

SUPREME COURT OF NEW JERSEY  
DISCIPLINARY REVIEW BOARD  
District Docket No. XIV-05-009E  
Docket No. DRB 05-

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

IN THE MATTER OF : Disciplinary Action  
JOSEPH J. HALDUSIEWICZ : NOTICE OF MOTION FOR  
AN ATTORNEY-AT-LAW : FINAL DISCIPLINE

TO: Joseph J. Haldusiewicz, Esq.  
78 Graham Street  
Jersey City, New Jersey 07307

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 conviction for possession of child pornography, in violation N.J.S.A. 2C:24-4b(5)(b).

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 you receive a one year suspension from the practice of law

DATED: February 18, 2005

/s/ Richard J. Engelhardt  
Assistant Ethics Counsel

**OFFICE OF ATTORNEY ETHICS**  
of the  
**SUPREME COURT OF NEW JERSEY**  
David E. Johnson, Jr., Esq., Director  
P.O. Box 963  
Trenton, New Jersey 08625  
609-530-4008

CERTIFIED MAIL - R.R.R.  
AND REGULAR MAIL

February 18, 2005

Joseph J. Haldusiewicz, Esq.  
78 Graham Street  
Jersey City, New Jersey 07307

Re: Office of Attorney Ethics v. Joseph J. Haldusiewicz District  
Docket No. XIV-05-009E  
Docket No. DRB 05-

Dear Mr. Haldusiewicz:

Enclosed is a Motion for Final Discipline Based Upon a Criminal Conviction filed with the Disciplinary Review Board pursuant to R.1:20-13(c)(2). Our brief in support of that motion is also enclosed, as is a copy of R.1:20-13. In accordance with that rule, you are afforded 21 days from service of these materials to file "a brief together with any other permissible filings." The Office of Attorney Ethics is similarly afforded 21 days within which to file its reply. Thereafter, oral argument will be set by the Disciplinary Review Board. If you do not file a brief within the time specified, you will be deemed to have waived your right to do so, and the matter will proceed before the Board.

I may be reached by telephone at (609) 530-4008, if you have any questions.

Very truly yours,

/s/ Richard J. Engelhardt  
Assistant Ethics Counsel

RJE/db  
Enclosures

cc: Julianne K. DeCore, Esq., Chief Counsel  
Disciplinary Review Board (w/enclosures)

bcc: Mark A. Murtha, Esq. (w/enclosures)  
Division of Criminal Justices

## STATEMENT OF PROCEDURAL HISTORY AND FACTS

Respondent, Joseph J. Haldusiewicz, was admitted to the Bar of the State of New Jersey in 1983.

On May 22, 2003, respondent appeared before the Honorable Harold W. Fullilove, J.S.C., and pleaded guilty to a one-count accusation charging him with the fourth degree crime of endangering the welfare of a child (possession of child pornography), in violation of N.J.S.A. 2C:24-4b(5)(b).<sup>1</sup> (Exhibit A).

During the plea hearing, the following factual basis for the plea was elicited by Judge Fullilove:

THE COURT: Sir, you're charged in count one of this accusation that on or about or before August 8, 2002 you did endanger the welfare of a child by possessing certain objects. What-what happened sir, what did you do?

THE DEFENDANT: Your Honor, I was downloading images of teenagers engaging in sexual acts and I downloaded that off the Internet and I viewed that on my computer -my work computer.

THE COURT: And you're satisfied, sir, that the - the images you downloaded were in fact people under the age of 18?

THE DEFENDANT: Yes Your Honor.

THE COURT: Mr. Moskowitz, are you satisfied with the factual basis?

MR. MOSKOWITZ: The State is satisfied Your Honor.

THE COURT: The guilty plea will be entered. (Exhibit B, pp. 8-9).

---

<sup>1</sup> N.J.S.A. 2C:24-4b(5)(b) provides that, "(a)ny person who knowingly possess or knowingly views any photograph, film, video tape, computer program or file, video game or any other reproduction or reconstruction which depicts a child engaging in a prohibited sexual act or in the simulation of such an act, including on the Internet, is guilty of a crime of the fourth degree."

