

Supreme Court of New Jersey  
Disciplinary Review Board  
Docket No. DRB 23-110  
District Docket Nos. XIV-2020-0401E  
and IIIB-2022-0901E

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In the Matter of  
Christopher Santo Lipari  
An Attorney at Law

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Decision

Argued: June 21, 2023

Decided: October 31, 2023

Amanda W. Figland appeared on behalf of the Office of Attorney Ethics.

Robert E. Ramsey 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 disciplinary stipulation between the Office of Attorney Ethics (the OAE) and respondent. Respondent stipulated to having violated RPC 1.1(a) (engaging in gross neglect); RPC 1.7(a)(2) (engaging in a concurrent conflict of interest); RPC 3.3(a)(1) (making a false statement of

material fact to a tribunal); RPC 3.3(a)(5) (failing to disclose a material fact to a tribunal, knowing that the omission is reasonably certain to mislead the tribunal); RPC 4.2 (communicating with a person represented by counsel); RPC 4.3 (when dealing on a client's behalf with a person not represented by counsel, failing to correct the unrepresented person's misunderstanding of the lawyer's role); RPC 8.4(b) (committing a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer); RPC 8.4(c) (two instances – engaging in conduct involving dishonesty, fraud, deceit or misrepresentation); RPC 8.4(d) (engaging in conduct prejudicial to the administration of justice); and RPC 8.4(e) (stating or implying an ability to improperly influence a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law).

For the reasons set forth below, we determine that a three-month suspension is the appropriate quantum of discipline for respondent's misconduct.

Respondent earned admission to the New Jersey bar in 1997 and has no prior discipline. He maintains a practice of law in Pleasantville, New Jersey. At the relevant time, in addition to his private practice, respondent served as municipal prosecutor for Somers Point and Galloway Township, New Jersey.

By letter dated October 6, 2020, respondent reported to the OAE, via counsel, that he had been adjudged in contempt of court, in the Atlantic County Superior Court, contrary to N.J.S.A. 2A:10-1(b). On October 14, 2020, the OAE docketed the matter for investigation. Thereafter, on March 30, 2023, respondent and the OAE entered into a disciplinary stipulation, which (together with its exhibits) set forth the following facts in support of respondent's admitted ethics violations.

On November 21, 2017, K.O.<sup>1</sup> was involved in a single-car accident, in which she drove off the road and struck a tree. Following her accident, she admitted to police officers that, before her crash, she had smoked a cigarette dipped in phencyclidine (PCP), which she had purchased in Atlantic City. Moreover, she failed three psychophysical tests administered at the scene of the accident. After K.O.'s vehicle was taken to a tow lot, police observed a discolored cigarette on the passenger-side floor of her vehicle; K.O. later identified this cigarette as one that she had purchased in Atlantic City; and testing revealed that the cigarette contained PCP. In addition, K.O.'s blood and urine samples tested positive for PCP. However, no drug recognition expert (DRE) assessed K.O. in connection with the accident.

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<sup>1</sup> We use initials to protect the anonymity of the defendant in the underlying municipal court matter.

Subsequently, K.O. was charged with third-degree possession of a controlled dangerous substance (CDS), in violation of N.J.S.A. 2C:35-10(a)(1). She also received citations for the following motor vehicle offenses: driving while intoxicated (N.J.S.A. 39:4-50); possession of CDS by motor vehicle operator (N.J.S.A. 39:4-49.1); careless driving (N.J.S.A. 39:4-97); use of a wireless telephone (N.J.S.A. 39:4-97.3); failure to maintain lane (N.J.S.A. 39:4-88); and failure to exhibit registration and insurance card (N.J.S.A. 39:3-29).

On June 29, 2018, in connection with the criminal charge of possession of CDS, the Atlantic County Superior Court accepted K.O. into the pretrial intervention program (PTI). The paperwork related to K.O.'s acceptance into PTI was signed by K.O.'s attorney in the criminal matter and provided to the Somers Point municipal court. The documents reflected that the related traffic charges would be returned to the municipal court for disposition.

In the interim, on April 3, 2018, respondent prosecuted K.O. in an unrelated traffic matter, wherein the motor vehicle violation was dismissed. He had not met K.O. prior to this date. After the April 3 proceeding, he followed K.O. out of the courtroom; approached her; complimented her on her smile; gave her his e-mail address; and told her that if she needed anything in the future, she should contact him.

