

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
Docket No. DRB 25-242
District Docket No. XIV-2024-0571E

In the Matter of Marco Di Prato
An Attorney at Law

Argued
January 15, 2026

Decided
March 25, 2026

Brian P. Keenan appeared on behalf of the
Office of Attorney Ethics.

Kim D. Ringler appeared on behalf of respondent.

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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 and convictions, in the Commonwealth of Pennsylvania, Court of Common Pleas, Montgomery County, for endangering the welfare of a child, in violation of 18 Pa.C.S. § 4304(a)(1), and for simple assault, in violation of 18 Pa.C.S. § 2701(a)(1). The OAE asserted that these offenses constitute 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 six-month suspension, with a condition, is the appropriate quantum of discipline for respondent's misconduct.

Ethics History

Respondent earned admission to the New Jersey bar in 2017 and to the Pennsylvania bar in 2016. During the relevant timeframe, he maintained a practice of law in Philadelphia, Pennsylvania. He has no prior discipline.

We now turn to the facts of this matter.

Facts

On August 18, 2023, respondent's two children, J1 and J2, visited his home pursuant to a shared custody agreement he had with the children's mother, A.S.¹ At the time, J1 was six years old and J2 was seven years old.

On August 20, 2023, the children returned to A.S.'s home and, later that evening, as A.S. was getting J1 ready for a party, she observed a red and purple colored abrasion on J1's neck. When A.S. asked J1 about the mark on her neck, J1 stated that, on August 18, 2023, respondent became angry and yelled at her when it was time to take a shower. Respondent's yelling scared her and, as a result, she accidentally urinated on the floor and wall, which caused respondent to become even more angry. Consequently, respondent placed both his hands around J1's neck and "strangled" her. Also on August 20, 2023, A.S.

¹ This decision adopts the pseudonyms used by the Hatboro Police Department to protect the identity of the victims. We also anonymized the names of other family members.

photographed the mark and provided it to the Hatboro Police Department, which began an investigation. Additionally, at an unknown time, A.S. transported J1 to her primary care physician for an evaluation. A medical professional detailed her observation that petechiae² appeared on the right side of J1's neck.

Three days later, on August 23, 2023, J1 and J2 underwent forensic evaluations, which Hatboro Police Department Detective Sergeant Conner Dilks observed from a separate room. During her evaluation, J1 stated that she and her sister were at respondent's home for their regularly scheduled visitation and respondent began to hit her with an open palm on her buttocks. Then, he placed both of his hands around her neck and began to squeeze. J1 stated that, when respondent was squeezing, she was unable to breathe or talk. Respondent's squeezing left a "boo boo" on her neck. J1 demonstrated to the evaluator how respondent placed his hands around her neck. J1 told the evaluator that it made her mad that respondent "always [was] squeezing her neck" and that the incident on August 18, 2023 was not the first time respondent placed his hands around her neck and squeezed.

² According to the Cleveland Clinic, petechiae are pinpoint-sized spots of bleeding under an individual's skin that are red or purple in color. They are caused by illness or injury. See <https://my.clevelandclinic.org/health/symptoms/21636-petechiae> (last visited March 13, 2026).

J1 further explained that J2 observed respondent's action, began to cry, and asked him to stop hitting and strangling her sister. Respondent ignored J2's requests.

During her own forensic evaluation, J2 provided an account that was consistent with the information J1 reported. She recounted that, when she and J1 were at their father's house for a visit, J2 had an accident in her pants and, as a result, respondent hit her. After hitting J2, respondent noticed that J1 also had an accident in her pants and hit her as well, which scared J1 and caused her to urinate on the floor. After J1 urinated on the floor, J2 observed that respondent placed both of his hands around her sister's neck. J2 began crying and asked her father to stop.

On August 28, 2023, Detective Dilks interviewed respondent. Respondent stated that, when his daughters were visiting the weekend of August 18 through August 20, 2023, he discovered fecal matter in J2's pants and scolded her. He then discovered fecal matter in J1's pants and scolded her as well. As he scolded J1, she began to urinate onto the floor. Respondent explained that he picked J1 up to get her to the toilet. He demonstrated to Detective Dilks that J1 was lying horizontally, face down, in his outstretched arms, which may have caused the injury to J1's neck.

Also on August 28, 2023, Detective Dilks interviewed respondent's fiancé, M.B.³ She recounted that respondent took J1 and J2 to the second floor of their home to give them a bath, and she remained on the first floor. She heard respondent yelling at his daughters but denied hearing screaming. Respondent then returned downstairs to retrieve carpet cleaner, explaining to M.B. that J1 had urinated on the floor when he was getting the children into the shower. Respondent also told M.B. that J2 had fecal matter in her underwear. He returned upstairs and, according to M.B., she heard the shower begin and "didn't hear any no more screaming." She described respondent's demeanor as "pretty calm" when he went downstairs to retrieve the carpet cleaner.

M.B. denied seeing any marks on J1's neck but also admitted that she was "not scrutinizing 'em." She observed J1 and J2 happily playing video games on their iPads after the shower concluded. M.B. did not wish to discount what J1 and J2 reported but told Detective Dilks "there's just no way that [respondent] strangled either of those kids ever" because she had not seen that type of behavior in the three years she had been dating respondent. She described that, when disciplining J1 and J2, respondent places them in a time out or may yell at

³ Respondent provided the transcript of M.B.'s full interview with the Hatboro Police Department as an exhibit appended to his brief. He did not provide a transcript of his own interview.

them. M.B. further explained that J1 and J2 having accidents in their pants was an ongoing issue and that respondent previously had yelled at them about it.

