vehicle video recordings.

Citing disciplinary precedent, discussed below, respondent urged that a reprimand was consistent with the discipline imposed on attorneys convicted of obstruction of justice. In mitigation, respondent apologized for her misconduct, stating, through her counsel:

> She realizes that such conduct is inappropriate and submits that, at the time, she, incorrectly, believed that, as an attorney, she was entitled to ask questions and receive answers from the police during the melee and heightened confusion incident to the forcible arrest of M.A. Respondent accepts responsibility for her conduct. Respondent further submits that the Board should deem it never too late to say "I am sorry" for one's past transgression.
>
> [Rb10.]

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 plea of guilty to a crime or

disorderly persons offense, whether the plea results either in a judgment of conviction or admission to a diversionary program," 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).

Pursuant to RPC 8.4(b), it is misconduct for an attorney to "commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer." Respondent's guilty plea to obstructing governmental administration, in violation of New York Penal Law § 195.05, is clear and convincing evidence that she has violated this Rule. Thus, the sole issue for our determination is the proper quantum of discipline to be imposed. R. 1:20-13(c)(2); In re Magid, 139 N.J. at 451-52; In re Principato, 139 N.J. at 460.

In determining the appropriate measure of discipline, we 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. 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) (citations omitted).

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 (citations omitted). In motions for final discipline, it is acceptable to "examine the totality of circumstances" including the "details of the offense, the background of respondent, and the pre-sentence report" before "reaching an appropriate 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 both the OAE and respondent correctly observed, attorneys who have been convicted of the disorderly persons offense of obstruction typically receive

an admonition or a reprimand, depending on the presence of aggravating or mitigating factors. See e.g., In the Matter of Jerramiah T. Healy, DRB 09-345 (April 5, 2010) at 23-24 (admonition; the attorney was convicted of obstruction of justice and resisting arrest, in violation of RPC 8.4(b); no disciplinary history; we considered, as compelling mitigation, that the attorney had not been involved in the underlying offense that precipitated the police involvement but, instead, involved himself in an effort to calm down the situation), so ordered, 202 N.J. 131 (2010); In the Matter of Alfio S. Lanuto, DRB 15-412 (September 9, 2016) at 13 (reprimand; the attorney was convicted of obstruction of the administration of law and resisting arrest, in violation of RPC 8.4(b); the attorney was hostile and antagonistic toward the police; no disciplinary history; no other mitigating factors), so ordered, 227 N.J. 568 (2017); In the Matter of John Scott Angelucci, DRB 04-456 (March 30, 2005) at 5 (reprimand; the attorney was convicted of obstruction of law or other governmental function, in violation of RPC 8.4(b); the attorney was hostile and antagonistic toward police officers, necessitating the use of force; no disciplinary history; no other mitigating factors), so ordered, 183 N.J. 472 (2005); In re Lekas, 136 N.J. 514 (1994) (reprimand; the attorney was convicted of obstruction of the administration of law, in violation of RPC 8.4(b); no disciplinary history; no other mitigating factors).

Like the attorneys in Lanuto, Angelucci, and Lekas, all of whom received reprimands, respondent was convicted of obstructing governmental administration, the equivalent of a disorderly persons offense in New Jersey. Thus, pursuant to New Jersey disciplinary precedent, we determine that the minimum quantum of discipline for respondent's misconduct is a reprimand. In crafting the appropriate discipline, however, we also consider mitigating and aggravating factors.

In our view, there is no mitigation to consider.

In aggravation, we accord respondent's disciplinary history significant weight. This matter represents respondent's third disciplinary proceeding in just as many years. Specifically, the Court's prior disciplinary Orders are dated July 12, 2019 (reprimand) and November 18, 2021 (censure). In LaVan I, respondent twice violated RPC 8.4(a) and (c) and, in LaVan II she violated RPC 1.7(a). Now, she has violated RPC 8.4(b). Thus, unlike the attorneys in Lanuto, Angelucci, and Lekas, who had no prior discipline and were reprimanded for obstructing justice, respondent's recent misconduct serves to justify discipline greater than a reprimand.

However, this matter involved the attempted arrest of an extremely dangerous person who respondent witnessed threatening the life of a third person with a knife to the throat – and who promised to return – making the

interference with the police officers far more serious than the circumstances in Lanunto, Angelucci and Lekas.

In further aggravation, respondent failed to report her arrest to the OAE and, despite subsequently being reminded of her obligation to keep the OAE informed as to the outcome, she waited almost one year to report her guilty plea.

We also consider, in aggravation, that respondent's misconduct directly touched upon her law license. According to the arrest report, respondent visited N.W. to discuss the equitable distribution of a marital asset in his divorce proceedings, in which she intended to file pleadings on behalf of his soon-to-be ex-wife.

On this record, we do not find that respondent assaulted a police officer. Despite that conclusion, in our view, respondent's misconduct, exacerbated by compelling aggravating factors, requires a term of suspension. "Lawyering is a profession of 'great traditions and high standards.'" In re Jackman, 165 N.J. 580, 584 (2000) (quoting Speech by Chief Justice Robert N. Wilentz, Commencement Address-Rutgers University School of Law, Newark, New Jersey (June 2, 1991), 49 Rutgers L. Rev. 1061, 1062 (1997)). Attorneys are expected to hold themselves in the highest regard and must "possess a certain set of traits -- honesty and truthfulness, trustworthiness and reliability, and a

professional commitment to the judicial process and the administration of justice." In re Application of Matthews, 94 N.J. 59, 77 (1983).

The Court has explained, when considering the character of a Bar applicant, that:

> [t]hese personal characteristics are required to ensure that lawyers will serve both their clients and the administration of justice honorably and responsibly. We also believe that applicants must demonstrate through the possession of such qualities of character the ability to adhere to the Disciplinary Rules governing the conduct of attorneys. These Rules embody basic ethical and professional precepts; they are fundamental norms that control the professional and personal behavior of those who as attorneys undertake to be officers of the court. These Rules reflect decades of tradition, experience and continuous careful consideration of the essential and indispensable ingredients that constitute the professional responsibility of attorneys. Adherence to these Rules is absolutely demanded of all members of the Bar.
>
> [In re Application of Matthews, 94 N.J. at 77-78.]

Adherence to these basic ethical, moral, and professional precepts are demanded of all attorneys, from the newly admitted to the most seasoned practitioners. Given the facts of this case, respondent abandoned her professional and ethical responsibilities to which she took an oath to adhere and, through her misconduct, demonstrated a lack in these character traits, including her professional commitment to the administration of justice.

On balance, we determine that a three-month suspension is the appropriate quantum of discipline.

Vice-Chair Boyer and Member Joseph voted to impose a censure.

Member Menaker 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 Julia Anna LaVan
Docket No. DRB 22-140

Argued: October 20, 2022

Decided: January 30, 2023

Disposition: Three-Month Suspension

Members	Three-Month Suspension	Censure	Absent
Gallipoli	X		
Boyer		X	
Campelo	X		
Hoberman	X		
Joseph		X	
Menaker			X
Petrou	X		
Rivera	X		
Total:	5	2	1

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