

bar counsel report

SUPREME COURT OF NEVADA

In re: Ramon Dy-Ragos
Bar No.: 10343
Docket Nos.: 62094 & 63884
Filed: April 4, 2014

ORDER DENYING MOTION AND APPROVING CONDITIONAL GUILTY PLEA AGREEMENT

Attorney suspended for one year retroactive to January 25, 2013, with conditions on reinstatement.

Docket No. 63884 is an automatic review of a conditional guilty plea agreement under SCR 113, involving attorney Ramon Dy-Ragos. A Southern Nevada Disciplinary Board hearing panel recommended approval of the agreement. In this agreement, Dy-Ragos pleaded guilty to violating RPC 1.1 (competence), RPC 1.2 (scope of representation and allocation of authority between client and lawyer), RPC 1.3 (diligence), RPC 1.4 (communication), RPC 1.5 (fees), RPC 1.15 (safekeeping property), RPC 5.3 (responsibilities regarding nonlawyer assistants), RPC 5.4 (professional independence of a lawyer), RPC 5.5 (unauthorized practice of law) and RPC 8.4(b) (misconduct: commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer).

In exchange for his conditional guilty plea, Dy-Ragos agreed to a stated form of discipline with the state bar, which included a one-year suspension, retroactive to the date of his temporary suspension in January 2013.¹ The parties stipulated that upon his reinstatement, if any, Dy-Ragos would be placed on a two-year probationary period. Conditions of the probation include:

1. Dy-Ragos is prohibited from engaging in the solo practice of law or managing a law practice;
2. Dy-Ragos shall promptly and completely respond to any grievances filed against him or any requests for information from the state bar;
3. Dy-Ragos shall not engage in professional misconduct that results in the imposition of disciplinary sanctions;
4. Dy-Ragos must contact and work with a mentor, approved by the state bar, to assist and guide him in monitoring his trust account and law office management. This mentor will provide quarterly reports to the state bar with updates

as to Dy-Ragos's practice, including his trust accounts, operating accounts, case load and client communication;

5. During the first two years of reinstatement, Dy-Ragos will complete an additional six CLE credits in trust account management and/or law office management as approved by the state bar, in addition to the twelve mandatory CLE credits required each year; and
6. Dy-Ragos shall pay all costs of the disciplinary proceeding (excluding staff salaries) in accordance with SCR 120.

Having reviewed the record of the disciplinary proceedings and the attached exhibits, we accept the conditional guilty plea agreement. See SCR 113(1); *In re Kenick*, 100 Nev. 273, 680 P.2d 972 (1984). Accordingly, Dy-Ragos is suspended for one year, retroactive to January 25, 2013.² Dy-Ragos shall comply with SCR 116 upon petitioning for reinstatement. Upon reinstatement, if any, a two-year probationary period will be imposed with the conditions detailed above. Finally, we note that Dy-Ragos is currently suspended for failure to meet his yearly continuing legal education requirements. See *In re Ed. of Continuing Legal Educ.*, Docket No. 61517 (Order Dismissing Petition as to Certain Respondent Attorneys and Granting Petition as to Certain Respondent Attorneys, December 28, 2012). Accordingly, Dy-Ragos must become current with this administrative requirement before he is reinstated to the practice of law. See SCR 213. The parties shall comply with the applicable provisions of SCR 115 and SCR 121.1.

It is so ORDERED.

In re: John Shaddek
Bar No.: 1513
Docket No.: 64459
Filed: February 27, 2014

ORDER OF TRANSFER TO DISABILITY INACTIVE STATUS AND REFERRAL FOR EXAMINATION BY QUALIFIED MEDICAL EXPERT

Attorney transferred to disability inactive status.

Attorney John Shaddek has petitioned this court for an order transferring him to disability inactive status. The State Bar of Nevada did not join in this petition, and instead opposed Shaddek's request. Shaddek is

the subject of a separate disciplinary matter wherein a hearing was held before a disciplinary panel, resulting in a recommendation that Shadek be disbarred. Because of the recommendation of disbarment, the matter is currently before this court for de novo review. See SCR 105(3)(b); *In re Discipline of John Shadek*, Docket No. 64280.