On July 13, 2018, K.O. wrote to respondent via e-mail. Respondent replied, via e-mail, on the same date, provided K.O. with his cellular telephone number, and requested that she contact him via text message. The next day, having received no response from her, he again sent her an e-mail, provided his telephone number, and stated that she could text him. Finally, on July 17, respondent sent her a third reply, by e-mail, stating, “[a]re you ducking me? LOL[.]” Subsequently, respondent and K.O. communicated using text messages.

Soon after K.O. contacted him, respondent reviewed the municipal court docket and learned about her pending motor vehicle charges stemming from the car accident. He also learned that, in the Superior Court proceeding on the indictable CDS offense, she had been admitted into PTI. After reviewing this information, respondent wrote to K.O., via text message, stating that he understood she had contacted him because the Superior Court had remanded the traffic charges to the court where he was municipal prosecutor.

Thereafter, respondent continued to communicate with K.O. about her pending municipal court matter. At some point, he learned that the same defense attorney who had represented her in Superior Court also was representing her in the municipal matter. Nevertheless, he continued communicating with K.O. directly about the latter. In the course of these exchanges, he repeatedly advised her that she should not tell her attorney or anyone else about their

communications. He also repeatedly complimented her appearance and personality.

On August 14, 2018, the Somers Point Police Department provided discovery to respondent and to counsel for K.O. After the materials were provided, respondent and K.O. engaged in an exchange of text messages, the relevant portion of which follows:

K.O.: He just got the discovery today so<sup>2</sup>

Respondent: It's ha[r]d to prove a Dwi with a 0 bac and no Dre

K.O.: Even though I admitted it?

[S¶24.]<sup>3</sup>

Respondent later stated that "I did not at any time indicate that I would dismiss or downgrade [K.O.'s] charges for any reason[,]” but conceded that he advised her as follows:

I did ask her questions about the specific facts of the driving under the influence of CDS charges. I advised her that there are certain defenses to those types of DWI charges and that under the influence of CDS cases were generally difficult to prove beyond a reasonable doubt without the appropriate expert testimony.

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<sup>2</sup> All typographical errors within the text messages quoted herein are contained in the original communications.

<sup>3</sup> "S" refers to the March 30, 2023 disciplinary stipulation.  
"Ex." refers to the exhibits appended to the disciplinary stipulation.

[S¶25.]

However, respondent never informed K.O.'s counsel of issues that could negate or mitigate K.O.'s guilt in the matter.

In one exchange of text messages, K.O. expressed concern about the status of her license, and respondent reassured her:

K.O.:           how long do you think I'm gonna lose my  
                  license for?

\* \* \*

Respondent: You will be fine  
                  You can never tell [your attorney] we talk

[Ex.5-B.]

On August 27, 2018, the day before K.O. was scheduled to appear before the Somers Point Municipal Court, respondent engaged in the following exchange of text messages with her:

Respondent: . . . you will be fine tomorrow I think

K.O.:           Ugh all I can do is pray.  
                  I hate going to court. Especially for  
                  something like this.

Respondent: It will be fine as long as you NEVER tell  
                  anyone we talk EVER

[S¶28.]

At the August 28, 2018 hearing, respondent entered his appearance as the municipal prosecutor, rather than recusing himself. In similar vein, he failed to disclose to the judge or to defense counsel that he had a personal conflict.

Respondent and the court engaged in the following colloquy, leading to the dismissal of all the pending charges against K.O.

[Respondent]: . . . I've had an opportunity to review this matter at length. I've spoken to the Captain regarding this matter. I have personally reviewed this discovery. This . . . matter originally occurred in 2017. It was an extremely significant motor vehicle accident wherein the defendant was hospitalized for a number of weeks. Judge, as a result of the motor vehicle accident there was a suspicion the defendant was operating the vehicle under the influence of narcotics or alcohol. A blood draw was taken in this case at the hospital[;] . . . judge there is no DRE, there is no attempt to quantify the blood draw and there is not alcohol, . . . detected in the defendant's system. In addition Judge, it is a State versus Hand<sup>4</sup> situation because if there were any . . . CDS that caused the defendant to operate her vehicle in an adverse manner. That[] CDS charge was ultimately handled by the Superior Court, where the defendant is currently . . . serving a probationary sentence or community service etcetera

[The court]: Okay, so there was a plea to . . . .

[Respondent]: Yes, State versus Hand. Correct.

[The court]: So all of this should have been.

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<sup>4</sup> "State versus Hand" refers to State v. Hand, 416 N.J. Super. 622 (App. Div. 2010), discussed in detail below.



[Respondent]: Honestly Judge, in the interest of justice

[The court]: No, I . . . understand State versus Hand is pretty clear.

