

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
District Docket No. XIV-2014-0349E
Docket No. DRB

OFFICE OF ATTORNEY ETHICS
P.O. Box 963
Trenton, New Jersey 08625
MOVING PARTY

IN THE MATTER OF
RONALD SIERZEGA, ESQ.
AN ATTORNEY AT LAW

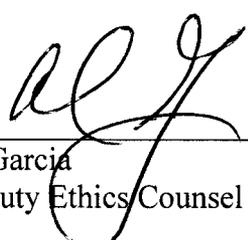
Disciplinary Action
NOTICE OF MOTION
FOR
FINAL DISCIPLINE

TO: Robert Agre, Esq.,
4 Kings Highway East
Haddonfield, NJ 08033

PLEASE TAKE NOTICE that, pursuant to *R.1:20-13(c)*, the Office of Attorney Ethics petitions the Disciplinary Review Board for final disciplinary action based upon your clients plea of guilty to fourth degree cruelty to a child.

TAKE FURTHER NOTICE that, at the time and place selected by the Board, application will be made for recommendation to the Supreme Court of New Jersey that your client be reprimanded.

DATED: June 20, 2016



Al Garcia
Deputy Ethics Counsel

SUPREME COURT OF NEW JERSEY

DISCIPLINARY REVIEW BOARD

District Docket No. XIV-2014-0349E

Docket No. DRB

IN THE MATTER OF

RONALD SIERZEGA, ESQ.,

AN ATTORNEY-AT-LAW

Disciplinary Action

**BRIEF AND APPENDIX IN SUPPORT OF MOTION FOR
FINAL DISCIPLINE**

CHARLES CENTINARO, DIRECTOR
OFFICE OF ATTORNEY ETHICS
P.O. Box 963
TRENTON, NEW JERSEY 08625

Al Garcia
Deputy Ethics Counsel

ON THE BRIEF

TABLE OF CONTENTS

	<u>Page</u>
STATEMENT OF PROCEDURAL HISTORY AND FACTS	1
ARGUMENT	
RESPONDENT'S GUILTY PLEA TO FOURTH DEGREE CRUELY AND NEGLECT TO A CHILD WARRANTS A REPRIMAND	4
CONCLUSION	6

CASES CITED

<u>In re Addonizio</u> , 95 N.J. 121 (1984)	4
<u>In re Costill</u> , 174 N.J. 563 (2002).....	5
<u>In re Gibson</u> , 103 N.J. 75 (1986)	3
<u>In re Kinnear</u> , 105 N.J. 391 (1987).....	4
<u>In re Lunetta</u> , 118 N.J. 443 (1989).....	4
<u>In re Magid</u> , 139 N.J. 449 (1995).....	4
<u>In re Spina</u> , 121 N.J. 378 (1990).....	4
<u>In re X</u> , 120 N.J. 459 (1990)	5

COURT RULES CITED

<u>R.1:20-13(c)</u>	4
<u>R.1:20-13(c)(1)</u>	4
<u>R.1:20-13(c)(2)</u>	4

RULES OF PROFESSIONAL CONDUCT CITED

<u>RPC 8.4(b)</u>	4
-------------------------	---

STATUTES CITED

N.J.S.A. 9:6-3 1

TABLE TO THE APPENDIX

	<u>Exhibit</u>
Accusation No. 19-11-1007	A
Plea Transcript, dated November 19, 2014.....	B
Sentencing Transcript, dated January 28, 2015	C
Judgment of Conviction, dated January 29, 2015.....	D

STATEMENT OF PROCEDURAL HISTORY AND FACTS

Respondent Ronald Sierzega was admitted to the New Jersey Bar in 1995. On November 19, 2014, respondent was charged by Accusation No. 19-11-1007, in the Superior Court of Gloucester County with Cruelty and Neglect to a Child in the Fourth Degree, in violation of N.J.S.A. 9:6-3.¹ (Exhibit A).