In circumstances where an attorney contends that he or she is suffering from a mental or physical disability, but the state bar does not join in the petition, SCR 117(3) is controlling. Pursuant to that rule, where an attorney notifies this court that he or she is suffering from a physical or mental disability which makes it impossible to defend against pending disciplinary proceedings, this court “shall” enter an order transferring him or her to disability inactive status until the attorney’s capacity to practice law is determined. *Id.* (emphasis added).

Bar Counsel argues that this court should dispense with SCR 117(3)’s mandate because Shadek’s disciplinary proceeding is not pending; that is, because the hearing has been held and a recommendation made, the proceeding is technically complete. He further argues that Shadek’s petition is a disingenuous stall tactic, since Shadek already participated in his own defense and only made this petition once he realized the hearing panel’s recommendation was disbarment.

Resolution of this petition requires analyzing the plain language of the rule. See *Morrow v. Eighth Judicial Dist. Court*, 129 Nev. ___, ___, 294 P.3d 411, 414 (2013) (“When a rule is clear on its face, [this court] will not look beyond the rule’s plain language.”) The first part of the rule states that it is applicable “during the course of a disciplinary proceeding.” SCR 117(3). We conclude that the disciplinary proceeding, in this instance, is not complete until this court has issued an order or opinion. See SCR 105(3)(b) (“a decision [of a disciplinary panel] recommending ... disbarment shall be automatically reviewed by the Supreme Court”); *In re Kenick*, 100 Nev. 273, 275, 680 P.2d 972, 974 (1984) (stating that only the Supreme Court can enter an order of disbarment); cf. SCR 99(1) (“Every attorney admitted to practice law in Nevada ... is subject to the exclusive disciplinary jurisdiction of the Supreme Court.”)

Therefore, the plain language of SCR 117(3) mandates that this court transfer Shadek to disability inactive status until his capacity to practice law is assessed by a mental health professional or physician. SCR 117(2),(3).

Accordingly, Shadek is transferred to disability inactive status pending further order of this court. In light of this order, any pending disciplinary proceedings against Shadek, including the matter currently pending in Docket No. 64280, are suspended. Within 30 days from the date of this order, Shadek shall submit to examination by a

Nevada licensed medical expert for determination of his capacity to continue to practice law. Shadek shall file with this court a report of the medical expert’s findings within 40 days from the date of this order.

Per SCR 117(7), Shadek shall comply with the requirements of SCR 115. Further, the state bar shall effect notice of this order as required under SCR 121.1. Bar Counsel shall provide this court with proof that notice has been served.

It is so ORDERED.

PICKERING, J., with whom SAITTA, J., agrees, dissenting:

I respectfully disagree with the majority’s decision to transfer Shadek to disability inactive status and to refer him for examination by a qualified medical expert. Although the language of SCR 117 may contemplate such a procedure, in my view, Shadek has already availed himself of that procedure and has failed to carry his burden as required under SCR 117(5).

Where, during the course of a disciplinary proceeding, an attorney files a petition seeking to be transferred to disability inactive status due to the attorney’s contention that he or she suffers from a mental or physical infirmity that makes it “impossible for the attorney to adequately defend the disciplinary proceeding,” this court “may take or direct such action as it deems necessary to determine whether the attorney is incapacitated, including referral of the matter to the appropriate disciplinary board for hearing and recommendation by a hearing panel or the examination of the attorney by qualified medical experts.” SCR 117(2),(3). “In a proceeding for transfer to disability inactive status ..., the burden of proof rests with the petitioner.” SCR 117(5).

Shadek was examined on January 14, 2013, at The Parkinson’s Institute and Clinical Center by Dr. Grace Liang. Dr. Liang’s medical evaluation notes that Shadek presented with “alert language fluency and comprehension intact,” and that Shadek reported no problems in regard to his cognitive ability. Although Shadek had already been examined by Dr. Liang, he chose not to present any evidence of his alleged incapacity at his disciplinary hearing in August 2013. In fact, Shadek failed to appear at his disciplinary hearing, citing a pending criminal complaint filed against him.

Shadek has been examined by a qualified medical expert and been afforded the opportunity to appear before a hearing panel. Nonetheless, he has failed to prove that he suffers from a mental or physical infirmity that makes it impossible for him to adequately defend his pending disciplinary matter. The majority’s order unnecessarily provides Shadek with a second opportunity to carry his burden. For these reasons, I would deny Shadek’s petition

continued on page 38

bar counsel report

to be transferred to disability inactive status and deny his motion for an immediate stay of the disciplinary proceedings in Docket No. 64280.