[Respondent]: The defendant did (inaudible) provide significant information regarding this incident being life-changing including the fact that she has now completed a treatment program, continued . . . clean drug test as part of her probationary program, as well as community service. I think the state[']s interest has been served in this matter.

[The court]: All these matters are not guilty, State versus Hand.

[S¶36.]

Respondent's representation to the court that he had conferred with Captain Robert Somers of the Somers Point Police Department regarding the case was false; in fact, he had not discussed the matter with Somers. He also misrepresented that K.O.'s Superior Court proceeding on the indictable CDS offense had resulted in a probationary sentence; in fact, she had been accepted into PTI for that offense.

In addition, based on the records respondent had received from the police department, he was aware of the following material facts that he failed to disclose to the court:

- K.O. admitted to investigating officers that she had used PCP before the single-car accident;

- K.O. failed three psychophysical tests at the scene;
- Following the accident, a search of K.O.'s vehicle revealed a cigarette, which was subsequently tested and found to contain PCP;
- K.O. identified the evidence recovered from her vehicle as being the PCP that she had purchased and consumed; and
- K.O.'s blood and urine samples, collected on the date of the accident, were tested by the State Police Office of Forensic Sciences and found to be positive for PCP.

In addition, and relevant to the court's application of State v. Hand, 416 N.J. Super. 622, respondent failed to inform the court that the file he had received in connection with the remand of K.O.'s matter from the Superior Court had not included the waiver of double jeopardy form that would accompany a remand from a guilty plea.

In addition to the above misstatements and omissions of fact, respondent's presentation to the court incorrectly relied on Hand, which did not apply to the facts of K.O.'s case. In Hand, the court held that, in assessing whether the constitutional protection against double jeopardy bars the State from prosecuting a matter, the same legal analysis applies whether the defendant previously was subject to a judgment of conviction based on a guilty plea or as the result of a trial. 416 N.J. Super. at 628-29. In addition, the court affirmed that, under our

State's constitution, double jeopardy attaches to subsequent prosecutions for not only the same offense but also for offenses within the scope of "the 'same evidence'" test: that is, where "the same evidence used to prove the first offense is necessary to prove the second offense." Ibid.

Here, respondent knew K.O. had been admitted to PTI, and knew or reasonably should have known that she had not entered a guilty plea. Absent a guilty plea, double jeopardy did not attach under either the same-offense or the same-evidence test set forth in Hand. Further, in May 2017 – more than a year before respondent appeared in K.O.'s matter – the Court, in State v. Miles, 229 N.J. 83, 86 (2017), had rejected the application of the same-evidence test to determine whether double jeopardy applies, thereby superseding Hand's adoption of that test.

Respondent later asserted that, at the time of K.O.'s municipal court proceeding, he mistakenly believed that dismissal of her charges was legally justified. He claimed that he misunderstood Hand's applicability and was, accordingly, concerned that double jeopardy applied or could apply under the same-evidence standard. Moreover, he conceded that he acted on this assumption without consulting with the Atlantic County Prosecutor's Office (ACPO). Thus, he admittedly was "wrong in [his] assessment of the State's legal position." He further asserted that he mistakenly believed that State v. Bealor,

187 N.J. 574 (2006), required him to produce a DRE to obtain a conviction for driving while under the influence of CDS.

On dates subsequent to the August 28, 2018 proceeding, respondent sent K.O. additional text messages. In particular, on September 4, 2018, he sent her a number of text messages complimenting her appearance and asking to meet with her. However, by that time – unbeknownst to respondent – K.O. had contacted her relative, who worked in the prosecutor’s office in a different county, regarding respondent’s communications with her. Her relative had forwarded the information to the appropriate authorities, prompting the ACPO to open an investigation into the matter.

Later on September 4, 2018, respondent learned that the ACPO had requested information about his handling of K.O.’s municipal court case. Thereafter, he sent K.O. multiple messages, via text, stating:

Call me it’s important

Sorry – I am freaking out and I did NOTHING wrong – legally it was correct and morally it was correct – I have no idea why they wanted to look at the file Unless I am getting set up

Umm yes – I did nothing wrong the case could never ever had been proved Are you still on PTI and what is her name again

[S¶54.]

On September 25, 2020, respondent and the ACPO entered a consent order, wherein respondent admitted to having engaged in contempt of court, contrary to N.J.S.A. 2A:10-1(b) and R. 1:10-1 and -2, based on his actions on or about August 28, 2018, undertaken “as an officer of the court in his official transactions.” He further consented to the condition that he “shall be forever banned” from seeking, in New Jersey, “any type of public employment,” “a contract with a public entity,” or “employment in any firm that engages in work for any public entity within the State[.]” In exchange, the State agreed to forego pursuing criminal or disorderly persons charges against respondent based on the incidents giving rise to the contempt proceedings.

