SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
Docket No. DRB 23-129
District Docket No. XIV-2022-0332E

In the Matter of Joseph V. Campbell, Jr.
An Attorney at Law

Argued
July 20, 2023

Decided
November 27, 2023

Corrected Decision

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

Respondent waived appearance for oral argument.

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Introduction

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, in the Eleventh Judicial Circuit Court of the State of Florida, Miami-Dade County, to second-degree attempted robbery/carjacking, contrary to Fla. Stat. § 812.133(2)(B); second-degree burglary of an occupied conveyance, contrary to Fla. Stat. § 810.02(3(D); third-degree grand theft of a vehicle, contrary to Fla. Stat. § 812.014(2)(C)(6); second-degree aggravated battery with a deadly weapon, contrary to Fla. Stat. § 784.045(1)(A)(2); and first-degree misdemeanor battery, contrary to Fla. Stat. § 784.03.

For the reasons set forth below, we determine to grant the motion for final discipline and conclude that an indefinite suspension, with a condition, is the appropriate quantum of discipline for respondent's misconduct.

Respondent earned admission to the New Jersey bar in 2014 and previously maintained a practice of law in Irvington, New Jersey. At the relevant time, he resided in Florida, where he did not engage in the practice of law. In

2022, respondent moved back to New Jersey, but did not resume the practice of law.

On July 19, 2021, the Court declared respondent ineligible to practice law for his failure to pay the annual assessment to the New Jersey Lawyers' Fund for Client Protection, as R. 1:28-2 requires.

On October 18, 2021, the Court again declared respondent administratively ineligible to practice law for his failure to comply with continuing legal education requirements.

Respondent remains administratively ineligible, on both bases, to date.

In addition, effective May 31, 2023, the Court temporarily suspended respondent from the practice of law in connection with his criminal conduct underlying this matter. He remains temporarily suspended to date.

We now turn to the facts of this matter.

Facts

Respondent's May 16, 2022 criminal conviction was based on a series of incidents occurring in rapid succession on the morning of December 1, 2021, in Miami Beach, Florida.

In the first incident (the Cabrera matter), at 10:49 a.m., Luis Cabrera Plasencia[1] contacted the Miami Beach Police Department to report the theft of his vehicle, a Jeep Renegade. He had left the vehicle parked outside the restaurant where he worked, with a co-worker watching it, as he carried items inside. While he was still inside, his co-worker came into the restaurant to alert him that someone was taking his car. Cabrera ran outside and saw his vehicle being driven away.

Cabrera chased the Jeep on foot, catching up at an intersection. As he approached the car to confront the driver – later identified as respondent – respondent sped away. According to Cabrera, "he was hit by the vehicle, rolled over the car, and fell to the ground." Respondent turned at the next intersection, and Cabrera lost sight of the Jeep. He then called the police to report his vehicle stolen.

The second incident (the Boza matter), which was reported at about 10:50 a.m., began after respondent drove several blocks, then parked and exited the Jeep. He next approached a parked Ford F550 work truck, in which Eduardo Boza, Jr., was seated in the driver's seat. Opening the driver-side door, he

[1] Luis Cabrera Plascencia's surname is variously written as "Cabrera," "Cabrera Plasencia," and "Cabreraplascensia" in the record. For consistency, and intending no disrespect to the victim, we refer to him as "Cabrera" in this decision.

"began to punch [Boza] in his face while demanding his truck." However, Boza "fought back and struck [respondent] in the face," and respondent ran away.

The third incident (the Philippe matter) also was reported at 10:50 a.m. and began as Junior Philippe[2] was parking his electric scooter behind Boza's truck. Respondent "demanded Philippe give him the scooter," and, "when Philippe resisted . . . struck him with his right elbow on the side of the head." However, Philippe "fought back and struck [respondent] multiple times in the face." Respondent again attempted to run away but was apprehended and arrested at the scene.

According to police reports, Philippe suffered swelling on the left side of his eye, as well as abrasions and swelling on his left knee, for which he was treated at the scene. Boza had bruising by his right eye but declined medical attention. Cabrera suffered abrasions to both knees; however, the record is silent regarding any medical attention in his case.