On August 29, 2023, Detective Dilks interviewed A.S. She described observing J1's bruise as she was getting her ready for a party. After J1 explained to her mother how she obtained her bruise, J1 then spoke with A.S.'s husband, A.A., about what occurred. As J1 spoke with A.A., A.S. spoke with J2, who told her that respondent placed his hands around J1's neck and caused the bruise. During his conversation with Detective Dilks, A.A. confirmed that, when he spoke with J1, she demonstrated how respondent placed his hands around her neck and squeezed.

Following his investigation, Detective Dilks concluded that there was probable cause that respondent placed his hands around J1's neck and "applied pressure resulting in J1 being unable to breathe and speak." Consequently, on August 30, 2023, the Hatboro Police Department filed a criminal complaint against respondent, alleging he violated 18 Pa.C.S. § 2718(a)(1)⁴ (second-degree

⁴ 18 Pa.C.S. § 2718(a)(1) provides that "a person commits the offense of strangulation if the person knowingly or intentionally impedes the breathing or circulation of the blood of another person by (1) applying pressure to the throat or neck." Compare N.J.S.A. 2C:12-1(b)(13), which provides a person commits aggravated assault by "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

(Footnote cont'd on next page)

felony strangulation), 18 Pa.C.S. § 4304(a)(1)⁵ (third-degree felony endangering the welfare of a child), and 18 Pa.C.S. § 2701(a)(1)⁶ (first-degree misdemeanor simple assault).

On November 19, 2024, respondent appeared before the Honorable Wendy G. Rothstein and pleaded guilty to simple assault and endangering the welfare of a child. During the plea allocution, the district attorney asked respondent whether he was:

admitting that on August 18th, 2023, at your home . . . you had your two daughters there with you, and at one point that day, you did put your hands around the neck of your then six-year-old daughter [J1], and in doing so, you were attempting to cause bodily injury, and you did leave an abrasion on the right side of her neck; is that correct?

[OAE31.]⁷

applying pressure on the throat or neck or blocking the nose or mouth of such person, thereby causing or attempting to cause bodily injury.” Aggravated assault under N.J.S.A. 2C:12-1(b)(13) is a crime of the second degree.

⁵ 18 Pa.C.S. § 4304(a)(1) provides: “a parent, guardian or other person supervising the welfare of a child under 18 years of age, or a person that employs or supervises such a person, commits an offense if he knowingly endangers the welfare of the child by violating a duty of care, protection or support.”

⁶ 18 Pa.C.S. § 2701(a)(1) provides that a person is guilty of assault if he or she “attempts to cause or intentionally, knowingly or recklessly causes bodily injury to another.”

⁷ “OAE#” refers to the Bates numbers of the OAE’s exhibits appended to its motion. “Rb” refers to respondent’s October 14, 2025 letter brief in opposition to the OAE’s motion.

Under oath, respondent answered “yes.” He also admitted that J2 “witnessed this” and he, therefore, had violated a duty of care to both girls. Furthermore, respondent acknowledged that he understood that his actions were “technically a crime of domestic violence.”

Judge Rothstein accepted respondent’s guilty plea and sentenced him to concurrent four-year terms of probation. She ordered that respondent undergo a psychological evaluation, attend domestic violence counseling, and attend parenting classes. Judge Rothstein also ordered that respondent was not permitted to have contact with either J1 or J2 unless permitted by the family court.

On December 18, 2024, respondent, through counsel, reported his convictions to the OAE, as R. 1:20-13(a)(1) requires.

The Parties’ Positions Before the Board

In support of its recommendation that respondent receive a one-year suspension, the OAE asserted in its brief, and during oral argument before us, that, although he admitted, in his guilty plea allocution, that he attempted to cause J1 harm by placing his hands around her neck, a “clear-eyed assessment

of the record” demonstrated that respondent struck both J1 and J2 and that, based on J1’s disclosures, he was “always squeezing her neck.”

The OAE noted that, following the Court’s decision in In re Margrabia, 150 N.J. 198 (1997), the discipline imposed on attorneys who commit acts of domestic violence typically has been a three-month suspension. However, relying on In re Marcinkiewicz, 240 N.J. 207 (2019), the OAE asserted that a one-year suspension was the appropriate quantum of discipline for respondent’s criminal conduct.

In Marcinkiewicz, the attorney, during an “alcohol-induced blackout,” assaulted her eight-week-old daughter, causing a “fractured skull, bleeding in her brain, a palm print on her face, an unidentified injury to her leg, and bruises.” In the Matter of Ania Marcinkiewicz, DRB 18-339 (April 25, 2019) at 2-3. The OAE argued that, like the attorney in Marcinkiewicz, J1 was exceptionally vulnerable and “alone in the sole care of [r]espondent in his home.” The OAE further contended that respondent’s conduct “could have a life-long impact on [J2’s] mental wellbeing,” because she had witnessed the incident and her cries for help were ignored. Unlike the attorney in Marcinkiewicz, however, the OAE argued that respondent was not under the influence of substances when he abused J1.