On October 6, 2020, in accordance with one of the requirements of the consent order, respondent reported the disposition of the contempt proceeding to the OAE. The present disciplinary stipulation followed.

In the interim, the OAE interviewed respondent; addressed with him (among other topics) his understanding of the applicability of Hand and Bealor at the time of K.O.’s municipal court proceeding; and also learned from him that, at the time he was communicating with K.O., he was seeking K.O.’s attention and affection. Further, he acknowledged that it was his normal practice to confer with Captain Somers before dismissing charges.

Based on the above facts, the OAE and respondent stipulated that respondent violated the following Rules of Professional Conduct:

- a. RPC 1.1(a) in that Respondent handled or neglected a matter entrusted to him in such manner that his conduct constituted gross neglect when he moved to dismiss K.O.'s case based upon an inapplicable legal precedent and incorrect factual circumstances.
- b. RPC 1.7(a)(2) in that Respondent engaged in a conflict of interest when he handled K.O.'s matter as a municipal prosecutor after maintaining a personal relationship with K.O. via text message, for more than one month.
- c. RPC 3.3(a)(1) in that Respondent knowingly made false statements of material fact to Judge Freed when he told Judge Freed that:
  - i. he had consulted with Captain Somers before seeking dismissal of the charges against K.O.; and
  - ii. K.O. had been on probation and was completing community service for a related indictable offense when she had actually entered into the PTI program for that offense.
- d. RPC 3.3(a)(5) in that Respondent knowingly failed to disclose a material fact to a tribunal when he failed to tell Judge Freed:
  - i. that K.O. admitted to investigating officers that she inhaled PCP prior to the accident;
  - ii. that a PCP laced cigarette had been found in K.O.'s vehicle; and

- iii. that K.O.'s blood and urine samples after the accident were positive for PCP.
- e. RPC 4.2 in that Respondent communicated with a represented party outside of the presence of her counsel by discussing K.O.'s case with her prior to the hearing, even after learning that she was represented by counsel.
- f. RPC 4.3 in that Respondent failed to make reasonable efforts to correct K.O.'s misunderstanding regarding his role in the matter by failing to advise K.O. that it was improper for him to communicate with her regarding a matter he was prosecuting.
- g. RPC 8.4(b) in that Respondent committed a criminal act that reflected adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in violation of N.J.S.A. 2A:10-1(b) (misbehavior of any officer of the court in his official transactions) in his handling of K.O.'s matter on August 28, 2018.<sup>5</sup>
- h. RPC 8.4(c) in that Respondent engaged in conduct involving dishonesty, fraud, deceit or misrepresentation when he:
  - i. told Judge Freed that he had consulted with the Captain about K.O.'s charges before asking Judge Freed to dismiss the charges;
  - ii. told Judge Freed that K.O. had been on probation and was completing community service for the related offense, when she had actually entered into PTI.

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<sup>5</sup> The OAE noted, however, that “[h]aving reviewed N.J.S.A. 2C:30-2(a) and (b) (Official Misconduct) the OAE considered and rejected a charge of RPC 8.4(b).”

- i. RPC 8.4(c) in that Respondent engaged in conduct involving dishonesty, fraud, deceit or misrepresentation by omission when he failed to tell Judge Freed that:
  - i. K.O. admitted to investigating officers that she inhaled PCP prior to the accident;
  - ii. a PCP laced cigarette had been found in K.O.'s vehicle; and
  - iii. K.O.'s blood and urine samples after the accident were positive for PCP.
  
- i. RPC 8.4(d) in that Respondent engaged in conduct that was prejudicial to the administration of justice by dismissing a case:
  - i. in which he had a personal conflict;
  - ii. by failing to follow correct legal precedent; and
  - iii. without disclosing numerous relevant facts to the Court.

As a result of these actions, additional judicial resources had to be utilized to address his misconduct through the institution of contempt proceedings.

- j. RPC 8.4(e) in that Respondent stated or implied an ability to influence a government agency to achieve results that violated the Rules of Professional Conduct by communicating to K.O. that her matter would be dismissed and that she would be fine despite the evidence against her.

[S¶62.]