After being taken into custody, respondent "claimed he ingested narcotics and was having difficulty breathing." Accordingly, he was transported to a hospital. The hospital later cleared and released him for transport to the county correctional center.

[2] This victim's surname is variously spelled "Philippe" and "Phillipe" in the record. Because the record does not identify the correct spelling, and intending no disrespect to the victim, we use the spelling "Philippe" in this decision.

Subsequently, on December 29, 2021, respondent was charged with second-degree attempted robbery/carjacking, contrary to Fla. Stat. § 812.133(2)(b),[3] in the Philippe matter (Count 1); first-degree burglary with assault or battery, contrary to Fla. Stat. § 810.02(2)(a),[4] in the Boza matter (Count 2); and third-degree grand theft of a vehicle, contrary to Fla. Stat. § 812.014(2)(c)(6),[5] and second-degree aggravated battery with a deadly weapon, in violation of Fla. Stat. §§ 784.045(1)(a)(2) and 775.087,[6] in the Cabrera matter (Counts 3 and 4).

Respondent remained incarcerated pending further proceedings.

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[3] Under Florida law, "'[c]arjacking' means the taking of a motor vehicle which may be the subject of larceny from the person or custody of another, with intent to either permanently or temporarily deprive the person or the owner of the motor vehicle, when in the course of the taking there is the use of force, violence, assault, or putting in fear." Fla. Stat. § 812.133(1). It is a felony of the first degree if "the offender carried no firearm, deadly weapon, or other weapon[.]" Fla. Stat. § 812.133(2)(b). Attempted carjacking is a felony of the second degree. Fla. Stat. § 777.04(c).

[4] Fla. Stat. § 810.02(1)(b) defines burglary, in relevant part, to include "entering . . . a conveyance with the intent to commit an offense therein, unless . . . the defendant is licensed or invited to enter." Fla. Stat. § 810.02(2)(a) states, in relevant part, that "[b]urglary is a felony of the first degree, punishable by imprisonment for a term of years not exceeding life imprisonment or as provided in s. 775.082, s. 775.083, or s. 775.084, if, in the course of committing the offense, the offender: (a) Makes an assault or battery upon any person."

[5] Fla. Stat. § 812.014(2)(c)(6) states, in relevant part, that "[i]t is grand theft of the third degree and a felony of the third degree . . . if the property stolen is: . . . [a] motor vehicle[.]"

[6] Fla. Stat. § 784.045(1)(a)(2) states that "[a] person commits aggravated battery who, in committing battery: . . . Uses a deadly weapon." Fla. Stat. § 775.087 sets out reclassification provisions applicable to aggravated battery and other offenses; as applied in the instant matter, it resulted in the charge being classified as a second-degree felony.

On May 26, 2022, respondent entered into an unwritten plea agreement with the Florida Office of the State Attorney. As part of this agreement, the prosecutor reduced the initial Count 2 to two lesser counts: second-degree burglary of an occupied conveyance, in violation of Fla. Stat. § 810.02(3)(d)[7] (amended Count 2); and misdemeanor battery, in violation of Fla. Stat. § 784.03[8] (Count 5).

As part of the plea agreement, respondent was eligible to have an adjudication of guilt withheld, pursuant to Fla. Stat. § 948.01(2),[9] among other outcomes, described below.

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[7] Fla. Stat. § 810.02(3)(d) states, in relevant part, that "[b]urglary is a felony of the second degree, . . . if, in the course of committing the offense, the offender does not make an assault or battery and is not and does not become armed with a dangerous weapon or explosive, and the offender enters or remains in a: . . . (d) Conveyance, and there is another person in the conveyance at the time the offender enters or remains[.]"

[8] Fla. Stat. § 784.03(1) states, in relevant part, that "[t]he offense of battery occurs when a person: 1. Actually and intentionally touches or strikes another person against the will of the other." A first offense of battery constitutes a first-degree misdemeanor; a subsequent battery offense constitutes a third-degree felony. Fla. Stat. § 784.03(1)(b), (2).