Additionally, the OAE asserted that, even if J1 was incorrect about being strangled more than once, the criminal conduct to which respondent pleaded guilty would have warranted far greater consequences under New Jersey criminal law than the term of probation he received in Pennsylvania. Specifically, the OAE contended that 18 Pa.C.S. § 4304(a)(1) is analogous to N.J.S.A. 2C:24-4(a)(2),⁸ which is a crime punishable by a five- to ten-year prison sentence.

The OAE also argued that respondent lied to Detective Dilks by claiming that J1's bruise might have occurred when he carried her to the toilet on his outstretched arms, because that statement later was contradicted by his guilty plea allocution. The OAE, thus, contended that respondent misrepresented his conduct to the police in an attempt to avoid consequences – misconduct involving dishonesty, fraud, deceit, or misrepresentation, in violation of RPC 8.4(c).

Finally, the OAE contended that respondent had failed to show remorse because, in his brief to us, he repeatedly undermined his guilty plea.

⁸ N.J.S.A. 2C:24-4(a)(2) provides that: “Any person having a legal duty for the care of a child or who has assumed responsibility for the care of a child who causes the child harm that would make the child an abused or neglected child . . . is guilty of a crime of the second degree.”

The OAE asserted there were no mitigating factors contained in the record “to lessen the severity of [r]espondent’s appalling crimes. Thus, like the attorney in Marcinkiewicz, this horrific attack by a parent on his own helpless child cannot be met with a short-term suspension.”

In his written submission to us, and during oral argument, respondent, through counsel, acknowledged the finality of his criminal convictions and contended that disciplinary precedent supported the imposition of a censure.

Respondent relied on his plea allocution to argue that he “admittedly lost his patience with his two young daughters, rashly and roughly scooping one up and running down the hall with her to the bathroom, causing an abrasion on her neck.”⁹ However, he disputed the OAE’s characterization that he “squeezed” J1’s neck. Nevertheless, he asserted that his actions were inappropriate and that he had “accepted full responsibility for them.” Furthermore, respondent contended that he had taken steps to improve his parenting to ensure he does not repeat such behavior.

Regarding his relationship with A.S., respondent explained they began dating in 2015, were engaged in 2016, and separated in early 2018. Following

⁹ In an October 14, 2025 verification, respondent attested to the accuracy of the statements contained in his counsel’s letter brief to us.

their separation, A.S. filed for custody and child support in the Superior Court of New Jersey. Eventually, respondent and A.S. agreed to a shared physical custody arrangement, which remained in effect until November 2019, when the parties agreed to modify the custody arrangement to reduce driving time for the children.

Respondent stated that, in September 2020, A.S. alleged that one of their children returned from a visit with respondent with a bruise on her cheek. On September 22, 2020, the Montgomery County Department of Health and Human Services, Office of Children and Youth, contacted respondent and scheduled a meeting to occur later that week when the children were present.¹⁰ Separately, on September 23, 2020, the Hatboro Police Department interviewed respondent. Respondent contended that both the criminal investigation and Office of Children and Youth investigation were closed as unfounded.¹¹

¹⁰ The children were approximately three and four years old at that time.

¹¹ During his interview with M.B., Detective Dilks explained that, with regard to the 2020 investigation, the Hatboro Police Department had “not received a referral or a report to us that hasn’t been coupled with documentation of an injury” and that “there’s never been something that was completely 100% unfounded.” Detective Dilks further explained that he informed respondent that the 2020 investigation “was kind of squashed . . . almost from the beginning” because J1 was three years old at the time and could not articulate during a forensic evaluation the difference between the truth and a lie.

In respect to his weekend of visitation in August 2023, respondent asserted that neither he nor M.B. “noticed anything amiss with either child.” He also asserted that M.B. was a credible witness and explained that she did not hear “anything unusual.”

Respondent explained that, on August 20, 2023, he transported J1 and J2 to A.S.’s house earlier than required so they could get ready for a party later that evening. According to respondent, “some hours after the drop-off, [A.S.] noticed marks on their younger daughter’s neck. She reportedly questioned one of her daughters, the then six-year-old, while her husband, a police officer, separately questioned the other daughter then seven years old.”¹² Respondent asserted that it was not until the following day, on August 21, 2023, that A.S. alleged to the Hatboro Police Department that respondent strangled and struck J1.¹³ During oral argument before us, respondent, through counsel, argued that there was no evidence regarding when J1’s bruise occurred, how, or whose custody she was in when she obtained the bruise.

¹² The record reflects that A.S. spoke with both children and A.A. only spoke with J1 after she already had reported the strangulation to A.S.

¹³ The police report reflects that A.S. reported the incident to the police on August 20, 2023, the same day J1 returned home with the bruise on her neck.

On August 24, 2023, the Hatboro Police Department notified respondent that A.S. had obtained a temporary restraining order against him, from the Superior Court of New Jersey, prohibiting his contact with J1 and J2.

Respondent explained that he decided to enter a guilty plea “based on his actual guilt,” but also because he “valued the certainty of a negotiated end” to his criminal case. Additionally, respondent believed it was important to enter a guilty plea so that his children would not be called to testify against their father.