The OAE urged the imposition of a censure or a three-month suspension, asserting that either quantum would be consistent with cases that involved municipal prosecutors whose failure to provide the court with essential information contributed to the court's improper dismissal of charges. Specifically, the OAE highlighted In re Whitmore, 117 N.J. 472 (1990) (reprimand; the municipal prosecutor failed to disclose to the court that a police officer whose testimony was critical to the prosecution of a DWI charge had intentionally left the courtroom before the case was called, resulting in the dismissal of the charge); In re Norton, 128 N.J. 520 (1992) (in consolidated matters, three-month suspension for both a municipal prosecutor and defense counsel for permitting the dismissal of a DWI charge; the defense attorney arranged for his client's DWI case to be transferred to a municipality where his former law partner acted as municipal prosecutor; the municipal prosecutor then manipulated the judge to dismiss the case by withholding a material fact as to why officers did not want the defendant prosecuted – defendant was a police booster; in mitigation, both attorneys had unblemished disciplinary records); and In re Mott, 231 N.J. 22 (2017) (six-month suspension; the municipal prosecutor improperly dismissed a speeding ticket for an employee of her family farm, failed to disclose her conflict of interest to the court, and misrepresented to the court that the dismissal was due to a problem with discovery).

The OAE also highlighted two recent cases: In re Bradley, \_\_\_ N.J. \_\_\_ (2022), 2022 N.J. LEXIS 1166, and In re Vazquez, 252 N.J. 555 (2023). In Bradley, a defense attorney was censured for making misrepresentations to the municipal court during a DWI proceeding. Here, the OAE asserted, respondent not only misled the judge but did so while serving as municipal prosecutor, in a position of public trust and authority. The OAE also pointed out parallels with Vazquez, in which a county prosecutor engaged in a conflict of interest based on his interest in a personal relationship with a drug court participant.

In mitigation, the OAE noted that respondent had no disciplinary history, admitted his wrongdoing, and expressed contrition and remorse. He also cooperated with law enforcement by entering into a consent order, pleading guilty to summary contempt, resigning from his position as municipal prosecutor, and agreeing to permanently forego public employment in New Jersey. Further, he entered into a disciplinary stipulation with the OAE, thus, conserving disciplinary resources.

In aggravation, the OAE emphasized that respondent communicated with K.O. for almost a month, knowing it was wrong to do so; despite these continuing communications, he failed to recuse himself; he engaged in his misconduct while holding a position of public trust as a municipal prosecutor; and he was aware that K.O. was struggling with drug addiction and vulnerable.

At oral argument and in his submission to us, respondent, through his counsel, acknowledged that the municipal case against K.O. should not have been dismissed. Asserting that his misconduct was on all fours with that of the censured attorneys in Bradley and Vazquez, he argued that here, too, a censure would be the appropriate discipline. Further, he argued that a censure was warranted because his conduct was, admittedly, more egregious than that of the reprimanded municipal prosecutors in Whitmore and Segal but did not rise to the level of the misconduct that resulted in a three-month suspension in Norton.

In mitigation, respondent stressed that he had taken responsibility for his actions; entered into a stipulation with the ACPO and admitted that his conduct constituted contempt of court; agreed to a life-time bar on public employment in New Jersey; and entered into a stipulation with disciplinary authorities.

During argument, respondent, himself, apologized for his misconduct, expressed remorse, and recognized that his misconduct was “completely self-inflicted.” Although candidly acknowledging his wrongdoing, he asked the Board to weigh, in mitigation, the positive changes he had made in the five years since the events took place.

Following a review of the record, we determine that the stipulated facts in this matter clearly and convincingly support most but not all the charged violations of the Rules of Professional Conduct.

Specifically, respondent engaged in gross neglect, in violation of RPC 1.1(a), in his handling of the case against K.O., by moving to dismiss the charges without first discussing the evidence or the prospect of dismissal with Captain Somers, contrary to his standard practice when dismissing charges. Further, he concededly did not understand the applicable case law regarding (1) whether a DRE is needed to prove a charge of driving while under the influence of drugs, and (2) when double jeopardy prohibits a municipality from prosecuting charges that stem from an incident that also gave rise to charges prosecuted in the Superior Court. Even if Hand's application of the same-evidence test had still been good law, he failed to take the steps necessary to ascertain whether Hand applied at all, given that K.O. had been accepted into PTI; her file did not contain the waiver that accompanies remands to the municipal court from the Superior Court in cases in which defendants have entered guilty pleas; and he admittedly failed to consult with the ACPO regarding any potential double jeopardy issues and "was wrong in [his] assessment of the State's legal position."

Respondent also violated RPC 1.7(a)(2), which prohibits a lawyer from representing a client if "there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client, or a third person or by a personal interest of the lawyer." RPC 1.7(a)(2). Here, respondent engaged in a concurrent conflict of

interest by creating a “significant risk” that his representation of the State would be materially limited by his personal interest in pursuing a relationship with K.O.

