

LOUISIANA ATTORNEY DISCIPLINARY BOARD

IN RE: DAVID R. OPPERMAN

DOCKET NUMBER: 23-DB-009

RECOMMENDATION TO THE LOUISIANA SUPREME COURT

INTRODUCTION

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This attorney disciplinary matter arises out of formal charges filed by the Office of Disciplinary Counsel (“ODC”) against David R. Opperman (“Respondent”), Louisiana Bar Roll Number 20477.¹ ODC alleges that Respondent violated the following Rules of Professional Conduct: 8.4(a) and (b).²

PROCEDURAL HISTORY

The formal charges were filed on February 16, 2023. Respondent filed an answer to the charges on March 20, 2023. Also on that date, James E. Boren enrolled as counsel for Respondent. On April 5, 2023, Respondent filed a notice of enrollment as his own counsel as to the allegations in Paragraph II of the formal charges. Respondent also filed an amended answer on April 5, 2023. Pursuant to the scheduling order signed on April 4, 2023, the hearing of this matter was set for June 1, 2023. On May 24, 2023, Respondent filed a motion to continue the hearing, which was opposed by ODC. The motion was denied, and the hearing was held as scheduled. Chief

¹ Respondent was admitted to the practice of law in Louisiana on April 11, 1991. Respondent is currently suspended from the practice of law on an interim basis. *In re Opperman*, 2022-0937 (La. 6/15/2022), 339 So.3d 634.

² Rule 8.4 states, in pertinent part: “It is professional misconduct for a lawyer to: (a) Violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another; (b) Commit a criminal act especially one that reflects adversely on the lawyer’s honesty, trustworthiness or fitness as a lawyer in other respects[.]”

Disciplinary Counsel Charles B. Plattsmier appeared on behalf of ODC. Mr. Boren appeared on behalf of Respondent. Respondent also appeared via video conference.³

On August 29, 2023, Hearing Committee #25 (“the Committee”)⁴ issued its report, finding that the Respondent committed acts in violation of Rules of Professional Conduct 8.4(a) & (b). Based upon these findings, the Committee recommended the sanction of permanent disbarment.

On September 13, 2023, Mr. Boren, on behalf of the Respondent, filed his Post-Hearing Opposition (objection) to the Committee’s report. ODC did not file an objection to the Committee’s report. ODC also filed a Board Brief on November 6, 2023, in which it concurs with the Committee’s findings of fact, conclusions of law, and proposed sanction. On November 27, 2023, the Respondent’s Board Brief in opposition was filed. On November 30, 2023, ODC filed a reply memorandum to address issues presented by the Respondent’s brief. ODC did not object to the untimely filing by the Respondent. Oral argument before Panel “C” of the Disciplinary Board was held on December 7, 2023.⁵ Mr. Plattsmier appeared on behalf of ODC. The Respondent and Mr. Boren also appeared via video conference.

FORMAL CHARGES

The formal charges read, in pertinent part:

I.

The Respondent is David R. Opperman (Bar # 20477), a 61-year-old Louisiana licensed attorney admitted to practice April 11, 1991 after graduating from the LSU Law Center. Respondent was interimly suspended by order of the Louisiana Supreme Court effective June 15, 2022 for criminal conduct forming the basis of these formal charges.

³ Respondent is currently incarcerated for the crimes that form the basis of the formal charges in this matter.

⁴ Members of the Committee included Cynthia M. Bologna (Chair), Michael T. Pulaski (Lawyer Member), and Bridgette K. Hardy (Public Member).

⁵ Members of Panel “C” included Paula Clayton (Chair), Lori Waters (Lawyer Member), and Susan DesOrmeaux (Public Member).

II.

On or about October 22, 2020 Respondent was indicted in the 20th Judicial District Court for the Parish of West Feliciana by the Attorney General's Criminal Division on multiple counts of felony Aggravated Rape of E.B. occurring between October 24, 2003 and October 31, 2003 and when the victim was thirteen (13) years old.

III.