Turning to the appropriate quantum of discipline, respondent asserted that a one-year suspension, as the OAE had recommended, “is excessive under all the circumstances presented.” He acknowledged that three-month suspensions typically are imposed in domestic violence matters and argued that he “deserves nothing harsher for his conduct.”

Indeed, respondent argued that, following his arraignment, “the criminal investigation revealed certain undisputed evidential issues with the prosecution’s case against him.” Specifically, respondent asserted that M.B., who he described as a credible witness, did not “witness anything that supported the allegations;” that the size and layout of respondent’s home “made it unlikely that a child could be screaming without [M.B.] hearing the screams;” that A.S. “did not notice the bruise on her daughter when she greeted the children when

they first came home;” “the children had been playing together alone for an hour at [A.S.’s] home prior to her taking note of an abrasion;” there was not a doctor’s report addressing when the assault occurred; “the investigation did not include any effort to establish the likely timing regarding when the bruising occurred – whether it could have happened before the children arrived at [respondent’s] home on Friday or after they returned to their mother and stepfather on Sunday morning and played together unsupervised;” that the “children were first interviewed by [A.S.’s] husband, the children’s stepfather, an active-duty police officer, and no recording of that initial interview exists;” and that Detective Dilks “was misinformed about the results of the earlier [investigation], believing that the [investigation] was dismissed for technical reasons based on the children’s ages rather than the absence of proof to support any need for protection. This misunderstanding may have influenced the Detective’s view of the case.” According to respondent, “these facts created the basis for an inference that a jury could have found reasonable doubt had [respondent] exercised his right to a trial.”

Respondent urged that, due to the mitigating factors present, he should receive a censure, rather than a three-month suspension. Specifically, he identified the following mitigating factors: (1) he cooperated with law

enforcement and disciplinary authorities; (2) he self-reported his convictions to the OAE; (3) he accepted responsibility and expressed remorse and contrition; (4) the misconduct was isolated and unlike to recur; (5) there was no established significant physical injury; (6) he had demonstrated remediation; (7) he already was punished; (8) the passage of time since the offense occurred; and (9) his good character. Indeed, respondent asserted that, since the 2023 incident, he has “comported himself beyond criticism.”

Further, because “the situation involved [r]espondent’s daughters’ misbehavior regarding toileting,” respondent has “engaged wholeheartedly” in learning how to parent in different situations. Indeed, in a May 15, 2025 letter from Family Services of Montgomery County, a family support supervisor noted that respondent had enrolled in a parenting program and, throughout April and May 2025, attended four sessions. Respondent reportedly demonstrated a desire to learn and have a healthy relationship with his daughters. He also enrolled in an anger management course and “connected” with the New Jersey Lawyers Assistance Program (NJLAP).¹⁴ During oral argument, respondent clarified that, although he had registered and paid for an anger management course, the class had not yet begun because not enough people had registered. Nevertheless,

¹⁴ It is not clear from the record whether respondent has engaged in any services offered by NJLAP.

respondent contended that “the man who lost his temper in August of 2023 and admittedly violated the law is not the same person he is today.”

Furthermore, respondent argued that he already has “borne the severe and continuing consequences of his actions that underlie his guilty pleas.” In particular, he lost custody of his children and has no contact with them. He asserted that he respects that the no-contact order is a condition of his probation, but he “daily suffers greatly from the separation. He is missing out on their lives and has no interaction with them.”

Thus, respondent asserted that the “facts as a whole” warranted a censure and that such a sanction would preserve the confidence of the public in the bar. Although he acknowledged that precedent permits us to consider information beyond his guilty plea, he asserted that it was unfair for us to “go far beyond” his guilty plea and take into account the prior, unfounded, allegations regarding abuse. When we asked how he wanted us to consider what both J1 and J2 disclosed to law enforcement, respondent noted that they were young children who made statements that were not put to the test of a trial. Respondent elaborated that he did not wish to imply that we should not consider the statements his children made, but their statements were inflammatory and he urged that we should instead ascertain the appropriate quantum of discipline to

impose on an attorney who lost his temper and acted “improperly” with his children that resulted in a “non-significant” injury.

Finally, in support of his good character, respondent submitted eleven letters from individuals who indicated they were aware of his criminal charges but nevertheless believed him to be the kind man who does not act out of anger.

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). Under 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).

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.” Thus, respondent’s convictions for endangering the welfare of a child, in violation of 18 Pa.C.S. § 4304(a)(1), and simple assault, in violation of 18 Pa.C.S. § 2701(a)(1), establish his violation of RPC 8.4(b). More specifically, respondent admitted, under oath, that he placed his hands

around J1's neck in an attempt to cause bodily injury and, as a result, left a mark on her neck. He also admitted that J2 witnessed him placing his hands around J1's neck and he, therefore, endangered the welfare of his other child. 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, [their] 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.

The fact that an attorney’s conduct 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 ethical shortcomings, although not committed in the attorney’s professional capacity, may, nevertheless, warrant discipline.” Ibid. (citing 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 the attorney’s clients. In re Schaffer, 140 N.J. 148, 156 (1995).

Unfortunately, this matter represents yet another domestic violence case that has come before us and, worse, it is the fourth domestic violence matter involving strangulation that we have considered in the past fourteen months. Although disciplinary precedent concerning domestic violence is instructive, we

consider the recent strangulation cases to provide a more specific context against which to analyze respondent's criminal conduct in this matter. Furthermore, in our view, strangulation cases now constitute a distinct line of precedent, given the recent rise in cases coming before us and the Court.