Respondent likewise violated RPC 3.3(a)(1) and (5), which provide that an attorney “shall not knowingly: (1) make a false statement of material fact or law to a tribunal,” or “(5) fail to disclose to the tribunal a material fact knowing that the omission is reasonably certain to mislead the tribunal[.]” As for the former, respondent misrepresented to the court that he had consulted Somers about K.O.’s matter, knowing he had not. Further, he misrepresented to the court that K.O. “is currently . . . serving a probationary sentence or community service” and that she was in a “probationary program.” He knew, however, that K.O. had been admitted into PTI and, thus, was not on probation.

Further, he failed to disclose material facts where the omissions were “reasonably certain to mislead the tribunal.” RPC 3.3(a)(5). Specifically, while stating to the court that the State did not have a DRE and that “there is no attempt to quantify the blood draw and there is not alcohol . . . detected in the defendant’s system,” he failed to inform the court that PCP was detected in K.O.’s blood and urine; K.O. admitted using PCP prior to the accident; and a PCP-laced cigarette had been found in her vehicle. His one-sided description of the State’s evidence was reasonably certain to lead the judge to conclude that the State could not take

the matter to trial. As he later conceded before the Board, he could have tried the case based on K.O.'s admission and other evidence.

Further, respondent violated RPC 4.2 and RPC 4.3, governing an attorney's communications with represented and unrepresented persons, respectively. Specifically, RPC 4.3 provides, in relevant part, that

[i]n dealing on behalf of a client with a person who is not represented by counsel, a lawyer shall not state or imply that the lawyer is disinterested. When the lawyer knows or reasonably should know that the unrepresented person misunderstands the lawyer's role in the matter, the lawyer shall make reasonable efforts to correct the misunderstanding.

According to respondent, he learned that K.O. was represented by defense counsel at some point after she initially e-mailed him on July 13, 2018. When he was first contacted by her, instead of informing her that his position was adversarial to her own and that she should not discuss the particulars of her case with him, he encouraged her to communicate with him. Thus, contrary to RPC 4.3, he cultivated her misunderstanding, as an unrepresented defendant, of the impropriety and risks of communicating directly with the prosecutor who was presenting the State's case against her.

Thereafter, respondent learned that K.O. was represented by counsel, but nevertheless continued communicating with her. In so doing, he violated RPC 4.2, which prohibits "communicat[ing] about the subject of the representation

with a person the lawyer knows . . . to be represented by another lawyer in the matter . . . unless the lawyer has the consent of the other lawyer, or is authorized by law or court order to do so[.]” Respondent not only continued exchanging text messages with K.O. about her upcoming municipal court proceeding, but also repeatedly told her not to inform anyone – including her own attorney – that they were communicating.

The same evidence that supports our conclusion that respondent violated RPC 3.3(a)(1) and (5) also supports our conclusion that he violated RPC 8.4(c), prohibiting “conduct involving dishonesty, fraud, deceit or misrepresentation.” By both affirmative statements and misleading, one-sided omissions, respondent misrepresented the underlying facts and the procedural history of K.O.’s matter when he appeared before the municipal court.

However, whereas the OAE and respondent stipulated to two instances of violating RPC 8.4(c) – one corresponding to respondent’s false statements and the other, to his omissions of material facts – a single instance adequately encompasses his misrepresentations, which were intertwined and occurred together in a single, very short court appearance.

Respondent prejudiced the administration of justice, in violation of RPC 8.4(d), by skewing the municipal court proceedings against his own client and in favor of K.O. Further, he misdirected the court, thereby wasting judicial

resources, when he failed to rely on the correct legal precedent and accurately apply the law to the facts of K.O.’s case. Exacerbating his waste of the court’s time, he riddled the August 28, 2018 proceeding with misstatements and omissions. Finally, his misconduct diverted court resources to a contempt proceeding.

RPC 8.4(e) provides that “[i]t is professional misconduct for a lawyer to: . . . state or imply an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law[.]” See In re Saluti, 225 N.J. 606 (2016) (finding that the attorney violated RPC 8.4(e) by suggesting to his client that, to bolster the client’s claim for damages in a civil rights case, the client should fabricate various health issues and consult a psychologist about the fabricated issues, so that the psychologist would be manipulated into creating false evidence).

Here, respondent’s messages to K.O. – who knew of his public office as municipal prosecutor – strongly implied that he could assist her in her municipal court matter in ways that were evidently improper, given his insistence that she inform no one of their communications. Asked by her, “how long do you think I’m gonna lose my license for?” he replied, “[y]ou will be fine,” followed by, “[y]ou can never tell [your attorney] we talk[.]” Similarly, his statement (in a sequence of texts discussing the upcoming proceeding), that “[i]t will be fine as



long as you NEVER tell anyone we talk EVER,” resoundingly signaled improper influence, whereby her matter would turn out “fine” contingent on her keeping her exchanges with him secret.