On or about December 28, 2020 Respondent was charged in a separate Bill of Information filed in the 20th Judicial District Court for the Parish of West Feliciana by the Attorney General's Criminal Division with one count of felony carnal knowledge of juvenile K.R., a victim over the age of 12 but under the age of 17 and where there was an age difference of greater than 2 years, the criminal acts occurring between August 1, 2000 and July 13, 2001.

IV.

Following discussions with the Assistant Attorney General prosecuting the matters, Respondent reached a plea agreement where he entered a "no contest" plea to an amended count of the indictment charging him with indecent behavior involving the juvenile E.B. by committing a lewd or lascivious act with the intent of arousing the sexual desires of the defendant. Counts 2 and 3 of the indictment were dismissed.

V.

Following discussions with the Assistant Attorney General prosecuting the matters, Respondent reached a plea agreement where he also entered a guilty plea to an amended bill of information in the matter involving K.R. and charging him with indecency involving a juvenile by committing a lewd and lascivious act with another under the age of seventeen years and where there was an age difference greater than two years between the two persons, with the intent to gratify the sexual desires of either person.

VI.

On or about June 10, 2022 Respondent entered the pleas described above on both the amended charge involving his criminal conduct with E.B. and the amended charge involving his criminal conduct with K.R. Accompanying his pleas, Respondent stated, "As to Count 1, I am pleading nolo contendere but I agree the State has evidence to support the charge, but it is in my best interest to accept this punishment through the nolo plea. I agree to facts in Count 2."

VII.

After accepting Respondent's pleas to the two (2) amended charges in violation of 14:81 (Indecency Involving Juveniles), the presiding judge sentenced him as follows:

Count 1: Defendant was ordered to serve seven (7) years at hard labor in the Department of Corrections. Two (2) of those years are to be suspended and the defendant placed on three (3) years active supervised probation upon serving his DOC time. Under no circumstances is the defendant's probation to be terminated before serving the entire three (3) years.

Count 2: Defendant was ordered to serve seven (7) years at hard labor in the Department of Corrections, consecutive to the time being served in Count 1. All seven (7) of those years to be suspended. The defendant to be placed on three (3) years active supervised probation consecutive to his DOC time and probation period on Count 1.

Respondent will be permanently registered as a sex offender. He self-surrendered to begin his period of incarceration at hard labor on August 10, 2022.

VIII.

Respondent's conduct reflects violations of Rule 8.4(b)—the commission of a criminal act, particularly one which calls into question the lawyer's honest, integrity or fitness as a lawyer in other respects; and Rule 8.4(a)—violate or attempt to violate the Rules of Professional Conduct.

THE HEARING COMMITTEE'S REPORT

As noted above, the Committee issued its report on August 29, 2023. In its discussion concerning the evidence and testimony submitted at the hearing, the Committee detailed the exhibits that were admitted into evidence and listed the individuals who testified as witnesses. The Committee stated, in pertinent part, as follows:

EVIDENCE

The Committee admitted into evidence ODC Exhibits 1-18, with ODC Exhibit 14 being admitted under seal. The Committee also admitted into evidence Respondent Exhibit 1, which was a Motion to Withdraw Nolo Contendere Plea by David Opperman, which was filed in the underlying criminal record on or about May 26, 2023. After the hearing of this matter, Respondent supplemented the record with evidence that he had withdrawn the aforementioned motion. The only witness to testify was Respondent.

The Committee then made the following findings of fact and findings concerning the rule violations at issue:

FINDINGS OF FACT

Louisiana Supreme Court Rule XIX, §19, states, in pertinent part:

A. Determination of Conviction. Upon learning that an attorney has been convicted of a crime, whether the conviction results from a **plea of guilty or nolo contendere** or a verdict after trial, disciplinary counsel shall secure proof of the finding of guilt from the applicable clerk of court. ...

E. Procedure After Final Conviction. After the conviction has become final, that is, all appeals have been concluded or exhausted, disciplinary counsel may, in the event the respondent has for any reason not already been suspended, institute or reinstitute proceedings for interim suspension as provided for in subpart (C) of this Section.