In 1992, the Court recognized the severity of strangulation in State v. Bey, 129 N.J. 557, 579-580 (1992), stating that “[s]trangulation is commonly understood as a form of violence designed and likely to kill a victim, and hence would ordinarily not be used by one whose purpose was only to inflict serious bodily injury.” The Court noted that strangulation was an especially brutal form of violence because the aggressor witnesses the harm they are inflicting on their victim. Id. at 580.

However, Justice Handler, in a dissenting opinion, observed that strangulation “is used commonly to overpower people without killing them.” Bey, 129 N.J. at 630 (Handler, J., dissenting). Justice Handler noted that many police departments authorize officers to use choke holds to “subdue unruly persons under arrest” and that choke holds fall generally “in the mid-range of force used by police officers.” Ibid.

Justice Handler argued “given that chokes often are applied merely to interrupt a person's breathing for a short time, and that they rarely cause

strangulation deaths, the conclusion that a defendant who intends to choke someone necessarily intends to kill someone . . . is totally unfounded.” Ibid.

In the attorney disciplinary context, on August 6, 2025, we transmitted to the Court our decision in In the Matter of Christopher S. Byrnes, DRB 25-044 (August 6, 2025), wherein the attorney entered a conditional guilty plea to one count of third-degree aggravated assault by attempting to cause significant bodily injury, contrary to N.J.S.A. 2C:12-1(b)(12).¹⁵

Specifically, in that matter, Byrnes and his wife attended a holiday party, where Byrnes consumed alcohol. Id. at 2. Later that evening, after waking up and having a conversation with his wife, Byrnes began to act erratically, yelled at his wife, and struck her in the face with his hand. Ibid. Byrnes then obtained two hammers from his garage, knocked his wife down, struck her on the side of her head, slapped her in the face, and pressed against her throat, causing her to lose her ability to breathe. Ibid. Byrnes smashed his wife’s cellular telephone and iPad with a hammer when she attempted to use those devices to contact Byrnes’s father for assistance. Ibid. Also during the altercation, Byrnes removed

¹⁵ N.J.S.A. 2C:12-1(b)(12) provides that a person is guilty of aggravated assault if the person: “Attempts to cause significant bodily injury or causes significant bodily injury purposely or knowingly or, under circumstances manifesting extreme indifference to the value of human life, recklessly causes significant bodily injury to a person who, with respect to the actor, meets the definition of a victim of domestic violence.”

his belt and repeatedly struck his wife, causing bruising to her upper back. Id. at 3. It was not clear from the record whether Byrnes employed a hammer in his acts of assault on his wife. Id. at 2.

When his father arrived, Byrnes immediately confronted him, striking him in the chest with a tree trimmer, which caused his father to fall and suffer minor cuts and bruises. Ibid. While his father was on the ground, Byrnes punched him in the mouth, causing further injury and bleeding. Ibid.

Eventually, when the police responded, they noted Byrnes was intoxicated and incoherent and would not give them any details concerning the events that led to the police being contacted. Ibid. However, Byrnes told the police that he had attempted to hang himself the week prior and asked them for his belt so that he could kill himself. Ibid. After arresting Byrnes, the police transported him to the hospital for a mandatory psychological evaluation, following which Byrnes remained hospitalized for three days. Id. at 4.

During his plea allocution, Byrnes admitted striking his wife with a belt and causing bruising, which he acknowledged could be found to be an attempt to cause significant bodily injury. Id. at 6. He further admitted to pushing his father with the tree trimmer, causing him to fall and sustain bruising and cuts.

Ibid. Byrnes admitted that the tree trimmer could be found to be a deadly weapon if used in that manner. Ibid.

The court admitted Byrnes to the Pretrial Intervention (PTI) program, with the conditions that he complete a domestic violence batterers' intervention program, undergo a substance abuse evaluation and comply with all recommendations, and undergo a mental health evaluation and comply with all recommendations. Ibid.

We recommended the imposition of a three-month suspension with the conditions that, prior to his reinstatement to the practice of law, Byrnes be required to submit proof to the OAE that he had complied with the terms of his PTI, until his PTI term was completed, and that he attend anger management counseling. Id. at 15. Our decision in that matter remains pending before the Court.

Six months before we considered Byrnes, we decided In the Matter of Brian T. Giblin, Jr., DRB 24-185 (February 3, 2025). Giblin pleaded guilty to one count of simple assault, contrary to N.J.S.A. 2C:12-1(a)(1).¹⁶ Id. at 2. In that matter, when police responded to Giblin's home following a report of domestic

¹⁶ N.J.S.A. 2C:12-1(a) provides that a person is guilty of simple assault if the person: "Attempts to cause or purposely, knowingly or recklessly causes bodily injury to another."

violence, he was no longer there. Ibid. However, his girlfriend alleged that a verbal argument had turned physical, and she complained of head pain. Id. at 3. The reporting officer observed visible signs of injuries, including abrasions and redness on the front of her neck, noting there were “visible signs of injuries on the victim from being strangled by the suspect that fled the scene.” Ibid.

Giblin reported his charges to the OAE less than one month after he was charged. Id. at 4.