[9] Fla. Stat. § 948.01(2) states, in relevant part: "If it appears to the court upon a hearing of the matter that the defendant is not likely again to engage in a criminal course of conduct and that the ends of justice and the welfare of society do not require that the defendant presently suffer the penalty imposed by law, the court, in its discretion, may either adjudge the defendant to be guilty or stay and withhold the adjudication of guilt. In either case, the court shall stay and withhold the imposition of sentence upon the defendant and shall place a felony defendant upon probation. If the defendant is found guilty of a nonfelony offense as the result of a trial or entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld, the court may place the defendant on probation."

Also on May 26, 2022, respondent appeared before the Honorable Robert Watson, Circuit Court Judge, Eleventh Judicial Circuit of the State of Florida, Miami-Dade County, and pleaded guilty to the aforementioned charges. The court accepted respondent's plea, found him guilty, and withheld adjudication.

During the plea colloquy, respondent, through his counsel, stipulated that, "for the purpose of the plea," there existed a factual basis for the plea.

For each of the four felony counts, Judge Watson sentenced respondent to a three-year probationary term, to run concurrently, and with eligibility for early termination after one-and-a-half-years; for the misdemeanor count, he sentenced respondent to a one-day probationary term, also to run concurrently; and he added "the special condition of 180 days in jail credit for the time [respondent] served." The court also ordered respondent to attend a mental health evaluation; comply with any resulting treatment recommendations for mental health concerns or substance use; and "stay away" from the victims. During the colloquy, Judge Watson further explained to respondent that, if he completed the term of probation, then the State "is not going to oppose vacating your guilty plea, vacating your sentence. And the State will then dismiss all these charges against you."

Respondent's counsel asked the court to "waive the fees of supervision and any potential drug-testing fees." She explained that respondent:

> has been going through . . . hard times ever since the pandemic. . . . And I want him to be able to get back on his feet, get a job, and go through the process for him to be financially stable. He's going to have to find stable housing and probably contribute with bills. So, I believe that right now paying for any fees of supervision would be a burden for him.
>
> [T9:13-23.][10]

Consequently, the court granted the fee waiver.

On May 27, 2022, the day after respondent entered the plea, he was released from the Miami-Dade Metro West Detention Center. He applied to have his probation transferred to New Jersey and, several months later, after receiving approval of the transfer, returned to New Jersey from Florida.

By letter dated October 6, 2022, respondent informed the OAE, pursuant to R. 1:20-13(a)(1), of the indictable charges against him, his incarceration from December 2021 to May 2022, and his release on probation.

On May 24, 2023, the OAE filed the instant motion.

The Parties' Positions

In its brief and during oral argument, the OAE noted that carjacking presents us with an issue of first impression. The OAE emphasized that, in contrast to robbery, which is a crime of the second degree (absent aggravating

[10] "T" refers to the transcript of respondent's May 26, 2022 guilty plea.

factors), carjacking in New Jersey is a crime of the first degree (citing N.J.S.A. 2C:15-1 and -2). However, the OAE also pointed out that respondent pleaded guilty to attempted carjacking/robbery. The OAE correctly noted that there is no precedent addressing attempted robbery.

In recommending his disbarment, the OAE relied upon In re Goldman, 224 N.J. 33 (2016), and In re French, 227 N.J. 532 (2017), in which both attorneys were disbarred for having committed robbery. In Goldman, the attorney pleaded guilty, in New Jersey, to robbing a bakery by concealing her finger in a paper bag and telling the employees "something to the effect of give me the money and nobody gets hurt." In the Matter of Elizabeth M. Goldman, DRB 13-257 (January 31, 2014) at 2-3. Goldman was sentenced to five years' imprisonment. Id. at 3.

The OAE noted that, in Goldman, we recognized that not all instances of theft result in disbarment; nevertheless, we determined that nothing short of disbarment would be appropriate for Goldman, who had placed people in fear of serious physical harm, or even death, during the robbery. Id. at 8. Moreover, we considered Goldman's mental health issues and physical illness but determined that these did not outweigh the severity of her crime. Ibid.

