

SUPREME COURT OF NEW JERSEY  
DISCIPLINARY REVIEW BOARD  
Docket No. DRB 24-185  
District Docket No. XIV-2023-0098E

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In the Matter of Brian T. Giblin Jr.  
An Attorney at Law

Argued  
November 21, 2024

Decided  
February 3, 2025

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Saleel V. Sabnis appeared on behalf of the  
Office of Attorney Ethics.

Dillon J. McGuire appeared on behalf of respondent.

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Corrected Decision

## Table of Contents

Introduction.....	1
Ethics History.....	1
Facts.....	1
The Parties’ Positions Before The Board.....	5
Analysis and Discipline .....	6
Violations of the Rules of Professional Conduct .....	6
Quantum of Discipline.....	7
Conclusion .....	13

## **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 Superior Court of New Jersey, to simple assault, in violation of N.J.S.A 2C:12-1(a). The OAE asserted that this offense constitutes a violation of RPC 8.4(b) (committing a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer).

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

## **Ethics History**

Respondent earned admission to the New Jersey bar in 2014 and has no disciplinary history. During the relevant timeframe, he practiced law as an associate at the Giblin & Gannaio firm in Oradell, New Jersey.

## **Facts**

On October 12, 2023, in the Superior Court of New Jersey, Bergen County, Criminal Division, respondent appeared before the Honorable David J. Labib, J.S.C., and entered a guilty plea to one count of simple assault, a disorderly persons offense, in violation of N.J.S.A 2C:12-1(a).<sup>1</sup> In exchange for his guilty plea, the prosecution recommended that respondent be admitted to the pretrial intervention (PTI) program<sup>2</sup> for a term of twelve months. The facts underlying the criminal offense, which stem from an act of domestic violence, are as follows.

According to the affidavit of probable cause, on February 16, 2023, officers of the Mahwah police department responded to a report of domestic violence, including property damage, at the residence of respondent's girlfriend, Jane Doe (J.D.).<sup>3</sup> Upon arrival, patrol officers spoke with J.D.; however, respondent was no longer at the residence.

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<sup>1</sup> N.J.S.A. 2C:12-1(a)(1) provides that a person is guilty of simple assault, a disorderly persons offense, if the person "[a]ttempts to cause or purposely, knowingly or recklessly causes bodily injury to another."

<sup>2</sup> PTI is a diversionary program that provides an opportunity for first time offenders with opportunities for alternatives to the traditional criminal justice process of ordinary prosecution. If the defendant completes all the conditions set by the court, the charges will be dismissed.

<sup>3</sup> Due to the nature of the charges, we use the initials "J.D." (Jane Doe) to protect the victim's identity.

According to the affidavit, J.D. alleged that a verbal argument had turned physical and she complained of head pain. The reporting officer observed visible signs of injuries, including abrasions and redness on the front of her neck, noting that they observed “visible signs of injuries on the victim from being strangled by the suspect that fled the scene.”

Consequently, respondent was charged with second-degree aggravated assault, contrary to N.J.S.A. 2C:12-1(b)(13); third-degree criminal mischief, contrary to N.J.S.A. 2C:17-3(a)(1); and third-degree terroristic threats, contrary to N.J.S.A. 2C:12-3(b).<sup>4</sup>

On February 17, 2023, J.D. obtained a TRO against respondent. On March 1, 2023, prior to the scheduled final restraining order hearing date, J.D. dismissed the TRO.

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<sup>4</sup> N.J.S.A. 2C:12-1(b)(13) provides that a person is guilty of aggravated assault if the person “knowingly or, under circumstances manifesting extreme indifference to the value of human life, recklessly obstructs the breathing or blood circulation of a person who, with respect to the actor, meets the definition of a victim of domestic violence . . . by applying pressure on the throat or neck or blocking the nose or mouth of such person, thereby causing or attempting to cause bodily injury.”

N.J.S.A. 2C:17-3(a)(1) provides a person is guilty of criminal mischief if the person “purposely or knowingly damages tangible property of another or damages tangible property of another recklessly or negligently in the employment of fire, explosives or other dangerous means.”

N.J.S.A. 2C:12-3(b) provides a person is guilty of a crime in the third degree if the person “threatens to kill another with the purpose to put [him/her] in imminent fear of death under circumstances reasonably causing the victim to believe the immediacy of the threat and the likelihood it will be carried out.

On March 2, 2023, respondent notified the OAE that a criminal complaint and TRO had been filed against him, as R. 1:20-13(a)(1) requires.

On October 12, 2023, respondent appeared before Judge Labib and entered a guilty plea to one count of simple assault, contrary to N.J.S.A. 2C:12-1(a)(1). In support of his plea, respondent, who was represented by counsel, admitted that he was guilty of simple assault.<sup>5</sup> Specifically, he admitted that, on February 16, 2023, he “recklessly – attempted to recklessly cause bodily injury to [J.D.]” Additionally, he acknowledged that he “committed an act of offensive touching that was not wanted” and put J.D. “in fear.”<sup>6</sup> Neither the prosecution nor the court required respondent to address the additional factual allegations set forth in the complaint and affidavit of probable cause.