Additionally, the matter may otherwise be processed in the same manner as any other information coming to the attention of the agency.

At the hearing before a hearing committee, the certificate of the conviction of the respondent shall be conclusive evidence of his/her guilt of the crime for which he/she has been convicted. The sole issue to be determined at the hearing shall be whether the crime warrants discipline and, if so, the extent thereof. At the hearing the respondent may offer evidence only of mitigating circumstances not inconsistent with the essential elements of the crime for which he/she was convicted as determined by the statute defining the crime. [Emphasis added.]

Here, Respondent has pled nolo contendere to Count 1 of the criminal charges and guilty to Count 2. Accordingly, his conviction in both counts is final. Furthermore, the evidence submitted by ODC is conclusive evidence of his guilt of the crime - Indecency Involving Juveniles (La. R.S. 14:81). [fn 4]⁶

At various points in this proceeding, Respondent has argued that his nolo contendere plea could not be used against him in this proceeding. He relies on Louisiana Code of Evidence Article 410(A)(2), which states: "Except as otherwise provided in this Article, evidence of the following is not, in any civil or criminal proceeding, admissible against the party who made the plea or was a participant in the plea discussions ... (2) In a civil case, a plea of nolo contendere; ..." This Committee finds this argument to be without merit. First, Rule XIX, §18(A), states, "Disciplinary proceedings are neither civil nor criminal but are *sui generis*." Thus, La. C.E. Article 410(A)(2) appears to be inapplicable to this proceeding. Second, Rule XIX, §19, the pertinent parts of which are quoted above, specifically directs ODC to secure proof of convictions based on nolo contendere pleas and to institute disciplinary proceedings on that basis.

Accordingly, Respondent stands convicted of two counts of Indecency Involving Juveniles, which is a violation of La. R.S. 14:81.

RULES VIOLATED

Respondent has been convicted of two serious crimes, which is a violation of Rule 8.4(b). By violating Rule 8.4(b), Respondent has violated Rule 8.4(a).

⁶ Footnote 4 of the Committee's Report reads:

La. R.S. 14:81 states, in pertinent part:

"A. Indecent behavior with juveniles is the commission of any of the following acts with the intention of arousing or gratifying the sexual desires of either person:

(1) Any lewd or lascivious act upon the person or in the presence of any child under the age of seventeen, where there is an age difference of greater than two years between the two persons. Lack of knowledge of the child's age shall not be a defense; or

(2) The transmission, delivery or utterance of any textual, visual, written, or oral communication depicting lewd or lascivious conduct, text, words, or images to any person reasonably believed to be under the age of seventeen and reasonably believed to be at least two years younger than the offender. It shall not be a defense that the person who actually receives the transmission is not under the age of seventeen."

In analyzing the Rule XIX, Section 10(C) factors, the Committee found that the Respondent violated duties owed to the public and the profession. The Committee also found that he acted intentionally by the very nature of his crimes and pleadings. The Committee determined that the Respondent's misconduct caused serious actual harm to the victims of his crimes. Specifically, such "harm that has likely caused life-long damage to these individuals." Hrg. Comm, Rprt. p. 6; and *see* ODC Exhibit 13, Bates 051-054 (victim impact statement at sentencing). The Committee further determined that the Respondent's misconduct, publicized in the media, brought harm to the legal profession. Aggravating factors found by the Committee included a selfish motive, a pattern of misconduct, the vulnerability of victims, substantial experience in the practice of law, and illegal conduct. The only mitigating factors found by the Committee were an absence of a prior disciplinary record and the imposition of other penalties or sanctions (incarceration). The Committee noted these mitigating factors carry little weight, especially the latter factor, as the Respondent "should not receive the benefit for mitigation for being lawfully imprisoned for serious crimes." Hrg. Comm, Rprt. p. 7.