Turning to French, the OAE emphasized that there, too, the attorney was disbarred based on the commission of a robbery. In the Matter of Steven R.

French, DRB 16-118 (November 10, 2016) at 3. Specifically, French had been convicted in Pennsylvania of bank robbery (a second-degree felony), as well as simple assault and terroristic threats. Id. at 1-2. He had entered a bank, "handed the cashier a handwritten note demanding cash and indicated that he had a gun and a partner outside. He was handed $2,420.00 in cash, and he fled the scene." Id. at 3. Subsequently, he was sentenced to a twelve- to eighty-four-month prison term and ordered to pay $2,420 in restitution. Ibid. In recommending that French be disbarred, we noted, in aggravation, that French had "placed people in fear of serious physical harm – and perhaps even death." Ibid.

The OAE urged that in the instant matter, respondent's misconduct "is even more egregious than the misconduct in Goldman and French," in that he "did not merely threaten physical harm against his victims, [but] actually caused harm during his violent and dangerous rampage." The OAE emphasized that respondent had struck Cabrera with a car; repeatedly punched Boza in the face while demanding his truck; and also struck Philippe while trying to take his scooter. Thus, the OAE argued, respondent "repeatedly placed others in fear for their safety, if not their lives."

The OAE asserted that respondent's attempted carjacking (of Philippe's scooter) alone merited disbarment, and that the circumstances surrounding his convictions for theft (of Cabrera's car) and burglary (of Boza's truck) likewise

made those offenses "sufficiently egregious to warrant disbarment," as each was likewise "perpetrated using violence or the threat of violence."

Moreover, the OAE highlighted that the Court has found "[s]ome criminal conduct . . . so utterly incompatible with the standard of honesty and integrity that we require of attorneys that the most severe of discipline is justified by the seriousness of the offense alone." In re Hasbrouck, 152 N.J. 366, 371-72 (1998). The OAE urged that respondent's crimes constituted such conduct, warranting his disbarment.

We initially scheduled this matter for oral argument on July 20, 2023. Respondent, pro se, waived his appearance on that occasion, but informed us that he did not agree with the conclusions or recommendations of the OAE.

Subsequently, we determined to adjourn the matter until our September 21, 2023 session and, by letter dated July 25, 2023, informed the parties that we required additional information to determine whether respondent's misconduct warranted disbarment. We were particularly concerned by the sparseness of the record given the unique facts of this matter, in which the criminal conduct appeared to have unfolded over a very short span of time, appeared aberrant, and may have been spurred by factors not set forth in the underlying record.

We further noted that, despite the severity of the initial charges, the Florida court had withheld adjudication and sentenced respondent to three years

of reporting probation, with a special condition of 180 days in jail (with credit for time served), and further, with possible early termination. In addition, if he successfully completed the term of probation, the criminal court informed respondent that the prosecution would not oppose vacating the guilty plea and, further, would dismiss all the charges. The criminal court's determination fortified our view that we might not possess the fulsome record that most often underlies any recommendation for disbarment.

In response to our request, on September 14, 2023, the OAE provided us with respondent's medical records from Jackson Health System, Miami, Florida – the entity that provided respondent's health care during the six months that he was incarcerated while awaiting hearing. These records documented that, on the date of his arrest, respondent stated he was having auditory hallucinations and heard voices telling him to kill himself; was delusional, agitated, angry, and uncooperative; stated, "my life is in danger, I discovered some information and I went public about it . . . I want to kill myself before they kill me;" stated he had used "meth" for "3 days straight" and "want to kill myself by using drugs;" and admitted prior cocaine use. He was diagnosed with acute psychosis and deemed incapable of making treatment decisions.

In addition, the OAE submitted a letter, dated July 10, 2023, from respondent's therapist in New Jersey, who stated that respondent had met his

treatment goals and was discharged from therapy, in July 2023, after attending for six months.