However, we determine to dismiss the charge that respondent violated RPC 8.4(b), because the facts underlying his contempt of court are addressed with greater particularity by other charged RPCs. 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.” In cases where an attorney has been found guilty of contempt of court but has not committed other criminal acts, we customarily have found a violation of RPC 8.4(d), rather than RPC 8.4(b), based on the court’s contempt finding; in addition, RPC violations corresponding to the conduct underlying the contempt findings are typically supported. This approach is consistent with the Court’s treatment of the attorney’s criminal contempt conviction in In re Geist, 110 N.J. 1, 7-8 (1988), where the Court found that the contempt conviction established that the attorney had violated the Disciplinary Rules corresponding to his underlying misconduct: “allud[ing] to a matter that could not be supported by admissible evidence . . . intentionally violat[ing] an established rule of procedure[,]” and “conduct involv[ing] misrepresentation that was prejudicial to the administration of justice” (violations of the Disciplinary Rules corresponding to RPC 8.4(c) and

(d), and RPC 3.4(c) and (e)).<sup>6</sup> However, the Court did not discuss or find a violation of the equivalent of RPC 8.4(b), despite its acknowledgment that “contempt convictions are criminal in nature.” Id. at 8.

Here, respondent stipulated to violating RPC 8.4(b) based on his conviction for contempt of court, pursuant to R. 2A:10-1(b) (stating, in relevant part, that a court’s power to punish for contempt can extend to a case of “[m]isbehavior of any officer of the court in his official transactions”). However, he was not charged with a crime; on the contrary, the OAE reviewed the official misconduct provisions, N.J.S.A. 2C:30-2(a) and (b), and specifically declined to charge him with violating RPC 8.4(b) based on these provisions; and the ACPO likewise declined to pursue criminal charges against him. Thus, RPC 8.4(d) more precisely addresses his misconduct, which was flagrantly prejudicial to the administration of justice. Moreover, the other charged RPC violations correspond to each of the acts underlying his contempt of court adjudication. Under these circumstances, we determine to dismiss the charge that respondent violated RPC 8.4(b).

In sum, we determine that respondent violated RPC 1.1(a); RPC 1.7(a)(2); RPC 3.3(a)(1) and (5); RPC 4.2; RPC 4.3; RPC 8.4(c); RPC 8.4(d); and RPC

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<sup>6</sup> The Court also found that the attorney’s conduct violated DR 7-106(C)(6) (undignified or discourteous conduct which is degrading to a tribunal), for which there is no equivalent RPC.

8.4(e). However, we determine to dismiss the charged violation of RPC 8.4(b); and the second charged violation of RPC 8.4(c).

The sole issue left for our determination is the appropriate quantum of discipline for respondent's misconduct.

In assessing the applicable quantum, we draw guidance from our decisions in Bradley, \_\_ N.J. \_\_, 2022 N.J. LEXIS 1166; Vazquez, 252 N.J. 555; and Mott, 231 N.J. 22.

In Bradley, the Court imposed a censure on a defense attorney who made misrepresentations to a municipal court in the course of representing his client in two DWI matters on the same date. In the Matter of David S. Bradley, DRB 21-230 (April 19, 2022) at 3-4, 19, 21. In the first proceeding, which took place in the Berlin municipal court, his client entered a guilty plea to DWI as a first offender. Id. at 3. In the second proceeding, which took place in the Stratford municipal court, the attorney misrepresented that his client had no prior DWI convictions; bolstered the reliability of his client's driver's abstract (which had not been updated) while knowing it was inaccurate; and allowed the Stratford court to improperly sentence his client as a first-time offender. Id. at 3-5, 19. Although respondent's violations of RPC 3.3(a)(5), RPC 8.4(c), and RPC 8.4(d) "placed him on the precipice of a suspension," we determined to impose a

censure in light of his otherwise unblemished career in nineteen years at the bar. Id. at 8-13, 21. The Court agreed.