A more detailed recitation of the underlying facts is contained in respondent's Adult Presentence Report:<sup>2</sup>

On August 1, 2002, Deputy Attorney General Joseph Haldusiewicz was terminated from the NJ Department of Law and Public Safety, Division of Law for misuse of his internet privilege. An administrative investigation by the Division of Law revealed that Mr. Haldusiewicz had accessed unauthorized websites. A review of internet access logs revealed questionable sites with names that indicated that they may contain adult and/or child pornography.

Mr. Haldusiewicz had access to two State of NJ computers. One was a desktop computer that was located in his office at the Division of Law, 124 Halsey Street, Newark, New Jersey. The other was a shared computer with internet access at the Board of Public Utilities in Newark.

The defendant was among a group of employees that shared a computer for research at the BPU. In June 2002, it was discovered that an unknown employee used this computer to access unauthorized pornographic sites. Mr. Haldusiewicz had access to the computer at this time. After the computer was found to contain pornography, it was deleted by the Information Technology staff

Mr. Haldusiewicz was using the shared computer when a BPU employee walked into the office. The defendant appeared "pale and surprised" and immediately shut down the computer with the power button instead of doing a proper shutdown.

The Division of Law IT staff maintains internet access logs for each employee. A review of the logs for Mr. Haldusiewicz's desktop computer revealed that unauthorized pornography sites were accessed.

On August 1, 2002, Mr. Haldusiewicz was terminated at his office. During the termination interview, the defendant stated that he had a "compulsion" and that he knew it was only a matter of time until he was caught.

On that date, State Investigator Ronald Szymanski of the Division of Criminal Justice, Computer Analysis and Technology Unit advised the IT staff to secure the desktop computer until he could obtain a search warrant.

---

<sup>2</sup> Respondent's Adult Presentence Report will be separately provided to the Board. It should be noted that appended to the Report is a substance abuse evaluation as well as several reports of psychological evaluations.

S.I. Szymanski also requested that Mr. Haldusiewicz's computer access be blocked and removed.

On August 6, 2002, the Division of Law IT staff provided S.I. Szymanski with a print out of the internet access log for Joseph Haldusiewicz for the period of July 15, 2002 to July 24, 2002. SI Szymanski found 77 websites that had names that suggested child pornography. S.I. Szymanski used an undercover internet account to access selected websites from the log. His search resulted in ten sites that appear to contain child pornography. S.I. Szymanski did not access all of the websites because of the numerous suspected sites that he found.

In January 2003, S.I. Szymanski conducted a forensic examination of the desktop computer from Joseph Haldusiewicz's office. S.I. Szymanski found a total of 996 images of suspected child pornography on the computer before the examination was terminated. The examination also revealed that numerous websites containing names suggesting child pornography were accessed with the computer. S.I. Szymanski also observed numerous homosexual and adult pornographic images during the examination. S.I. Szymanski terminated the examination because of the volume of suspected child pornography found, but stated that if the examination was continued more would be found. (Adult Presentence Report, pp. 2-3).

On July 18, 2003, Judge Fullilove sentenced respondent to three years probation and fined him \$1,500. He also imposed assorted costs totaling \$157, ordered respondent to have no unsupervised contact with children under the age of sixteen and directed that he continue psychotherapeutic treatment with Dr. Jeffrey C. Singer. (Exhibits C and D).

**ARGUMENT**  
**RESPONDENT'S CONVICTION FOR POSSESSION OF**  
**CHILD PORNOGRAPHY WARRANTS A ONE YEAR**  
**SUSPENSION**

Respondent pleaded guilty to, and was convicted of, one count of

possession of child pornography, in violation of N.J.S.A. 2C:24-4b(5)(b). His conviction clearly and convincingly demonstrates that he has committed "a criminal act that reflects adversely on (his) honesty, trustworthiness or fitness as a lawyer." RPC 8.4(b).

The existence of a conviction is conclusive evidence of a respondent's guilt. R. 1:20-13(c) (1); *In re Gipson*, 103 N.J. 75, 77 (1986). Only the extent of discipline to be imposed remains at issue. R.1:20-13(c)(2)(ii); *In re Goldberg*, 105 N.J. 278, 280 (1987).