The OAE also provided a letter, dated August 17, 2023, from the Administrative Office of the Courts, stating that respondent was compliant with his probation requirements; had abstained from illicit substances, remained arrest free, and refrained from contact with the victims; had "successfully met the special condition of probation to undergo therapy" (referring to the therapy described above); and had obtained employment, which he had maintained since approximately December 2022.

In its September 14, 2023 letter to us, the OAE again argued that respondent's violent crimes warrant disbarment. The OAE urged that neither his mental health issues nor his substance use at the time he committed the crimes warranted a reduction in discipline.

In his September 14, 2023 written submission to us, respondent did not deny the bases for his plea but drew to our attention to relevant mental health circumstances, corroborated by the medical evidence in the record. Specifically, respondent informed us that, at the time of the incidents, he was "under the influence of narcotics and experiencing auditory hallucinations." Prior to that date, he had lost his job due to the lockdowns caused by the COVID pandemic; "had been fighting a losing battle with depression and anxiety" and

"self-medicating;" and had been "living on the street/homeless" for several months.

Respondent countered the OAE's argument as follows:

> The OAE has pointed to two cases, In re Goldman and In re French. One involving an attorney who robs a bakery concealing their finger in a paper bag, and the other involving an attorney who robs a bank with a robbery note demanding cash. While the base crime may be similar, robbery, I argue that there is a great difference between an attorney who enters an establishment with the clear intent to commit a robbery, and an attorney who is having a mental breakdown, under the influence of narcotics, and having auditory hallucinations. This is not to absolve the latter from accountability, but, arguably, there's a difference.
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> [Respondent's Letter to the Board, dated September 14, 2023.]

Analysis and Discipline

Violations of the Rules of Professional Conduct

Following a review of the record, we determine to grant the OAE's motion for final discipline. Final discipline proceedings in New Jersey are governed by Rule 1:20-13(c). Under that that Rule, a "transcript of 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).

Thus, respondent's guilty plea to attempted carjacking; burglary of an occupied conveyance; grand theft (third degree) of a vehicle; aggravated battery with a deadly weapon; and battery establishes his 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."

In sum, we find that respondent violated RPC 8.4(b). Hence, the sole issue left for our determination is the proper quantum of discipline for his misconduct. R. 1:20-13(c)(2); Magid, 139 N.J. at 451-52; Principato, 139 N.J. at 460.

Quantum of Discipline

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 Legato, 229 N.J. 173 (2017) (quoting In re Cohen, 220 N.J. 7, 11 (2014)). Fashioning the appropriate penalty involves a consideration of many factors, including the "nature and severity of the crime, whether the crime is related to the practice of law, and any mitigating factors such as respondent's reputation, his prior trustworthy conduct, and general good conduct." In re Lunetta, 118 N.J. 443, 445-46 (1989).

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

As the OAE observed, respondent' criminal conduct presents us with a case of first impression. The Court has never disciplined a New Jersey attorney for attempted carjacking.[11]

[11] Our research of other states' disciplinary matters involving carjacking or attempted carjacking yielded only one such case. Specifically, in December 2005, the Supreme Court of Alabama disbarred attorney LeMarcus Alan Malone after he was convicted, in the Superior Court of California, of attempted carjacking and attempted kidnapping. Disciplinary Notices, 67 Ala. Law. 170, 172 (May 2006). Malone had approached an occupied vehicle, opened the front passenger door, climbed into the seat next to the driver, and grabbed her by the hair, saying, "Do what I say. I have a gun." People v. Malone, 2006 Cal. App. Unpub. LEXIS 692 (Cal. Ct. App., 3d App. Dist., Jan. 26, 2006), at *2-3. Although Malone told the victim "to take me where I want to go," the victim did not comply; instead, she drove erratically – flooring the accelerator, nearly hitting a tree, swerving into oncoming traffic, and jumping a curb – at which time she saw a police car, "drove towards it, stopped, and shouted at the officer, 'I'm being carjacked. He's got a gun.'" Ibid. When confronted by the officer, the attorney "threatened to pull a gun from his backpack and shoot" the officer, but the officer subdued him without further incident. Ibid.