In support of his guilty plea, Giblin admitted that he “recklessly – attempted to recklessly cause bodily injury” to his girlfriend and that he “committed an act of offensive touching that was not wanted” and placed his girlfriend “in fear.” Ibid. Neither the prosecution nor the court required Giblin to address the additional factual allegations set forth in the criminal complaint and affidavit of probable cause. Ibid. The trial court admitted Giblin to the PTI program for a term of twelve months. Ibid. Giblin also was ordered to comply with therapy and a substance abuse evaluation and recommendations. Id. at 5.

In mitigation, we noted that Giblin had no disciplinary history in his ten years at the bar and that he admitted to his misconduct and expressed remorse. Id. at 13.

We recommended the imposition of a three-month suspension and the Court agreed. In re Giblin, 260 N.J. 335 (2025).

One month before we considered Giblin, we decided In the Matter of Robert William Evans, DRB 24-172 (January 14, 2025). Evans pleaded guilty to third-degree aggravated assault and was admitted to PTI for a term of eighteen months. Id. at 2. The court also ordered Evans to continue substance abuse treatment and therapy. Id. at 5.

In that matter, Evans’s wife reported to police that he was taking more than his prescribed dosage of Klonopin. Ibid. When she confronted Evans about his Klonopin use, he pushed her onto a bed and covered her nose and mouth. Id. at 2-3. She grabbed at Evans’s face and hair in an attempt to get him off her and to escape. Id. at 3. However, Evans, from behind, wrapped his arm around the front of his wife’s neck and restricted her ability to breathe “where she got scared but [Evans] did not completely obstruct her ability to breathe.” Ibid. The reporting officer observed her to have “a red mark consistent with one arm restricting breathing and blood flow extending all the way around the front of her neck from left to right.” Ibid.

During his plea allocution, Evans admitted there was a domestic violence incident at his home involving his wife and that, during the argument with her,

he put his arm around her neck and “applied some pressure.” Id. at 3-4. Evans also admitted that by engaging in the conduct, he had attempted to cause serious bodily injury to his wife. Id. at 4.

However, Evans did not admit to pushing his wife onto their bed or to pressing her face into the mattress and restricting her breathing, as had been alleged in the criminal complaint filed against him. Ibid. Neither the prosecution nor the court required Evans to address those allegations during his plea allocution. Ibid.

In aggravation, we emphasized that Evans committed the assault in the presence of his stepdaughter. Id. at 12.

We recommended the imposition of a three-month suspended suspension and the Court agreed. In re Evans, 260 N.J. 304 (2025).

Indeed, with few exceptions, as the Court announced in In re Margrabia, 150 N.J. 198, 203 (1997),¹⁷ attorneys convicted of an act of domestic violence receive at least a three-month suspension, depending on the presence of aggravating and mitigating factors.

¹⁷ 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.

However, in matters involving significant aggravating factors, the Court has imposed longer terms of suspension. 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, grabbed his girlfriend's head and smashed it into a vehicle twice, causing a severe head injury; the attorney then fled the scene before the police arrived and failed to report the resulting criminal charges to the OAE; in mitigation, we considered the attorney had entered an alcohol abuse program and had no prior discipline), and In re Jacoby, 206 N.J. 105 (2011) (one-year suspension for an attorney who 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 part of a three-year prison sentence).

In the context of child abuse, the Appellate Division observed that, although the Legislature, in enacting the Prevention of Domestic Violence Act, found a “positive correlation between spousal abuse and child abuse; and that children, even when they are not themselves physically assaulted, suffer deep and lasting emotional effects from exposure to domestic violence,” it could not take judicial notice that “domestic violence begets emotional distress or other

psychic injury in child witnesses.” See New Jersey Div. of Youth and Family Services v. S.S., 372 N.J. Super 13, 25 (App. Div. 2004) (quoting N.J.S.A. 2C:25-18).

In order to find that the domestic violence a child witnessed caused psychological harm, psychological evidence must be introduced supporting the causal relationship between witnessing domestic violence and emotional distress in the child. Id. at 22-23.

In the attorney disciplinary context, in In re Marcinkiewicz, 240 N.J. 207 (2019), the attorney pleaded guilty to third-degree aggravated assault causing significant bodily injury and third-degree endangering the welfare of a child. In that matter, in March 2012, during an alcohol-induced blackout, the attorney inflicted the following injuries on her eight-week-old daughter: a fractured skull, bleeding in her brain, a palm print on her face, an unidentified injury to her leg, and bruises. In the Matter of Ania Marcinkiewicz, DRB 18-339 (April 25, 2019) at 2-3.

In addition to the facts underlying her assault on her infant daughter, Marcinkiewicz testified that, prior to the incident, she had blacked out on more than one occasion. Ibid. According to Marcinkiewicz, when she was either

intoxicated or experiencing a blackout, or both, she would “break stuff” and “go into the [sic] rage.” Id. at 3.

The court sentenced Marcinkiewicz to probation for a term of three years on both counts, to run concurrently. Id. at 4. Additionally, the court required Marcinkiewicz to remain drug and alcohol free during her probation; to continue her drug and mental health treatment; and to cooperate in any psychiatric examinations. Ibid.

Marcinkiewicz did not report her 2012 conviction to the OAE until 2018 because, prior to that time, she was not certain that she wanted to practice law. Id. at 5.

