

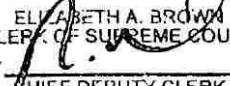
IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF DISCIPLINE OF
DAVID B. SANDERS, BAR NO. 7895.

No. 87031

FILED

OCT 09 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

ORDER OF SUSPENSION

This is an automatic review of a Southern Nevada Disciplinary Board hearing panel's recommendation that attorney David B. Sanders be suspended from the practice of law for five years and one day for multiple violations of RPC 1.3 (diligence), RPC 1.4 (communication), RPC 1.5 (fees), RPC 1.16 (declining or terminating representation), RPC 3.2 (expediting litigation), RPC 3.4 (fairness to opposing counsel), and RPC 8.1 (disciplinary matters).¹ Because no briefs have been filed, this matter stands submitted for decision based on the record. SCR 105(3)(b). We agree that suspension is warranted but conclude that a two-year suspension, consecutive to the one-year suspension imposed in Case No. 85114, is appropriate.

The facts and charges in the complaint are deemed admitted because Sanders failed to answer the complaint and a default was entered.²

¹Sanders is currently suspended. *In re Discipline of Sanders*, No. 85114, 2022 WL 14225670 (Nev. Oct. 21, 2022) (Order of Suspension).

²The State Bar served Sanders with the letters of investigation, complaint, and notice of intent to proceed on a default basis by regular and certified mail at his SCR 79 address. The State Bar also emailed Sanders those documents. Sanders did not file an answer to the complaint, but he

SCR 105(2). Based on the default, Sanders violated the above-referenced rules by failing to (1) communicate with three separate clients; (2) diligently pursue negotiations on behalf of one client, requiring the client to restart the process on her own after a significant delay; (3) respond to discovery on behalf of a second client, causing the client to pay over \$7,000 to avoid case-ending sanctions; and (4) file a claim on behalf of a third client, resulting in her forfeiting her claim as time-barred and thus losing her chance to recoup her potential share of a significant commission. Lastly, Sanders failed to respond to the State Bar's multiple requests for information regarding the grievances.

Turning to the appropriate discipline, we review the hearing panel's recommendation de novo. SCR 105(3)(b). In determining the appropriate discipline, we weigh four factors: "the duty violated, the lawyer's mental state, the potential or actual injury caused by the lawyer's misconduct, and the existence of aggravating or mitigating factors." *In re Discipline of Lerner*, 124 Nev. 1232, 1246, 197 P.3d 1067, 1077 (2008).

Sanders knowingly violated multiple duties owed to his clients, the public, the legal system, and the legal profession. The baseline sanction for the misconduct, before consideration of aggravating and mitigating circumstances, is suspension. See *Standards for Imposing Lawyer Sanctions, Compendium of Professional Responsibility Rules and Standards*, Standard 4.42 (Am. Bar Ass'n 2017) (providing that suspension is generally appropriate when "a lawyer knowingly fails to perform services for a client," or "engages in a pattern of neglect and causes serious or potential injury to a client"). The panel found and the record supports four

appeared and testified at the disciplinary hearing which was limited to determining the appropriate discipline.

aggravating circumstances: prior disciplinary offense, pattern of misconduct, multiple offenses, and substantial experience in the practice of law. The panel also found the aggravating circumstance of bad faith obstruction of the disciplinary proceedings, but we conclude the circumstances here do not support that aggravating circumstance, particularly given that Sanders did not affirmatively act to obstruct or delay the disciplinary proceedings and appeared at the disciplinary hearing. The hearing panel also found and the record supports three mitigating circumstances: absence of a prior disciplinary record, absence of dishonest or selfish motive, and personal or emotional problems. The finding of both a prior-discipline aggravating circumstance and an absence-of-a-prior-disciplinary-record mitigating circumstance is unusual. But we conclude it is appropriate in this case where the events underlying the misconduct at issue occurred at roughly the same time as the events which led to Sanders' prior discipline and until that time, Sanders had no disciplinary record over more than 20 years of practicing law in Nevada. For the same reasons, the hearing panel gave little weight to the discipline-record aggravating and mitigating circumstances. We agree with the panel's balancing of these two circumstances.

Considering all of the factors, we agree with the panel that a suspension is warranted. However, we disagree with the length of the recommended suspension. Considering previous discipline imposed on attorneys who have committed similar misconduct and the fact that Sanders had no discipline before the time period in question, we conclude that a two-year suspension is sufficient to serve the purpose of attorney discipline. *State Bar of Nev. v. Claiborne*, 104 Nev. 115, 213, 756 P.2d 464, 527-28 (1988) (explaining that the purpose of attorney discipline "is not to

punish the attorney but to . . . [protect] the public, the courts and the legal profession.” (quoting *Clancy v. State Bar*, 454 P.2d 329, 336 (Cal. 1969))).

Accordingly, we suspend attorney David B. Sanders from the practice of law in Nevada for two years commencing from the date of this order, to run consecutive to the one-year suspension in Case No. 85114. Sanders shall reimburse the Client Security Fund for any funds paid to his clients that were involved in this disciplinary matter and refund any unearned fees paid by those clients. Finally, Sanders shall pay the costs of the disciplinary proceedings, including \$2,500 under SCR 120, within 30 days from the date of this order.

It is so ORDERED.

Stiglich, C.J.
Stiglich

Cadish, J.
Cadish

Pickering, J.
Pickering

Herndon, J.
Herndon


Lee, J.
Lee

Bell, J.
Bell

PARRAGUIRRE, J., dissenting:

With all due respect to my colleagues, I dissent. The disciplinary hearing panel, after review of this matter, recommends a five-

year-and-one-day suspension. In my opinion, a two-year suspension is inadequate to serve the purpose of attorney discipline in this instance.

 J.
Parraguirre

cc: Chair, Southern Nevada Disciplinary Board
David B. Sanders
Bar Counsel, State Bar of Nevada
Executive Director, State Bar of Nevada
Admissions Office, U.S. Supreme Court