Precedent Distinguishes Between Completed and Attempted Crimes

As analogous precedent, the OAE appropriately highlighted the two New Jersey disciplinary matters based on an attorney's commission of robbery – French, 227 N.J. at 532, and Goldman, 224 N.J. at 33 – which are detailed above. However, in contrast to respondent, who did not complete either his carjacking of Philippe's scooter or his attempt to forcibly steal Boza's truck while Boza occupied it, both French and Goldman completed their robberies. Thus, while French and Goldman are relevant to the analysis of the appropriate quantum of discipline, they also are distinguishable from the instant matter, in a manner that, in other cases involving criminal conduct, has meant the difference between disbarment and lesser discipline.

Specifically, disciplinary precedent has distinguished between "successful" criminal conduct, on the one hand, and incomplete or attempted criminal conduct, on the other. See, e.g., Legato, 229 N.J. at 186 (ordering indeterminate suspension, rather than disbarment, for attorney who pleaded guilty to third-degree attempt to engage in sexual conduct with a child under the age of sixteen, which would impair or debauch the morals of the child (N.J.S.A. 2C:5-1 and 2C:24-4(a)); the attorney, believing he was communicating with a twelve-year-old girl, engaged her in online discussions of certain sexual acts he would like the girl to perform on herself and on him, and certain acts he would

like to perform on her; he also exposed himself during a video chat; he did not, however, meet with the minor; in fact, the "girl" was an undercover law enforcement officer; we recommended disbarment; the Court disagreed, finding that because the attorney had never met with the minor, an indeterminate suspension was appropriate based on precedent; the Court further found that the public would be protected by the suspension, the Court's "vigorous review" before any potential restoration of his license, and the protections afforded by Megan's Law and parole supervision for life, which had been ordered in connection with his criminal matter); In re Intriago, 231 N.J. 20 (2017) (reprimand for an attorney who, after engaging in a consensual sexual relationship with her employer, repeatedly demanded that he give her luxury items and up to $125,000 to refrain from revealing the affair to the employer's spouse; the attorney, who was charged with theft by extortion and with stalking, was admitted to PTI; during the disciplinary proceedings, she stipulated to engaging in extortion; in determining to impose only a reprimand, we distinguished the severity of her conduct from that of attorneys who succeeded in their extortion plots or were guilty of additional serious ethics violations and were disbarred); In re Braunstein, 210 N.J. 148 (2012) (one-year suspension for an attorney who pleaded guilty to attempted criminal coercion, official action; the attorney had threatened to sue a superior unless he agreed to promote him

and pay him $750,000; in determining to impose a one-year suspension, we distinguished the attorney's conduct, which involved attempted coercion, from disbarment cases involving analogous conduct, where the disbarred attorneys all completed the acts of extortion before they were caught).

Discipline for Crimes Involving Theft by an Attorney

We also examined disciplinary precedent involving theft by an attorney which, ordinarily, results in a period of suspension, the length of which depends on the severity of the crime and mitigating or aggravating factors. See, e.g., In re Pariser, 162 N.J. 574 (2000) (six-month suspension for deputy attorney general (DAG) who pleaded guilty to one count of third-degree official misconduct for stealing items, including cash, from co-workers; his conduct was not an isolated incident but, rather, a series of petty thefts occurring over a period of time; the attorney received a three-year probationary term and was ordered to pay a $5,000 fine, to forfeit his public office as a condition of probation, and to continue psychological counseling until medically discharged; the attorney's status as a DAG was considered an aggravating factor); In re Burns, 142 N.J. 490 (1995) (six-month suspension for attorney who committed three instances of burglary of an automobile, two instances of theft by unlawful taking, and one instance of unlawful possession of burglary tools; on two

