SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
Docket No. DRB 24-263
District Docket No. XIV-2024-0140E

In the Matter of James P. Sloan
An Attorney at Law

Argued
February 20, 2025

Decided
April 29, 2025

Brittany A. Competello appeared on behalf of the
Office of Attorney Ethics.

Respondent waived appearance for oral argument.

Table of Contents

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 conviction, in the Superior Court of New Jersey, Passaic County, for one count of harassment by offensive touching, in violation of N.J.S.A. 2C:33-4(b), a petty disorderly persons offense. 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 censure, with a condition, is the appropriate quantum of discipline for respondent's misconduct.

Ethics History

Respondent earned admission to the New Jersey bar in 1992. Between January and April 2023, he was the municipal court judge for the Township of Vernon. Respondent has no prior disciplinary matters.

Facts

The events underlying this matter occurred on April 25, 2023, while respondent was acting in his capacity as a municipal court judge for the Vernon Township Municipal Court.

The court calendar for the morning included primarily virtual proceedings, with one case scheduled for an in-person sentencing. In one matter, the defendant and his counsel were present in the courtroom, and the prosecutor appeared via Zoom. The deputy court administrator and two Vernon Township police officers also were present in the courtroom.

At the conclusion of the virtual proceedings, and prior to the start of the fully in-person proceeding, L.M., the court administrator for the municipal court, began setting up for the sentencing hearing while seated at her position on the bench. Respondent, who was seated next to L.M., indicated that he wanted to take a short break. At that time, respondent got up, took off his robe, walked off the bench behind L.M. and grabbed and pulled her hair, causing her head to fall backwards. L.M. reacted to her hair being pulled by exclaiming an expletive while respondent continued to walk off the bench.

Later that day, L.M. was standing in a small area near the deputy administrator's desk when respondent approached her from behind and placed

both of his hands on her shoulders to turn her around to face him. After respondent turned L.M. around, her back was to the window, and respondent stood directly in front of her, effectively blocking L.M.'s exit. Eventually, respondent walked away and L.M. was able to leave the area.

At the end of the day, respondent asked L.M. what her plans were for that evening. She responded that she would be taking her daughter to soccer practice. Respondent replied, "well, if I thought soccer practice for you, I'd cancel my lecture at Seton Hall to watch you run up and down a field."[1] The next morning, L.M. reported the interactions with respondent to the Chief of the Vernon Township Police Department.

Based on the foregoing facts, on July 27, 2023, respondent was charged with (1) harassment by offensive touching, in violation of N.J.S.A. 2C:33-4(b), (2) simple assault by attempted physical menace, creating fear of imminent bodily injury, in violation of N.J.S.A. 2C:12-1(a)(3), and (3) disorderly conduct by engaging in threatening behavior, in violation of N.J.S.A. 2C:33-2(a)(1). Count two was amended to N.J.S.A. 2C:12-1(a)(1), simple assault by attempts

[1] Respondent's comment to L.M., as well as the offensive touching, could constitute a violation of RPC 8.4(g) (engaging, in a professional capacity, in conduct involving discrimination – sexual harassment). However, respondent was not charged with having violated this Rule. We can consider uncharged misconduct in aggravation. See In re Steiert, 201 N.J. 119 (2014) (evidence of unethical conduct contained in the record can be considered in aggravation, even though such unethical conduct was not charged in the formal ethics complaint).

to cause or to purposely, knowingly or recklessly cause bodily injury to another.

On January 3, 2024, a one-day bench trial took place before the Honorable Miguel A. De La Carrera, J.S.C, during which L.M. testified on behalf of the prosecution. Specifically, L.M. testified that she felt "shock" when respondent pulled her hair. She explained that, at the time, she did not know what exactly had happened or how to address it, adding "everyone just stood in the courtroom. Nobody said anything." L.M. further described her reaction to the incident where respondent put his hands on her shoulders to turn her as "I got, like, weird, like, tried to – but there was nowhere to go." She recalled thinking "he's touching me again." During her testimony, L.M. characterized respondent's comment concerning his desire to watch her "run up and down a field" as "perverted."

In addition, the deputy court administrator, Rachel Nestel, testified that, prior to pulling L.M.'s hair, respondent said, "I want to pull your hair or I'm going to braid your hair or something to that effect," or "I want to braid your hair." The municipal prosecutor, Alicia Ferrante, also testified that she heard respondent "say something to the effect of braiding [L.M.'s] hair." The police officer, Matthew Hackett, who was present in the municipal courtroom that morning, testified that respondent "touched [L.M.'s] hair in an odd way," which

he thought "was very strange." He added that L.M. "looked startled" when respondent "place[d] his has hand on her hair." The Vernon Chief of Police, Daniel Young, testified that, on April 26, 2023, he met with L.M. to discuss the incident that occurred in court the prior day. He stated that L.M. was visibly upset and crying when he met with her.