In accordance with the plea agreement, Judge Labib admitted respondent to the PTI program for a period of twelve months. Additionally, he was required to comply with both the standard and special conditions of PTI supervision. The

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<sup>5</sup> Pursuant to N.J.S.A. 2C:12-1(a)(1) a person is guilty of simple assault if he or she “attempts to cause or purposely, knowingly, or recklessly causes bodily injury to another.” Whether the attorney eliciting the factual basis for respondent’s plea meant to state that respondent attempted to cause bodily injury or that he recklessly caused bodily injury, respondent’s admission satisfies the elements of the offense.

<sup>6</sup> Unwanted “offensive touching” is not an element of simple assault. That admission could support a finding that respondent engaged in harassment, contrary to N.J.S.A. 2C:33-4(b), which provides that “a person commits a petty disorderly persons offense if, with the purpose to harass another, he . . . subjects another to striking, kicking, shoving, or other offensive touching, or threatens to do so.”

special conditions required respondent to continue with therapy and to comply with a substance abuse evaluation and recommendations. Additionally, he was required to pay \$205 in assessments and fines.

### **The Parties' Positions Before The Board**

In support of its motion for final discipline, the OAE argued that respondent's guilty plea constituted a violation of RPC 8.4(b) and warranted the imposition of a three-month suspension.<sup>7</sup> In support of its recommendation, the OAE analogized respondent's conduct to that of attorneys found guilty of criminal acts of domestic violence, who received terms of suspension. Specifically, the OAE cited disciplinary precedent, including In re Fulford, 237 252 (2019), In re Hyderally, 233 N.J. 596 (2018), and In re Pagliara, 232 N.J. 327 (2018), discussed below, in which the Court imposed three-month suspensions. The OAE also cited In re Tobias, 249 NJ 2 (2021), in which the Court imposed a six-month suspension.

In mitigation, the OAE asserted that respondent readily admitted his conduct and entered the PTI program. Additionally, the OAE emphasized

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<sup>7</sup> According to the OAE, after completing its own investigation underlying the incident, it concluded that it could not clearly and convincingly establish that respondent's conduct exceeded the charge to which he pleaded guilty. Thus, it proceeded with this matter as a motion rather than filing a formal ethics complaint, as R. 1:20-13(c)(2) permits.

respondent's remorse, his lack of prior discipline, and the fact that he notified the OAE of his criminal charges, as R. 1:20-13(a)(1) requires.

Respondent did not submit a brief for our consideration. During oral argument, he stated, through his counsel, that he did not dispute the facts and, further, conceded that a three-month suspension is typically imposed on attorneys who commit acts of domestic violence. In mitigation, he emphasized his admission to the misconduct, cooperation with the OAE's investigation, and lack of prior discipline. In further mitigation, he asserted that he had completed PTI and, in reply to our questioning, confirmed that he had completed anger management in connection with his counseling, as required by PTI. He maintained, however, that the most compelling mitigating factor was his sincere remorse and awareness that the ability to practice law is a privilege.

## **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 R. 1:20-13(c). Pursuant to that Rule, a "transcript of a guilty plea to a crime or disorderly persons offense, whether the plea results 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). See also In re Magid, 139 N.J. 449, 451 (1995), and In re Principato, 139 N.J. 456, 460 (1995).

Thus, respondent's guilty plea, in the Superior Court of New Jersey, to simple assault, establishes his violation of RPC 8.4(b), which provides that 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." Hence, the sole issue left for our determination is the proper quantum of discipline for respondent's misconduct. R. 1:20-13(c)(2); Magid, 139 N.J. at 451-52; and Principato, 139 N.J. at 460.

### Quantum of Discipline

In determining the appropriate measure of discipline, we must consider the interests of the public, the bar, and respondent. "The primary purpose of discipline is not to punish the attorney but to preserve the confidence of the public in the bar." 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, . . . 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” provides “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).

With few exceptions, as the Court announced in In re Margrabia, 150 N.J. 198, 201 (1997),<sup>8</sup> attorneys who commit an act of domestic violence receive a three-month suspension, depending on the presence of aggravating and mitigating factors. See, e.g., In re Fulford, 237 N.J. 252 (three-month suspension for an attorney convicted of simple assault, a disorderly persons offense, where the victim was his former spouse; the attorney and his former spouse engaged in a verbal argument when he arrived at her residence to pick up their two children in connection with his parenting time; he did not promptly leave, but lingered, and his former spouse confronted him with a long-handled ice chipper in an attempt to convince him to vacate the property; the attorney then pulled the chipper from her hands and hit her in the head with it, in front of their children, causing her to fall and temporarily lose consciousness; we recognized, in aggravation, that the attorney committed the assault in front of his children, and acknowledged, in mitigation, that the attorney had no disciplinary history); In re Hyderally, 233 N.J. 596 (three-month suspension imposed on attorney who pleaded guilty to simple assault; the attorney grabbed his girlfriend by the throat and slammed her into a wall, causing injuries to her neck, jaw, and left arm; in