separate dates, he was observed breaking into vehicles, from which he took cash and Garden State Parkway tokens; he was accepted into PTI for six-months); In re Farr, 115 N.J. 231 (1989) (six-month suspension for assistant prosecutor who, among other serious acts of misconduct, stole drugs from the evidence room in the prosecutor's office); In re Del Tufo, 233 N.J. 100 (2018) (one-year suspension for attorney who pleaded guilty to stealing, from a person with whom he had been in a dating relationship, a 1.6 carat diamond engagement ring, which he then sold; the attorney was admitted to PTI; the attorney lied to the OAE when it investigated the matter, violations of RPC 8.1(a) and RPC 8.4(c); prior admonition, reprimand, and three-month suspension); In re Kopp, 206 N.J. 106 (2011) (retroactive three-year suspension for identity theft, credit card theft, theft by deception, and burglary; after the attorney was indicted for identity theft and theft by deception, she continued her criminal conduct by burglarizing two homes; mitigating factors included her tremendous progress in drug and alcohol rehabilitation).

Discipline Involving an Attorney's Violent Behavior

There is no typical or baseline measure of discipline in matters involving an attorney's violent behavior. Rather, such cases require fact-sensitive analyses. See, e.g., In re Ingilian, 246 N.J. 458 (2021) (censure for attorney who engaged in a physical altercation with a teenager and made threatening

statements to the youth; he also falsely claimed influence over the police and municipal court; the attorney, who was charged with aggravated assault and terroristic threats, was accepted into PTI without an admission of guilt); In re Buckley, 226 N.J. 478 (2016) (three-month suspension for attorney who physically assaulted a taxi driver; the incident began when the attorney had only $9 for a $63 fare and told the driver they must go to his apartment to retrieve his ATM card; when the taxi driver locked the attorney in the back of the taxi, the attorney kicked the door and window of the vehicle; the taxi driver allowed the attorney to exit, but pursued him, seeking payment of the fare; in response, the attorney grabbed the driver's face and struck him with a closed fist, causing lacerations to his forehead and upper lip, broken eyeglasses, and pain in his nose and mouth; the attorney was initially charged with robbery, but ultimately entered a guilty plea to simple assault, a disorderly persons offense, and was sentenced to mandatory fines and $750 in restitution to the victim); In re Chechelnitsky, 232 N.J. 331 (2018) (six-month suspended suspension for attorney who was convicted of two counts of aggravated assault on a law enforcement officer, as well as creating a dangerous condition and possession of a weapon for an unlawful purpose; the attorney's criminal conduct, including multiple confrontations with police officers, was "fueled by" her alcohol consumption); In re Gibson, 185 N.J. 235 (2005) (on motion for reciprocal

discipline, one-year suspension for attorney who was involved in a bar fight in Pennsylvania; police responded and arrested the attorney for the summary offenses of public drunkenness and disorderly conduct; later, at the police station, when an officer attempted to handcuff him, the attorney, who was still intoxicated, spat on and hit the officer; the attorney received a one-year suspension in Pennsylvania, and in imposing the same discipline, we made clear that our decision was grounded largely in our conclusion that there was no reason to deviate from Pennsylvania's determination).

Discipline for Assault by Automobile with no Serious Bodily Injury

No disciplinary precedent addresses an attorney's striking a victim with a vehicle in the course of a theft. Generally, however, an admonition or reprimand has been imposed on attorneys charged with the lesser offense of assault by auto, where (as here) the victim did not suffer serious injury. See, e.g., In re Terrell, 203 N.J. 428 (2010) (admonition for attorney who rear-ended an automobile and left the scene; the struck automobile sustained minor damage and one of the occupants was taken to the hospital for neck pain; the attorney pleaded guilty to fourth-degree assault by auto, driving while intoxicated, and leaving the scene of an accident; in mitigation, we considered the attorney's unblemished disciplinary record, his cooperation with the OAE, and the lack of serious

injuries to the occupants of the other vehicle); In re Shiekman, 235 N.J. 167 (2018) (reprimand for attorney convicted of fourth-degree assault by auto and driving while intoxicated; the attorney, whose blood alcohol content was 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).

Based upon the above disciplinary precedent, respondent's misconduct – in a vacuum – readily could be met with a lengthy term of suspension or even disbarment. However, pursuant to R. 1:20-13(c)(2), we "may consider any relevant evidence in mitigation that is not inconsistent with the essential elements of the criminal matter for which the attorney was convicted or has admitted guilt as determined by the statute defining the criminal matter."