At the conclusion of the trial, respondent was convicted of two acts of harassment by offensive touching, in violation of N.J.S.A. 2C:33-4(b). The court entered a directed verdict at the conclusion of the State's case on the two remaining charges, including disorderly conduct and simple assault. In his decision, Judge De La Carrera found that the incidents involved "annoying or perhaps flirtatious behavior" but did not involve "public inconvenience or alarm;" thus, he dismissed the disorderly conduct charge. In addition, Judge De La Carrera found that the State had failed to present any evidence of an actual injury or an attempt to cause bodily injury, thus, he dismissed the assault charge.

Nevertheless, Judge De La Carrera found every witness to be "entirely credible" and determined that respondent engaged in two acts of offensive touching against L.M. Specifically, the first act involved grabbing and pulling her hair, which the judge noted occurred in public in the courtroom in the

presence of court officials, law enforcement officers, and the prosecutor. Judge De La Carrera determined that the conduct "clearly occurred without consent" and was "clearly demeaning."

Judge De La Carrera found the second act of offensive touching, although less public, still occurred in a quasi-public portion of the court and involved respondent approaching L.M. from behind and turning her by her shoulders. He determined that the act was a physical threat that caused alarm and annoyance and was demeaning behavior.

On January 22, 2024, respondent's sentencing hearing took place before Judge De La Carrera. Respondent was represented by counsel and testified at the sentencing hearing. Specifically, at the start of his testimony, respondent stated, "Judge, I am sorry that we are here today and that it's come to this." He acknowledged that, as a judge, he is held to a higher standard of conduct. He explained that he had wanted to be a judge since his clerkship. He added that, due to the pending Advisory Committee on Judicial Conduct (the ACJC) matter and the pending civil case, he would not comment on the specifics of the case. He noted that he had submitted four letters from colleagues to attest to the nature of his character.

Respondent asserted that the mitigating factors far outweighed the

aggravating factors in his matter, including that he was a first-time offender and that the assignment judge suspended him without pay, on June 6, 2023. He added that a lifetime forfeiture of public office and a ban on future public employment, as well as a fine and mandatory assessments, were sufficient punishment for his conduct.

In determining respondent's sentence, Judge De La Carrera concurred that the mitigating factors outweighed the aggravating factors. He considered, in aggravation, that respondent took advantage of his position of trust and confidence. In mitigation, Judge De La Carrera considered that respondent's conduct caused psychological stress but not serious harm, and did not involve bodily injury, which led to the court's ruling on the simple assault charge. He added that respondent had no prior history and there were no circumstances to suggest that there was a likelihood of a repeat offense. Judge De La Carrera accorded significant weight to the character references, which he characterized as "very strong," and stated that it was "a shame that . . . a single bad day has such consequences . . . ." Judge De La Carrera sentenced respondent, for his criminal conviction on count one, to forfeiture of office and assessed a $350 fine and court costs of $33.

On April 8, 2024, the ACJC referred the matter to the OAE for a

disciplinary investigation, asserting that, considering respondent's forfeiture and disqualification from holding future public office, there was no longer a basis upon which to file formal charges of improper judicial conduct.

The Parties' Positions Before the Board

In its motion for final discipline, the OAE recommended the imposition of a censure based on respondent's abuse of authority and his two separate acts of offensive touching of a subordinate employee. In support of its position, the OAE cited In re Thakker, 177 N.J. 228 (2003), in which an attorney received a reprimand following his guilty plea to harassment, in violation of N.J.S.A. 2C:33-4(a), for calling the home of his former client fifteen to twenty times between 7:00 p.m. and 10:45 p.m., even after she had told him to stop. Additionally, the attorney was abusive to the police officer who had responded to the matter. The OAE asserted that respondent's conduct was more severe than that of the attorney in Thakker because it involved the offensive touching of a court employee and, thus, warranted greater discipline than a reprimand.

The OAE further relied on disciplinary precedent, discussed below, in which we recommended terms of suspension for attorneys who had engaged in acts of physical assault. However, the OAE noted that respondent's conviction

for harassment by offensive touching should receive a lower disciplinary sanction than a conviction for assault or another violent crime, which generally result in terms of suspension.

In mitigation, the OAE noted that respondent had no prior discipline and had consented to a forfeiture of his position as a municipal court judge and a bar from all future public employment.

In his submission to us, respondent acknowledged that his conviction established his violation of RPC 8.4(b) and urged the imposition of a censure. He emphasized that he had consented to a forfeiture of his public office and a disqualification from future public employment.