This accusation arose from a complaint issued against Respondent on March 20, 2014, by the Clayton Township Police for Endangering the Welfare of a Child in the Second Degree.² Respondent was also issued related motor vehicle summonses of Driving Under the Influence, Refusal to Submit to a Breathalyzer, and Leaving the Scene of an Accident that arose from the same incident.

On November 19, 2014, before the Honorable Robert Becker of Gloucester County Superior Court, Respondent entered a plea of guilty to said accusation charging a violation of N.J.S.A. 9:6-3. In exchange for that plea of guilty, he was to be sentenced to one year of non-custodial probation, and any fees and penalties deemed appropriate by the Court. The motor vehicle summonses were to be remanded to Elk Joint Municipal Court.

During the course of Respondent's plea allocution, he admitted that on March 20, 2014, he was in the Borough of Clayton, New Jersey. He was operating a motor vehicle after having consumed alcohol and crashed while his seven year-old daughter, with initials A.S., was a passenger in his vehicle. His plea allocution follows:

¹ N.J.S.A. 9:6-3 provides in pertinent part that "any parent, guardian or person having the care, custody, or control of any child, who shall abuse, abandon, be cruel to, or neglectful of such child shall be guilty of a crime of the fourth degree."

² Respondent informed the OAE of this charge on April 1, 2014.

Counsel: Ron, I want to direct your attention to on the date of March 20, 2014, on that particular day were you in the Borough of Clayton here in Gloucester County?

A. I was.

Counsel: And on that given day, did you operate your motor vehicle with your daughter whose initials are A.S. in the vehicle that day?

A. Yes.

Counsel: And prior to operating the vehicle with A.S. in the vehicle, did you consume some amount of alcohol?

A. I did.

Counsel: And were involved in an accident?

A. I was.

Counsel: And do you acknowledge the fact that you consumed alcohol, that you were involved in a motor vehicle accident that day, caused your daughter A.S. to be neglected and/or you caused cruelty to your child as a result of that?

A. Yes.

Counsel: And is that why you're entering this guilty plea here today?

A. Yes.

The Court: And once again you're doing this of your own free will?

A. Yes.

Counsel: No one's forced you, pressured you or coerced you into doing this, correct?

A. No one has.

Counsel: I have nothing further your Honor.

The Court: Anything else counsel?

Prosecutor: The State's satisfied.

Court: You're satisfied with that?

Prosecutor: Actually judge, can I just one question?

The Court: Sure

Prosecutor: Mr. Sierzega, what's the date of birth for A.S.?

A. July 5, 2006.

The Court accepted the plea. The transcript of the plea is attached as (Exhibit B).

On January 28, 2015, Respondent was sentenced to one year of non-custodial probation. He was also assessed a V.C.C.A. penalty of \$50, a Safe Neighborhoods assessment of \$75 and a Law Enforcement Officers' Protection Fee of \$30. The Court required a substance abuse evaluation and ordered that the defendant comply with any recommendations of the evaluator. The Court also ordered random urine monitoring and a probation supervision fee of \$15 per month. Respondent was also ordered to provide a DNA sample. The transcript of the sentencing is attached as (Exhibit C). All remaining counts of the indictment were dismissed, and the remaining traffic tickets were remanded to municipal court. The judgment of conviction in this matter is attached as (Exhibit D).

Subsequently, in Elk Joint Municipal Court, two of the summonses were dismissed.³ Defendant entered a guilty plea to the remaining summons of Leaving the Scene of an Accident and was assessed a fine of \$156 and a court fee of \$33. His license was revoked for six months.

Thereafter, Respondent enrolled and completed an intensive substance abuse treatment program. Additionally, Respondent voluntarily purchased and installed an ignition interlock device on his vehicle. Respondent notified the OAE of the disposition of the above matter in March 2015.

³ The summons for Driving While Under the Influence and Failure to Submit to a Breathalyzer were dismissed in municipal court.