Relying on Standard 5.11 of the ABA's *Standards for Imposing Lawyer Sanctions*, the Committee concluded that disbarment was the baseline sanction in this matter. After considering the case of *In re Aguillard*, 2007-B-0351 (La. 6/15/07), 958 So.2d 671,⁷ along with the aggravating factors present, the Committee found that permanent disbarment was the appropriate sanction and recommended that it be imposed upon the Respondent. The Committee also recommended that the Respondent be assessed with all costs and expenses of this proceeding pursuant to Rule XIX, Section 10.1.

⁷ In *Aguillard*, the respondent was convicted for child sexual abuse charges. The Court imposed permanent disbarment pursuant to then-Rule XIX, Appendix E, Permanent Disbarment Guideline 4. This Guideline recommends permanent disbarment when a Respondent has pled guilty to sexual offenses regarding minors.

ANALYSIS OF THE RECORD BEFORE THE BOARD

I. Standard of Review

The powers and duties of the Disciplinary Board are defined in Section 2 of Louisiana Supreme Court Rule XIX. Rule XIX, Section 2(G)(2)(a) states that the Board is “to perform appellate review functions, consisting of review of the findings of fact, conclusions of law, and recommendations of hearing committees with respect to formal charges ... and prepare and forward to the court its own findings, if any, and recommendations.” Inasmuch as the Board is serving in an appellate capacity, the standard of review applied to findings of fact is that of “manifest error.” *Arceneaux v. Domingue*, 365 So. 2d 1330 (La. 1978); *Rosell v. ESCO*, 549 So. 2d 840 (La. 1989). The Board conducts a *de novo* review of the hearing committee’s application of the Rules of Professional Conduct. *In re Hill*, 90-DB-004, Recommendation of the Louisiana Attorney Disciplinary Board (1/22/92).

A. The Manifest Error Inquiry

The factual findings of the Committee are not manifestly erroneous. The Committee correctly determined that the Respondent’s convictions as to both counts of his criminal charges are final regardless of the nolo contendere plea to Count I. Respondent contested whether that plea should be interpreted as a final conviction; however, Louisiana Supreme Court Rule XIX, §19(A) states the plea of nolo contendere prompts ODC to secure proof of the finding of guilt. . . .⁸ The findings of fact of the Committee are, thus, supported by the record and are adopted by the Board.

The record supports the additional findings of fact:

1. Count 1 of Respondent’s Criminal Charges

⁸ See *Louisiana State Bar Ass’n v. O’Halloran*, 412 So. 2d 523, 525 (La. 1982) (“A plea of nolo contendere is tantamount to an admission of guilt and, for purposes of disciplinary proceedings, equivalent to a plea of guilty.”); see also *LSBA v. Edwards*, 322 So.2d 123 (La.1975); *LSBA v. Connolly*, 201 La. 342, 9 So.2d 582 (1942).

Sometime between the 24th day of October 2003 and the 31st day of October 2003, Respondent committed Indecent Behavior Involving Juveniles with one, E.B, age 13, by committing a lewd or lascivious act with the intention of arousing the sexual desires of the Respondent in violation of R.S. 14:81.

2. Count 2 of Respondent's Criminal Charges

Between the 1st day of August 2000 and the 13th day of July 2001, Respondent, committed Indecent Behavior Involving Juveniles with one, K.R., by committing a lewd and lascivious act with another under the age of 17 years, and there was an age difference of greater than two years between the two persons, with the intent to gratify the sexual desires of either person in violation of R.S. 14:81.

B. De Novo Review

The Committee correctly found that the Respondent violated the Rules of Professional Conduct as charged by ODC. A discussion of each rule violation follows below.

Rule 8.4(b): Rule 8.4(b) provides it is professional misconduct for a lawyer to commit a criminal act especially one that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects. By: (1) being convicted of R.S. 14:81 related to E.B.; and (2) being convicted of R.S. 14:81 related to K.R., Respondent violated this Rule.

Rule 8.4(a): Rule 8.4(a) provides that it is professional misconduct for a lawyer to violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another. By violating Rule 8.4(b), Respondent has violated Rule 8.4(a).