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 criminal conviction 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 conviction for two counts of harassment by offensive

touching, in violation of N.J.S.A. 2C:33-4(b), establishes his violation of RPC 8.4(b). 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." It is well-settled that convictions for disorderly persons offenses can establish a violation of RPC 8.4(b). See Thakker, 177 N.J. 228 (the attorney's guilty plea to harassment, in violation of N.J.S.A. 2C:33-4(a), a petty disorderly persons offense, established his violation of 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 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 the 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" should provide "due consideration to the interests of the attorney involved and to the protection of the public." Ibid.

Although the OAE relied on disciplinary precedent involving assault,[2] and a separate case involving harassment, we consider a different line of precedent to determine the appropriate quantum of discipline in the instant matter.

[2] In our view, the cases cited by the OAE are less instructive in the instant matter as they relate to acts of assault, a charge that the court dismissed in this matter. See, e.g., In re Buckley, 226 N.J. 478 (2015) (three-month suspension for an attorney who pled guilty to simple assault, a disorderly persons' offense); In re Viggiano, 153 N.J. 40 (1998) (three-month suspension for attorney, who, after a minor traffic accident, assaulted the driver of the other vehicle, striking her in the face with his fist; when the police responded and attempted to restrain the attorney, he began to push and kick the officers); In re Bornstein, 187 N.J. 87 (2006) (six-month suspension imposed on attorney, in a default matter following an assault on a stranger; we determined to impose a three-month suspension but, due solely to the default status of the matter, enhanced the discipline to six months); In re Gibson, 185 N.J. 235 (2005) (one-year suspension for attorney who was involved in a bar fight and an assault on a police officer).

Specifically, the OAE relied on Thakker, which, in our view, is not instructive to the instant matter because it addressed a single type of harassment (repeatedly telephoning a former client, even after she told him to stop) across a broad spectrum of conduct that can be deemed as harassment. Here, the harassment related to conduct involving offensive touching which, in our view, is more akin to sexual misconduct.

Discipline for sexual misconduct involving offensive touching, sexual harassment, and criminal sexual contact has ranged from a reprimand to a term of suspension.

Discipline less than a term of suspension was imposed in the following cases. See In re Pinto, 168 N.J. 111 (2001) (reprimand, with the condition of sensitivity training, for an attorney who sexually harassed a vulnerable female client, in violation of RPC 8.4(g); during a conference with the client in his office, the attorney questioned her about her physical appearance, and engaged in "extremely crude," explicit conversations about what he could do sexually with her; on one occasion, the attorney massaged the client's shoulders, kissed her on the neck, and told her that she should show herself off, "show whatever you have;" on another occasion, the attorney was called upon to help the client jump start her car and, upon completing that task, he exclaimed, "[t]his is what

a real man can do," and then slapped the victim on the buttocks in the presence of her son and daughter; regardless of the attorney's subjective intent, we and the Court determined that his behavior was "demeaning, crude and vulgar," and, thus, "likely to cause harm" to his client; no prior discipline), and In re Regan, 249 N.J. 17 (2021) (censure for an attorney who sent an improper, sexually explicit e-mail to his client two days after her divorce had been finalized, in violation of RPC 3.2 (failing to treat with courtesy and consideration all persons involved in the legal process) and RPC 8.4(g); the attorney's e-mail constituted derogatory and demeaning sexual harassment; no prior discipline).

Terms of suspension ranging from three months to one year were imposed in the following cases. See, e.g., In re Addonizio, 95 N.J. 121 (1984) (three-month suspension for an attorney who pleaded guilty to fourth-degree criminal sexual contact, in violation of 2C:14-3(b); violation of former DR 1-102(A)(6) (now RPC 8.4(b)); in imposing a three-month suspension, and not the reprimand recommended by us, the Court concluded that the seriousness of the misconduct warranted a suspension, and that the "public and [the]profession will be best served by a period of suspension;" although the attorney's association with the victim arose from an attorney-client relationship, the offense was not related to the practice of law; in mitigation, the Court considered that the conduct was