Mitigating Factors

By admitting his guilt to the crimes at issue, respondent acknowledged that, at the time of his misconduct, he had the requisite intent required to satisfy each crime's statutory elements. However, a mental illness that is causally related to an attorney's misconduct may be weighed in mitigation.

In our view, the evidence before us adequately establishes that, during the relevant timeframe, respondent was undergoing an acute mental health crisis, in which he experienced delusional thinking and auditory hallucinations. In

combination, the documentation of respondent's contemporaneous statements; the Jackson Health System records regarding his psychiatric treatment and monitoring on the date of his arrest; the sentence imposed by the Florida criminal court; and other evidence contained in the police reports, corroborate that at the time respondent engaged in his misconduct, his mind was impaired.

In further mitigation, respondent's criminal conduct appears to have been aberrational and involved a single series of events that played out over a matter of minutes. Respondent's apparent financial struggles at the time, as reflected by the police reports' annotation that he was "homeless" and by the court's waiver of fees when his attorney stated she wanted him to be able to "get back on his feet, get a job, and go through the process for him to be financially stable" and achieve "stable housing," may also be considered in mitigation. See, e.g., In re Brady, 220 N.J. 212 (2015) (weighing the ultimate collapse of the attorney's personal life, including becoming homeless, and, in at least one of instance of practicing while suspended, his desperate need to provide some financial support for himself); In re Penkovsky, 244 N.J. 321 (2020) (weighing the fact that, since graduating from law school almost thirty years earlier, the attorney had struggled financially, resulting in his inability to pay his law school debts, as well as several other debts accrued over the years).

Aggravating Factors

We also consider aggravating factors. In our view, the record is too sparse to extrapolate that respondent's victims experienced "fear of serious physical harm or even death" on par with the fear instilled in the victims of the robberies at issue in French and Goldman, where each attorney either threatened to use, or appeared to be holding, a gun. However, respondent's crimes implicate an aggravating factor articulated in Hasbrouck, where the Court noted that burglaries, particularly of homes in which residents are present, "raise[] the public's concern regarding the threat of personal safety" and pose a significant "potential for violence or unanticipated harm." 152 N.J. at 373. Here, respondent's efforts to take multiple victims' vehicles, while the victims were either occupying their vehicles or present nearby, constituted the type of misconduct that heightens public safety concerns and risked creating greater violence or unanticipated harm, not only to the vehicles' owners but to others in the vicinity.

Conclusion

On balance, respondent's criminal conduct posed so significant a threat to the public and reflected such a profound (even if apparently short-term) absence of the fitness required of attorneys, we determine that an indefinite suspension

is the quantum of discipline necessary to protect the public and preserve confidence in the bar. As a condition precedent to his reinstatement, respondent must submit proof to the OAE of his fitness to practice law, as attested to by a medical doctor approved by the OAE.

In recommending an indefinite suspension – versus an indeterminate or fixed term of suspension – we rely upon In re Orlando, 104 N.J. 344 (1986). In that matter, which involved a temporarily suspended attorney whose "acknowledged abuse of illegal drugs adversely reflect[ed] on his fitness to practice law," the Court imposed an indefinite suspension "until such time as he [could] demonstrate his fitness to practice law again." Id. at 351. Although factually dissimilar, Orlando guides us here because, like the Court in that matter, we are presented with too little information to resolve the issue of when (or even whether) respondent may achieve the level of fitness required to resume the practice of law in New Jersey.

Member Menaker voted to hold the matter in abeyance and refer respondent for the appointment of counsel.

Members Joseph and Rivera were 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
Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Joseph V. Campbell, Jr.
Docket No. DRB 23-129

Argued: July 20, 2023

Decided: November 27, 2023

Disposition: Indefinite Suspension

Members	Indefinite Suspension	Hold in abeyance	Absent
Gallipoli	X		
Boyer	X		
Campelo	X		
Hoberman	X		
Joseph			X
Menaker		X	
Petrou	X		
Rivera			X
Rodriguez	X		
Total:	6	1	2

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