C. Other Objections Raised by Respondent

In his Board Brief filed on November 27, 2023 and at oral argument, Respondent raised various objections to these proceedings, with particular focus on the introduction of ODC Exhibit

14 at the hearing. This exhibit contains statements given to the West Feliciana Parish Sheriff's Office by the victims in this matter. Respondent argues that the statements constitute hearsay, and therefore, should not have been admitted into evidence at the hearing to prove his guilt, specifically as to Count I of his criminal charges involving E.B. The Board finds that Respondent's objection is without merit. Respondent entered a nolo contendere plea to Count I involving E.B. Rule XIX, Section 19, specifically directs ODC to secure proof of convictions based on nolo contendere pleas and to institute disciplinary proceedings on that basis. As noted above, a plea of nolo contendere is tantamount to an admission of guilt, and for purposes of disciplinary proceedings, equivalent to a plea of guilty. *O'Halloran*, 412 So.2d at 525. Respondent's conviction is final. The statement given by E.B. does not in any way effect the conviction or the Board's finding that Respondent violated Rules 8.4(b) and 8.4(a). Further, the Board notes that in reviewing the Committee's ruling to accept this exhibit into evidence, it is guided by *In re Quaid*, 646 So2d 343, 348, n.2 (La. 1994), wherein the Court directed that disciplinary proceedings should be guided but not confined by strict application of the Code of Evidence. The Court retains the power to determine the ultimate question of admissibility under its original jurisdiction. The Board finds that the Committee did not err in admitting Exhibit 14 into evidence.⁹

Another objection raised by Respondent also warrants discussion. Respondent complains that he has not received or timely received all correspondence from the Board, particularly the hearing committee report. Respondent correctly points out that the Board initially failed to send a

⁹ The Board is mindful of the case cited by Respondent -- *State v. Staton*, 2013-1308, p. 6 (La. 1 Cir. 2014), 2014 WL 1166893 -- in which the First Circuit found that there is no hearsay exception under the Louisiana Code of Evidence for information contained in police investigative reports, and the contents of a police report are based on hearsay and are not admissible as a business record. However, as explained above, in disciplinary proceedings, *Quaid* guides the Board in determining the admissibility of evidence, without the strict application of the Code of Evidence. Further, it is notable that while Respondent objected to the admission of Exhibit 14 (and other exhibits) at the hearing, Respondent's counsel did not object to its admission, stating that all of ODC's exhibits were "authentic and relevant." Hrg. Tr., pp. 16-17.

copy of the hearing committee report to him when it was issued on August 29, 2023. The report was sent only to Mr. Plattsmier and Mr. Boren. However, Respondent admits that he received a copy of the report from Mr. Boren in October 2023.¹⁰ Moreover, in response to a letter dated November 1, 2023 from Mr. Boren to the Board, the Board also sent Respondent a copy of the hearing committee report, along with other documents, on November 9, 2023, to his confirmed prison address.¹¹ The Board finds Respondent had adequate time to review the hearing committee report and address any objections thereto. In fact, he filed his initial objection to the report through Mr. Boren (via correspondence dated September 13, 2023 from Mr. Boren to the Board) and also

¹⁰ See Resp. Board Brief, p. 4.

¹¹ In a November 9, 2023 letter to Respondent, Board staff wrote, in pertinent part, as follows:

November 9, 2023

Mr. David R. Opperman
DOC # 00771315
David Wade Correctional Center
670 Bell Hill Road
Homer, LA 71040

In re: David R. Opperman
Docket No.: 23-DB-009

Dear Mr. Opperman:

The Board has been notified by your counsel, Mr. James Boren, that you have not received correspondence from the Board since mid-September. Mr. Boren has confirmed your address, therefore, the following pleadings and/or correspondence that have been filed into the Board's record since mid-September are being forwarded to you at your current address:

- Hearing Committee Report filed August 29, 2023
- Cover Letter and Notice of Board Argument dated September 19, 2023
- Board Order filed October 9, 2023
- Cover Letters dated October 9, and October 23, 2023
- Brief of Disciplinary Counsel filed November 6, 2023

Please contact this office if you should have any questions regarding this matter.