A lawyer has an obligation to adhere to a high standard of conduct even when his activities are not related to the practice of law. *In re Franklin*, 71 N.J. 425, 429 (1976). Any misbehavior, private or professional, that reveals a lack of good character and integrity essential for an attorney, constitutes a basis for discipline. *In re LaDuca*, 62 NJ. 133, 140 (1973).

There are number of recent New Jersey cases involving attorneys convicted on child pornography charges. *In re McBroom*, 158 N.J. 258 (1999), involved an attorney who pleaded guilty to one count of the federal crime of possession of child pornography, in violation of 18 U.S.C.A. 2252 (a)(4). McBroom's conviction resulted from his possession of computer files and images containing visual depictions, downloaded from the Internet, of minors engaged in sexually explicit conduct. By the time the Court ordered a two-year retroactive suspension, attorney McBroom had already been temporary suspended for more than three years. It is significant to note that McBroom was granted a downward departure due to diminished capacity, which reduced

his sentence to a six-month term of imprisonment, to be followed by two months of home confinement. (Exhibit E).

In *In re Peck*, 177 N.J. 249 (2003), an attorney was sentenced to a fifteen-month prison term after he pleaded guilty to one count of possession of child pornography in federal district court, the same violation for which McBroom was convicted. Attorney Peck admitted to possession of at least three magazines depicting minors engaged in sexually explicit conduct. Although the Board recommended a one-year suspension, the Court imposed a twenty-one month time-served suspension on the attorney. (Exhibit F).

In *In re Kennedy*, 177 N.J. 517 (2003), the Court imposed a six-month suspension for an attorney who pleaded guilty in state superior court to one count of fourth degree endangering the welfare of a child, i.e., possession of child pornography, the same crime for which this respondent was convicted. The attorney in *Kennedy* admitted to downloading approximately 500 pornographic images of children under the age of sixteen engaged in prohibited sexual acts. He was sentenced to a three-year term of probation, fined \$5,000, ordered to perform 500 hours of community service, required to continue counseling and ordered not to have unsupervised contact with children under the age of sixteen, excluding blood relatives. (Exhibit G).

In *In re Rosanelli*, 176 N.J. 275 (2003), a six-month suspension was imposed for an attorney who pleaded guilty to the same offense as *Kennedy* and respondent, as a result of his downloading twenty-three pictures of children engaged in various sexual acts. This attorney did

not suffer a conviction, as he was allowed to enter the pretrial intervention program subsequent to his plea. (Exhibit H).

Finally, in *In re Fink*, 181 N.J. 350 (2004), the Court imposed a three-year suspension on an attorney who was disbarred in the State of Delaware based upon his criminal convictions for fifteen counts of felony possession of child pornography and fifteen counts of unlawful dealing in child pornography and thereafter was sentenced to a prison term of six years. The Court also conditioned eligibility for reinstatement in New Jersey on reinstatement in Delaware, where a disbarred attorney may seek reinstatement five years after the effective date of disbarment. It should be emphasized, however, that although the attorney's consensual Delaware disbarment was based solely on his child pornography conviction, he consented to disbarment in the face of additional serious charges of knowing misappropriation of client funds. (Exhibit I).

In reviewing the above-cited cases, it appears that respondent's situation is most similar to that in *Kennedy* and *Rosenelli*, where attorneys pleaded guilty to exactly the same offense as respondent and received six-month suspensions. However, respondent's situation is aggravated by the fact that he was a deputy attorney general at the time he committed his offense. Therefore, we submit that a more severe discipline, i.e., a one-year suspension, is appropriate in this matter.

#### **CONCLUSION**

For the foregoing reasons, the Office of Attorney Ethics

respectfully requests that the Disciplinary Review Board recommend to the Supreme Court of New Jersey that respondent be suspended for one year.

Respectfully submitted,

DAVID E. JOHNSON, JR., DIRECTOR  
OFFICE OF ATTORNEY ETHICS

DATED: February 17, 2005

/s/ Richard J. Engelhardt  
Assistant Ethics Counsel

Richard J. Engelhardt  
Assistant Ethics Counsel  
OF COUNSEL AND ON THE BRIEF