aberrational and unlikely to recur); In re Garofalo, 229 N.J. 245 (2017) (six-month suspension for an attorney who admitted he had sexually harassed two female employees of the law firm where he had worked through hundreds of e-mails in which he used misogynist language and extended crude invitations to drink, dine, vacation, and engage in sex with him; none of the attorney's overtures or e-mails were welcomed and, in regard to one victim, continued for years following a brief relationship; the attorney's e-mail campaign continued despite one victim's explicit instruction that he stop communicating with her; further, the attorney disregarded his law firm's contemporaneous directive that he stop communicating with her; the attorney also lied to the OAE in the course of its investigation; violations of RPC 8.1(a) (knowingly making a false statement of material fact in a disciplinary matter); RPC 8.4(b); RPC 8.4(c) (engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation); and RPC 8.4(g); in aggravation, we considered the prolonged nature of the harassment and the attorney's failure to heed warnings from the victim, the police, and his law firm; no prior discipline; we had recommended a censure, however, the Court determined that a six-month suspension was appropriate and the attorney consented to the discipline); In re Falcone, 256 N.J. 361 (2023) (one-year suspension; although the attorney contested the allegations against

him, we found that he engaged in criminal sexual conduct and discrimination by grabbing and squeezing the breasts of a client's employee without her consent, for the purpose of sexual gratification, in violation of RPC 8.4(b) and RPC 8.4(g); immediately following the sexual contact, the attorney offered the woman money and asked her to not inform her employer about what he had done, a violation of RPC 8.4(c); the attorney was a public official at the time; we considered, in aggravation, that the attorney had a prior reprimand and a censure).

Lengthier terms of suspension and disbarment are reserved for more egregious sexual offenses, including those involving the use of force or the threat of force, and sexual crimes against children, facts not present here.

In our view, the conduct underpinning respondent's offensive touching is distinguishable from misconduct that involved the touching of an intimate body part, like the attorney in Pinto for which we recommended a three-month suspension, or the attorney in Falcone, for which we recommended a one-year term of suspension.

Accordingly, based on disciplinary precedent, we determine that respondent's misconduct does not warrant a term of suspension. However, to

craft the appropriate discipline in this case, we also consider aggravating and mitigating factors.

In aggravation, respondent's comment to L.M.'s that he would "cancel [his] lecture at Seton Hall to watch [her] run up and down a field" was unquestionably degrading, humiliating, and an abuse of his judicial office towards a subordinate. In addition, respondent touched L.M.'s hair and referred to wanting to "braid her hair." In the context of his other harassing behavior, we have no choice but to view his conduct as imbued with a sexual connotation that could be considered sexual discrimination, and thus, could have been charged as violative of RPC 8.4(g).

In further aggravation, as a municipal court judge, respondent held a position of authority over L.M., as well as all other individuals who were present in the courtroom at the time, and those in the adjoining courthouse offices. Moreover, as a public official, he was vested with the public's trust, and, as we recognized in Gernert, such transgressions must be harshly sanctioned to maintain the public's confidence in the integrity of the system,

In mitigation, respondent has no prior discipline in his thirty-two-year career at the bar. We also accord mitigating weight to his lifetime forfeiture of public office, and his ban on future public employment.

Conclusion

On balance, we determine that a censure is the quantum of discipline necessary to protect the public and preserve confidence in the bar.

Additionally, as a condition to his discipline, we recommend that respondent be required to attend, within ninety days of the Court's disciplinary Order in this matter, an OAE-approved training program on sensitivity and/or sexual harassment.

Vice-Chair Boyer voted to recommend a three-month suspension with the same condition, relying, in part, on In re Gernet, DRB 95-435 (July 15, 1996). In that matter, the Board imposed a one-year suspension upon a public prosecutor who was found guilty of offensive touching of the victim of a prosecution he was handling and, in doing so, observed that:

> Attorneys who hold public office are vested with the public's trust. Because of their higher visibility to the public, their conduct is subject to closer scrutiny. Similarly, in the event of misconduct, the degree of discipline imposed must be higher in order to assure the public that any transgressions will be harshly sanctioned and, thus, maintain the public's confidence in the integrity of the system.
>
> [Id. at 4-5.]

The offensive touching in this case, admittedly, did not involve touching an intimate body part, as was the case in Gernet. However, respondent was on

duty as a municipal court judge when the conduct occurred, and some of the conduct, which involved grabbing and pulling L.M.'s hair and causing her head to fall backwards, occurred as he was walking off the bench in full view of members of the public in the courtroom. In Vice-Chair Boyer's view, that fact, combined with the fact that the conduct at issue, viewed in context, had sexual overtures and connotations to it, warrants a three-month suspension.

Members Campelo and Modu also voted to recommend a three-month suspension with the same condition.

Members Hoberman and Petrou 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. 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 James P. Sloan
Docket No. DRB 24-263

Argued: February 20, 2025

Decided: April 29, 2025

Disposition: Censure

Members	Censure	Three-Month Suspension	Absent
Cuff	X		
Boyer		X	
Campelo		X	
Hoberman			X
Menaker	X		
Modu		X	
Petrou			X
Rodriguez	X		
Spencer	X		
Total:	4	3	2

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