In fashioning the appropriate quantum of discipline, we looked to matters involving domestic violence. Id. at 9. We concluded that Marcinkiewicz clearly committed a brutal act of domestic violence against her own daughter, who was a helpless infant for whom there existed no possibility of de-escalation, self-protection, or even calling for help. Id. at 11.

The Court suspended Marcinkiewicz for one year, with the conditions that, prior to her reinstatement to the practice of law, she would maintain her sobriety, provide the OAE with proof of her fitness to practice law, and submit to a ten-panel drug and alcohol hair follicle test, demonstrating that she had been

alcohol and drug free for the previous three months. In re Marcinkiewicz, 240 N.J. 207 (2019). She never sought reinstatement.

Based on the foregoing precedent – domestic violence precedent addressing strangulation in particular – we conclude that the baseline discipline in this matter is a three-month suspension. In crafting the appropriate discipline in this case, however, we also consider mitigating and aggravating factors.

In our view, there are no mitigating factors to consider in this case. The character letters respondent submitted stating he does not react with anger are inconsistent with his angry and disproportionate reaction to what he referred to as J1 and J2’s “misbehavior regarding toileting” when J1 urinated on the floor while her father was yelling at her. Nothing in the record supports that respondent’s children intentionally urinated in their pants.

In aggravation, respondent’s lack of insight into how his actions may have harmed his children is extremely troubling. Notwithstanding his guilty plea in the criminal proceeding, before us, respondent provided eight purported “undisputed evidential issues” with the criminal case against him, which he urged “created the basis for an inference that a jury could have found reasonable doubt had [respondent] exercised his right to a trial.”

We need not engage in speculation concerning the strength of the prosecution's case against respondent because he entered guilty pleas to criminal conduct. Moreover, despite contending there were "undisputed evidential issues" in the criminal case against him, respondent failed to provide us with any objective or credible proof supporting his assertion.

Indeed, a theme in respondent's brief is that he already has been punished enough for harm he may not have even caused J1 due to the "undisputed evidential issues," rendering any sanction against him punitive. His argument highlights his lack of insight into the harm he caused his children, creating an ongoing risk to the public.

Therefore, an important distinguishing element in Byrnes, Giblin, and Evans is that those attorneys acknowledged their wrongdoing and did not use the disciplinary proceeding to collaterally attack their guilty pleas as respondent has attempted to do here. Also unlike Byrnes, Giblin, and Evans, who assaulted their adult significant others during an argument, while under the influence of substances or suffering from a mental health episode, respondent was not under the influence of substances or suffering from a mental health episode when he assaulted his vulnerable six-year-old daughter for having an accident in her pants.

In determining the appropriate quantum of discipline, we may consider the totality of respondent's admitted criminal conduct. See In re Gallo, 178 N.J. 115, 120-121 (2003) (in motions for final discipline, the Court "cannot ignore relevant information that places an attorney's conduct in its true light;" moreover, "[a]s there are no restrictions on the scope of disciplinary review in a case of an attorney who was not charged with a crime or who was acquitted of a crime, there is no commonsense or policy justification for imposing such restrictions when an attorney has pled guilty to a crime;" the Court emphasized that its "disciplinary oversight responsibility cannot be curtailed by artificial impediments to the ascertainment of truth"), and In re Garcia, 119 N.J. 86, 89 (1990) (even in the absence of a criminal conviction, the willful failure to file an income tax return requires the imposition of a suspension).

Even though we may consider the totality of the circumstances surrounding respondent's criminal conduct, the evidence must nonetheless establish, clearly and convincingly, that respondent's misconduct constituted a criminal offense. See In re Monteleone, 258 N.J. 175 (2024).

For instance, in In re Buckley, 226 N.J. 478 (2016), an attorney admittedly attacked a taxi driver while intoxicated and then pleaded guilty to simple assault. In the Matter of Christopher J. Buckley, DRB 15-148 (December 15, 2015) at

2-5. During his plea hearing, the attorney provided a scant factual basis in support of his guilty plea. Id. at 3. Thus, we considered information beyond the attorney's guilty plea, including police reports that contained additional relevant facts, based not solely on the victim's statement, but also on the independent observations made by the police officers who responded in connection with respondent's assault on another. Id. at 4. Moreover, during oral argument before us, the attorney's counsel acknowledged most of the information we considered beyond respondent's guilty plea. Ibid. See also In re Giblin, 260 N.J. 335 (2025) (relying on Buckley to consider the affidavit of probable cause that contained additional relevant facts and law enforcement observations in a matter where the attorney's guilty plea was loosely based on the statute for simple assault, rather than his actual conduct).

We have not hesitated, however, to decline consideration of facts related to a crime for which an attorney has pleaded guilty because the facts were not elicited as part of the attorney's guilty plea and "such a finding would be based solely on hearsay provided by the victims, with no independent corroboration from the police investigation." In re Collins, 226 N.J. 514 (2016).

In that matter, Collins was involved in a "road rage" incident and, angered by the actions of another driver, exited his vehicle and retrieved a baseball bat

from his trunk. In the Matter of John J. Collins, DRB 15-140 (December 15, 2015) at 3. He then struck the offending driver's vehicle with the bat multiple times, breaking the windshield and side mirror, and causing the driver and passenger in the vehicle to be placed in imminent fear of bodily injury. Ibid. Collins did not admit striking either victim with his fist or the bat, as had been alleged in the criminal complaints. Ibid. Neither the State nor the court required Collins to address those allegations during his negotiated plea allocution. Ibid.