....

Enclosure(s)

Cc: (Letter only) to:

Mr. James E. Boren, Counsel of Record
Mr. Charles B. Plattsmier, Chief Disciplinary Counsel

addressed his objections in his Board Brief. As such, the Board finds his objection as to his late receipt of the hearing committee report to be without merit.

II. The Appropriate Sanction

A. The Rule XIX, Section 10(C) Factors

Louisiana Supreme Court Rule XIX, Section 10(C), states that when imposing a sanction after a finding of lawyer misconduct, the Court or Board shall consider the following factors:

- (1) Whether the lawyer has violated a duty owed to a client, to the public, to the legal system, or to the profession;
- (2) Whether the lawyer acted intentionally, knowingly, or negligently;
- (3) The amount of the actual or potential injury caused by the lawyer's misconduct; and
- (4) The existence of any aggravating or mitigating factors.

Here, Respondent violated duties owed to the public and the profession. He acted intentionally by the nature of his crimes and pleadings. As described by the Committee, Respondent's misconduct caused serious actual harm. Aggravating factors present include dishonest or selfish motive, a pattern of misconduct, the vulnerability of victims, substantial experience in the practice of law, and illegal conduct. Mitigating factors include the absence of a prior disciplinary record and the imposition of other penalties or sanctions (incarceration). While the Respondent now attempts, in his Board Brief, to set forth new factual allegations and circumstances that should weigh upon "the veracity and the merit"¹² of the aggravating factors found by the Hearing Committee, the Respondent's "facts" are not a part of the record and consideration of them in this proceeding is prohibited. Per Rule XIX, Section 11(F), Board review is limited to a review of the report from the Hearing Committee and the record. Facts inconsistent

¹² See Resp. Board Brief, p.1.

with the essential elements of the crime(s) of which Respondent is convicted are inadmissible. *See* Rule XIX, Section 19(E).

B. The ABA Standards and Case Law

Based upon ABA Standards 5.11, and as explained by the Committee, disbarment is the baseline sanction in this matter. The Committee found that the Respondent engaged in serious illegal conduct and recommended permanent disbarment, considering the aggravating factors present and the case of *In re Aguillard*, 2007-B-0351 (La. 6/15/07), 958 So.2d 671.

As to the sanction of permanent disbarment, Rule XIX, Appendix D, Guideline 4 of the Permanent Disbarment Guidelines provides that permanent disbarment may be warranted when a lawyer commits “sexual misconduct which results in a felony criminal conviction, such as rape or child molestation.” In the matter at hand, Respondent, upon his conviction, self-surrendered to begin his period of incarceration at hard labor on August 10, 2022. There is no dispute that Respondent committed the misconduct and currently serves time in a penitentiary. Accordingly, his misconduct fits squarely within Guideline 4 of the Permanent Disbarment Guidelines.

A review of Louisiana case law involving similar misconduct reveals that the sanction for similar misconduct is permanent disbarment. In the case of *In re Aguillard*, the Court found permanent disbarment as the proper discipline when a lawyer was convicted of one count of computer-aided solicitation of a minor and carnal knowledge of a juvenile. Likewise, the Court imposed permanent disbarment when a lawyer was charged with molestation of a juvenile and admitted to the “egregious” fact in *In re Domm* 2007-0348 (La. 9/21/07), 965 So. 2d 380.¹³ In a similar way, in lawyer discipline cases involving possession of child pornography, the Court has

¹³ *See In re Domm*, 2007-0348 (La. 9/21/07), 965 So. 2d 380 (“The Supreme Court held that permanent disbarment was appropriate for deemed admitted admissions of molesting a child, neglecting a client's matter, failing to communicate with a client, failing to return her file, and failing to cooperate with the Office of Disciplinary Counsel (ODC).”).

permanently disbarred the lawyer. See *In re Lynch* 2002-2275 (La. 01/24/2003), 840 So.2d 508. Like the respondents in *Aguillard*, *Domm*, and *Lynch*, Respondent’s sexual misconduct with juveniles warrants permanent disbarment according to Permanent Disbarment Guideline 4.