LEGAL ARGUMENT

RESPONDENT'S PLEA OF GUILTY TO FOURTH DEGREE CRUELTY TO A CHILD WARRANTS A REPRIMAND.

Final discipline proceedings in New Jersey are governed by R. 1:20-13(c). Under the rule, criminal or quasi-criminal conduct is deemed conclusively established by a judgment of conviction. The existence of a criminal record is conclusive evidence of respondent's guilt. R. 1:20-13(c) (1), In re Gibson, 103 N.J. 75, 77 (1986). Respondent's conviction for the fourth-degree crime of child abuse or neglect is clear and convincing evidence that he violated RPC 8.4(b) (commission of a criminal act that reflects adversely on his honesty, trustworthiness or fitness as a lawyer). Only the quantum of discipline remains at issue. R. 1:20-13(c)(2)(ii); In re Lunetta, 118 N.J. 443, 445 (1989).

The level of discipline imposed in disciplinary matters involving the commission of a crime depends on numerous factors, including the nature and severity of the crime, whether the crime is related to the practice of law, and any mitigating factors such as respondent's reputation, his prior trustworthy conduct, and general good conduct. Id. at 445-46. The fact that respondent's offense does not relate directly to the practice of law does not negate the need for discipline. Even a minor violation of the law tends to lessen public confidence in the legal profession as a whole. In re Addonizio, 95 N.J. 121, 124 (1984).

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." In re Magid, 139 N.J. 449, 452

(1995). The Court has found it acceptable in motions for final discipline “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.” Id. “Discipline is imposed even when the attorney’s offense is not related to the practice of law.” In re Kinnear, 105 N.J. 391 (1987). “An attorney is obligated to adhere to the high standard of conduct required of every member of the bar, even when the activities do not directly involve the practice of law.” In re X, 120 N.J. 459, 462 (1990). “Good moral character is a basic condition for membership in the bar.” Id.

Under the unique facts of this case, the OAE recommends that Respondent be subject to a reprimand. In this matter, Respondent, after consuming alcohol⁴, drove his vehicle with his young daughter as a passenger⁵. Thereafter, he was involved in an accident. He has admitted to neglect of, and cruelty to, his young daughter as a result of the actions described above. He should be disciplined. He committed a fourth degree crime and consequently, violated RPC 8.4(b).

In mitigation, Respondent has submitted proof to the OAE that he voluntarily installed an ignition device in his vehicle. He also has submitted proof to the OAE that he has completed a substance abuse treatment program. Moreover, he has submitted letters from individuals who are able to attest to his desire to put this matter behind him and learn from his encounter with the law.

⁴ As noted, the summons for Driving While Under the Influence was dismissed in municipal court.

⁵ The OAE has found no indication that his daughter was injured.

As far as aggravating factors are concerned, the respondent plead guilty to endangering the welfare of his daughter. Additionally, he pled guilty in municipal court to the leaving the scene of the accident that involved Respondent and his daughter.

The OAE relies on In re Costill, 174 N.J. 563 (2002), in formulating its recommendation in the case at bar. In that matter, Costill plead guilty to a similar offense of N.J.S.A. 9:6-3 for leaving his two young children unattended in a vehicle while he went inside an establishment to drink alcohol. In that matter, the Supreme Court accepted the DRB's recommendation of a reprimand.

In light of the aberrational nature of his criminal conduct, Respondent's remorse, and his subsequent actions to avoid a recurrence of this conduct, the OAE believes that a reprimand is sufficient discipline for his wrongdoing.

CONCLUSION

For the foregoing reasons, the Office of Attorney Ethics respectfully requests that the Disciplinary Review Board recommend to the Supreme Court that respondent be subject to a reprimand as a result of his actions.

Respectfully submitted,

**CHARLES CENTINARO, DIRECTOR
OFFICE OF ATTORNEY ETHICS**

DATED: June 13, 2016

By:



Al Garcia
Deputy Ethics Counsel