In Vazquez, a Senior Assistant Prosecutor with the Passaic County Prosecutor's Office, who was assigned to the drug court program, received a censure for attempting to pursue a personal relationship with a drug court participant by intercepting her in the courthouse hallways and by seeking her out at her workplace, in violation of RPC 1.7(a)(2), RPC 4.2, and RPC 8.4(g) (engaging, in a professional capacity, in conduct involving discrimination). In the Matter of Josue Vazquez, DRB 22-011 (July 18, 2022) at 2, 12-17. The attorney's recurring and persistent attentions toward the participant, which evidenced a romantic interest in her, led her to report his inappropriate behavior to her probation officer due to concerns for her safety; created a significant risk that his representation of the State of New Jersey would be materially limited by his personal interests; constituted an abuse of the attorney's position of power relative to a vulnerable individual; and undermined the goals of the drug court program. Id. at 12-17. Thus, we determined that the totality of the attorney's misconduct warranted at least a reprimand. Id. at 26. In mitigation, we weighed that the attorney had entered into a disciplinary stipulation and enrolled in counseling. Ibid. However, in aggravation, in his brief to us and during oral argument, he diminished his misconduct and offered excuses for his behavior,

raising serious, continuing concerns. Ibid. Accordingly, we concluded that a censure was the appropriate quantum of discipline, and the Court agreed.

Here, respondent's misrepresentations are comparable to those of the attorney in Bradley, who received a censure based solely on his misconduct before the municipal court. Separately, respondent also engaged in a conflict of interest and improper communications with K.O., similar to those undertaken by the prosecutor in Vazquez, whose misconduct alone (absent consideration of aggravating factors) warranted at least a reprimand. Taken together, Bradley and Vazquez lead us to conclude that the totality of respondent's misconduct warrants discipline greater than a censure.

Among the cases involving municipal prosecutors who have taken part in the improper dismissal of tickets, Mott provides the most recent, comprehensive analysis. In the Matter of Mary Rose Mott, DRB 16-253 (March 31, 2017) at 37-52. There, the municipal prosecutor improperly dismissed a speeding ticket for an employee of her family farm; failed to disclose her conflict of interest to the court; misrepresented to the court that the dismissal was due to a problem with discovery, although she had neither requested nor reviewed the discovery; and, subsequently, made false statements to the prosecutor's office and the OAE during their respective investigations of her conduct. Id. at 25-31. However, the

evidence did not establish that she acted based on any specific personal or pecuniary interest in the outcome of the defendant's ticket. Id. at 50.

In imposing a six-month suspension, we weighed, in mitigation, that the attorney had no prior discipline in her twenty-seven years at the bar. Id. at 52. However, in aggravation, she involved the judge, without his knowledge, in her decision to improperly dismiss the ticket; further, she neither showed remorse nor manifested an understanding of the gravity of her misconduct, but, rather, accepted it as "business as usual" in the towns she was entrusted to represent. Id. at 51-52.

Here, based on Bradley, Vazquez, and Mott, we determine that respondent's misconduct could be met with a three- or six-month suspension. Thus, to craft the appropriate discipline in this case, we must also consider aggravating and mitigating factors.

In aggravation, over a span of about five weeks, respondent repeatedly contacted K.O. with the goal of garnering her affection, while knowing that she was struggling with substance use and was vulnerable. Notably, he was so persistent that K.O. herself eventually reported his misconduct. Although he stopped short of promising to arrange for her tickets to be dismissed, his behavior exuded favoritism toward her.

In addition, respondent involved others in his misconduct. Specifically, he involved the municipal court judge, without the judge's knowledge, in the improper dismissal of the tickets. He also enlisted K.O.'s participation by insisting that she not tell anyone, including her own attorney, about their communications.

In mitigation, respondent showed remorse and contrition. He voluntarily resigned from his positions as municipal prosecutor of Somers Point and Galloway. Moreover, he agreed, as part of the consent order in the contempt proceeding, to a permanent bar on seeking "any type of public employment in the State of New Jersey, . . . a contract with a public entity in the State of New Jersey[,] and . . . employment in any firm that engages in work for any public entity within the State of New Jersey." He cooperated with the ACPO and OAE investigations. Finally, he entered into the present disciplinary stipulation, thereby accepting responsibility for his misconduct and conserving disciplinary resources.

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

Member Campelo voted for a censure.

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  
Chief Counsel



SUPREME COURT OF NEW JERSEY  
DISCIPLINARY REVIEW BOARD  
VOTING RECORD

In the Matter of Christopher Santo Lipari  
Docket No. DRB 23-110

Argued: June 21, 2023

Decided: October 31, 2023

Disposition: Three-month suspension

<i>Members</i>	Three-month suspension	Censure
Gallipoli	X	
Boyer	X	
Campelo		X
Hoberman	X	
Joseph	X	
Menaker	X	
Petrou	X	
Rivera	X	
Rodriguez	X	
Total:	8	1

/s/ Timothy M. Ellis

Timothy M. Ellis  
Chief Counsel