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<sup>8</sup> In Margrabia, the Court determined that a three-month suspension was appropriate, finding that the attorney had committed his misconduct seven months after the Court's pronouncements in Magid, 139 N.J. 449, and Principato, 139 N.J. 456, in which the Court recognized both society's and the New Jersey Legislature's growing intolerance of domestic violence and warned that future incidents of domestic violence would result in harsher disciplinary sanctions.

aggravation, we considered the attorney's prior reprimand for making inappropriate sexual advances to at least two women who were his legal aid clients); In re Pagliara, 232 N.J. 327 (three-month suspension for an attorney who pleaded guilty to third-degree aggravated assault after he punched his wife, which caused her nose to bleed; the attorney was admitted to the PTI program, and ordered to attend an anger management program and to pay restitution); In re Park, 225 N.J. 609 (2016) (three-month suspension for an attorney who pleaded guilty to third-degree aggravated assault, admitting that he had attempted to cause significant bodily injury to his mother by forcing her to take a quantity of prescription medication; in imposing only a three-month suspension, we emphasized that the attorney's misconduct was "directly linked to, although not excused by, both mental health issues and contemporaneous abuse of his prescription medication").

Greater discipline has been imposed where there is an overwhelming presence of aggravating factors. See In re Tobias, 249 N.J. 2 (2021) (six-month suspension for an attorney who pleaded guilty to third-degree aggravated assault; the attorney, after consuming a significant amount of alcohol at a restaurant, grabbed his girlfriend's head and smashed it into his car twice, resulting in severe head injuries for his girlfriend; the attorney then fled the scene in his vehicle; he failed to report his criminal charges to the OAE), and In

re Jacoby, 206 N.J. 105 (2011) (Jacoby II) (one-year suspension for an attorney who assaulted his wife for a second time; in the second incident, he repeatedly slapped his wife in the face, causing her nose to bleed, and pinned her to the floor, where he held her against her will and threatened to kill her; he was convicted of a felony offense, in Virginia, and served one year of a three-year prison sentence).

Given the limited record in the instant matter, we also considered In re Buckley, 226 N.J. 478 (2016), a case outside the context of domestic violence, which provides guidance on determining the appropriate discipline when the record below includes a “bare admission.” In the Matter of Christopher J. Buckley, DRB 15-148 (December 15, 2015) at 3. In Buckley, the attorney admittedly attacked a taxi driver while intoxicated and then pleaded guilty to simple assault. Id. at 2-5.

During his plea hearing, Buckley provided a scant factual basis in support of his guilty plea. Id. at 3. The integrity of our review required a “complete evaluation of the evidence” beyond Buckley’s bare admission made for the purposes of his guilty plea, because we “[could not] ignore relevant information that places an attorney’s conduct in its true light.” Id. at 3-4 (quoting In re Gallo, 178 N.J. 115, 120 (2003)). After all, the “[r]espondent and the [victim], as well

as the public, are entitled to a disciplinary review process in which a full, undistorted picture is the basis for disciplinary sanctions.” Ibid.

Here, respondent’s plea was loosely based on the statute for simple assault, rather than his actual conduct. Thus, we looked beyond the plea hearing transcript to determine the appropriate quantum of discipline. Just as we did in Gallo and Buckley, we considered information beyond respondent’s “limited admissions” made in court to understand the “nature and context of [respondent’s] misconduct.” Id. at 4 (quoting Gallo, 178 N.J. at 120-121). In this case, the affidavit of probable cause contained additional relevant facts, based not solely on the victim’s statement, but rather on the independent observations made by the police officers who responded in connection with respondent’s assaultive behavior. The officers reported that they observed “visible signs of injuries on the victim from being strangled by the suspect that fled the scene.”

Here, respondent’s misconduct is most like the attorneys in Fulford and Hyderally, who both received three-month suspensions. Specifically, similar to both matters, respondent pleaded guilty to simple assault for an act of domestic violence. Additionally, like Fulford, respondent has no prior discipline. Further, like the attorney in Pagliara, respondent was admitted into PTI and ordered to attend therapy. Accordingly, we determine that a three-month suspension is the baseline discipline for respondent’s misconduct.

However, to craft the appropriate discipline in this matter, we also consider aggravating and mitigating factors.

There are no aggravating factors.

In mitigation, respondent has no disciplinary history in his ten years at the bar. In further mitigation, he admitted his misconduct and expressed remorse.

### **Conclusion**

On balance, we determine that the mitigating factors are insufficient to justify a departure from the baseline discipline and, thus, conclude that a three-month suspension is the appropriate quantum of discipline necessary to protect the public and preserve confidence in the bar.

Member Spencer was recused.

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. Mary Catherine Cuff, P.J.A.D.(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 Brian T. Giblin, Jr.  
Docket No. DRB 24-185

Argued: November 21, 2024

Decided: February 3, 2025

Disposition: Three-month suspension

<i><b>Members</b></i>	Three-month suspension	Recused
Cuff	X	
Boyer	X	
Campelo	X	
Hoberman	X	
Menaker	X	
Petrou	X	
Rodriguez	X	
Spencer		X
Total:	7	1

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