We declined the OAE's invitation to find, as fact, that Collins committed the criminal conduct as alleged in the criminal complaint, notwithstanding his guilty plea to a lesser crime, determining that "such a finding would be based solely on hearsay provided by the victims, with no independent corroboration from the police investigation." Id. at 17.

Here, respondent's description of the incident to Detective Dilks corroborated the descriptions J1 and J2 provided to the trained forensic evaluators, except he omitted that he hit both children and strangled J1. Ultimately, during his plea allocution, respondent admitted that he placed both his hands around J1's neck in an attempt to cause his six-year-old daughter harm. Notably, respondent's assault of J1 occurred after she urinated on the floor while he was yelling at her about having an earlier accident in her pants, an occurrence

that M.B. described as an ongoing issue. It also occurred after he already had hit both J1 and J2 in response to them having accidents in their pants. Thus, respondent's utterly disproportionate reaction to his daughter's accident, or "misbehavior" as he described it, is extremely troubling and cannot be attributed to being under the influence of substances or experiencing a mental health episode.

Thus, in the instant matter, we may rely on the Hatboro Police Department investigation, which included observations of J1's bruise and the forensic evaluation J1 and J2 underwent to determine there is corroboration contained in the record regarding J1's disclosures. The accounts J1 and J2 provided are remarkably similar in content to the account of the incident respondent also provided. However, respondent minimized his culpability by omitting that he hit both his children and strangled J1. Nevertheless, respondent's knowing omission to Detective Dilks does not render the accounts J1 and J2 provided unreliable. Moreover, Detective Dilks explained to M.B. that, although the 2020 criminal investigation into harm respondent caused his children was closed, it was not "completely 100% unfounded." Therefore, we have no hesitation finding that the August 2023 incident was not the first time respondent harmed his children and that he not only strangled J1 but has hit both J1 and J2.

Furthermore, we are extremely troubled by how respondent has attempted to characterize his admitted criminal conduct in connection with this disciplinary proceeding. In his brief to us and during oral argument, he repeatedly downplayed the severity of his criminal conduct, going so far as to question whether the bruise could have occurred at A.S.'s home when the children were in her care, notwithstanding his sworn allocution, in a criminal proceeding, that he knowingly placed his hands around J1's neck in an attempt to cause her bodily harm, and did, in fact, leave marks on her neck. The two positions are utterly irreconcilable, and we find his belated argument to be an extremely aggravating factor.

Pursuant to R. 1:20-13(c)(2), “[t]he sole issue to be determined shall be the extent of final discipline to be imposed. [We] and Court 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 guilty as determined by the statute defining the criminal matter.” (emphasis added). Thus, we reject any attempt by respondent in the disciplinary proceeding to collaterally attack his guilty plea and, in fact, find his conduct in this respect to be a significant aggravating factor.

We previously have made the same finding of aggravation. In In re Daley, __ N.J. __ (2021), 2021 N.J. LEXIS 1330, we expressed our concerns that the attorney, who pleaded guilty to unlawful possession of a handgun, attempted to present an alternative version of facts during disciplinary proceedings – that he truly did not know a handgun was in his bag and that it was a mistake – which was contrary to the knowing element of the crime to which he had pleaded guilty under oath. In the Matter of Charles Canning Daley, Jr., DRB 20-037 (February 3, 2021). We questioned whether the attorney pleaded guilty to the charge, which included a knowing element, in order to secure admission to PTI, which is a much more desirable result than the uncertain outcome of a jury trial, where the attorney could have been sentenced to a maximum of ten years in state prison. Id. at 21. We reasoned that the attorney may have perjured himself when he pleaded guilty, under oath, to the knowing element of the charge, to obtain a favorable outcome in his criminal case. Ibid.

In further aggravation, in our view, during his interview with Detective Dilks, respondent clearly misrepresented how J1 sustained her injury, seemingly to attempt to minimize his criminal conduct.

Last, in aggravation, respondent failed to report his criminal charges, as R. 1:20-13(c)(2) requires.

Conclusion

On balance, we find that the serious aggravating factors in this case warrant enhanced discipline and, thus, conclude that a six-month suspension is the appropriate quantum of discipline necessary to protect the public and maintain the integrity of the bar.

Additionally, we recommend that, as a condition precedent to his reinstatement to the practice of law, respondent be required to provide proof to the OAE that he has complied with the terms of his Pennsylvania probation, until his probationary term is completed.

Members Campelo and Rodriguez voted to impose a three-month suspension with the same condition.

Members Hoberman and Modu 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 Marco Di Prato
Docket No. DRB 25-242

Argued: January 15, 2026

Decided: March 25, 2026

Disposition: Six-Month Suspension

<i>Members</i>	Six-Month Suspension	Three-Month Suspension	Absent
Cuff	X		
Boyer	X		
Campelo		X	
Hoberman			X
Menaker	X		
Modu			X
Petrou	X		
Rodriguez		X	
Spencer	X		
Total:	5	2	2

/s/ Timothy M. Ellis

Timothy M. Ellis
Chief Counsel