C. The Rule XIX, Section 10(A)(1) Factors

On May 4, 2022, the Louisiana Supreme Court adopted amendments to Supreme Court Rule XIX related to permanent disbarment. *In re Thomas*, 2023-00136 (La. 4/25/23), 359 So. 3d 952, 954–55. The amendments to Supreme Court Rule XIX, Section 10(A)(1) do not represent a substantive change to the rules applicable to permanent disbarment but instead serve to codify factors that the Court’s jurisprudence has long recognized. *Commentary of the Court to Accompany Order Dated May 4, 2022 Amending Rule XIX*.¹⁴ Permanent disbarment may be imposed only “upon an express finding of the presence of the following factors:

- (1) the lawyer’s conduct is so egregious as to demonstrate a convincing lack of ethical and moral fitness to practice law; and
- (2) there is no reasonable expectation of significant rehabilitation in the lawyer’s character in the future.”

In re Soileau, 2022-01764 (La. 3/7/23), 356 So. 3d 1012, 1016.

Since this amendment was codified, the Court has found the factors to be satisfied in abhorrent and flagrant circumstances, such as when a Respondent collected legal fees after concealing his unauthorized practice of law and subsequently verbally threatened the victim. *In re Thomas*, 359 So. 3d at 954–55. In another example, the Court found the test satisfied when a Respondent interfered with a police investigation and counseled a client to destroy evidence. *In re*

¹⁴ Available at https://www.lasc.org/Supreme_Court_Rules?p=RuleXIX.

Soileau, 356 So. 3d at 1016–17. Here, Respondent’s misconduct, sexual crimes with two juveniles, is egregiously unethical and abhorrent.

Considering Respondent’s latest statements in his Board Brief, wherein he alleges the profession suffered no harm due to his conviction,¹⁵ that E.B. was not a victim¹⁶ and he did not intend a crime against E.B. because one “never happened,”¹⁷ that his plea deal language was altered without his consent,¹⁸ and that ODC has made false and/or misleading allegations against him,¹⁹ Respondent’s character and the reasonable expectation of rehabilitation requires careful consideration.

Here, Respondent’s conduct clearly qualifies as egregious as it involves improper sexual conduct and behavior with two juveniles, one of whom was only thirteen years old at the time of the molestation. Respondent’s conduct, along with his refusal to take responsibility for his actions concerning E.B., demonstrates that he lacks the moral fitness to engage in the practice of law.

As to whether there is any reasonable expectation to significantly rehabilitate the Respondent’s character, Respondent’s recent allegations and his refusal to accept responsibility for the entirety of his actions, do not evidence a positive character trend towards rehabilitation. In sum, Respondent’s conduct is much more egregious than that warranting mere disbarment, as is evidenced by the likely life-long, severe harm caused to his minor victims.

CONCLUSION

The Board adopts the Committee’s findings of fact and its findings that Respondent violated Rules 8.4(a) and 8.4(b). The Board also adopts the sanction recommended by the

¹⁵ See Resp. Board Brief, pp.8-9.

¹⁶ See Resp. Board Brief, pp. 8, 10.

¹⁷ See Resp. Board Brief, p.10.

¹⁸ See Resp. Board Brief, p.5.

¹⁹ See ODC Reply Memo., pp.3-4.


Committee and recommends that Respondent be permanently disbarred. The Board further recommends that Respondent be assessed with all costs and expenses of these proceedings pursuant to Rule XIX, Section 10.1.

RECOMMENDATION

Based on the above, the Disciplinary Board recommends that Respondent, David R. Opperman, be permanently disbarred from the practice of law. The Board also recommends that Respondent be assessed with all costs and expenses of these proceedings in accordance with Rule XIX, Section 10.1.

LOUISIANA ATTORNEY DISCIPLINARY BOARD

**R. Alan Breithaupt
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Albert R. Dennis III
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