Pickering, J.
I concur: Saitta, J.

NORTHERN NEVADA DISCIPLINARY BOARD

PUBLIC REPRIMAND

In re: Kent Hanson
Bar No.: 3729
File Nos.: N08-39-906, NG09-38-906,
N10-09-906, N10-10-906
Filed: April 1, 2014

Public Reprimand imposed on Attorney for practicing law while on administrative suspension.

TO: Kent B. Hanson, Esq.
316 California Ave. #245
Reno NV 89509

On April 24, 2007, you received a Public Reprimand for ethical violations related to the representation of Ken Bleak and his mother in connection with a real estate dispute. As part of a Conditional Guilty Plea, you were ordered to refund \$876.39 to a former client and to reimburse the state bar for costs of the disciplinary matter.

In November 2008, because you had not made the payments as required, the state bar opened a grievance file, N08-39-906, and you were so informed in a letter dated November 20, 2008. You subsequently corresponded with the state bar and promised that payment to your former client would be forthcoming within one week. On December 11, 2008, you remitted payment as promised. In a letter to the state bar, you said that your intention was to pay the state bar by the end of the year. However, you did not pay the costs of the prior disciplinary matter until April 15, 2009.

On or about June 18, 2008, the state bar suspended your license to practice law for failure to pay mandatory state bar fees. You remained suspended until January 27, 2010, when your license to practice law was restored to active status for payment of the requisite fees.

On February 19, 2009, the state bar filed a complaint based on the following facts:

1. In January 2008, Eric Grich hired you in to pursue an insurance claim involving Farmers Insurance Group. Grich signed a contingency fee agreement with you in which you requested a purportedly non-refundable retainer of \$2,000, which would be credited against your portion of the recovery if a recovery occurred. Thereafter, you contacted Farmers by letter on at least three occasions. You performed work on behalf of Grich despite being suspended later that year. Grich terminated your services in July 2009, citing lack of communication which you acknowledged at the Formal Hearing.
2. Reno attorney Brent Harsh represented the defendant in *Lero Enterprises vs. Walker*, a civil matter filed in October 2009, in the Second Judicial District Court. You represented John Langon, president of Lero Enterprises. You were hired by Langon in or about June 2009, and prepared, signed and filed pleadings and papers while your license to practice law in Nevada was fee suspended. Langdon paid you fees totaling of \$7,006. All payments were made during the time in which your law license was suspended.
3. You also prepared, signed and filed a complaint in Sparks Justice Court on October 1, 2009. A Default was granted in this matter on November 13, 2009. In an order filed on March 25, 2010, Sparks Justice Court Judge Susan Deriso granted a defense motion for sanctions and attorney fees, thereby ordering you to personally pay the defendants in that matter a total of \$4,295.04 within 90 days.
4. Reno attorney Robert Dickey represented Richard and Lavonne Colon in a quiet title action filed on February 19, 2009, in the Second Judicial District Court. Dickey informed the state bar that you represented the defendants/counterclaimants in the same action. In fact, you participated in negotiations which had led to a settlement. The parties ultimately settled their matter and documents to dismiss the matter were signed in December 2009. In the Stipulation and Order to Dismiss of December 21, 2009, you signed an acknowledgment that you had prepared the pleading. Finally, on January 5, 2010, you signed a Notice of Entry of Order which was filed in court on the same day.
5. Burt Budd Longworth was arrested after an October 21, 2009, incident which included allegations of

domestic battery, child endangerment and interrupting a 911 call for assistance. You represented Longworth in his criminal matter. On or about December 31, 2009, Longworth agreed to waive his preliminary hearing in justice court as part of a plea bargain with prosecutors.

On or about January 13, 2010, Longworth plead guilty to one count of intercepting, interrupting or delaying a telephone call, a gross misdemeanor. You signed the plea agreement as Longworth's counsel. After the Longworth matter had apparently left their jurisdiction, personnel from Sparks Justice Court informed the state bar that they had recently been advised that you were suspended from the practice of law. The court provided information regarding Longworth's matter and the civil matter, discussed above, which already had been reported to the state bar by Harsh.

In light of the foregoing, you have violated Nevada Rules of Professional Conduct (RPC) 1.4 (Communication), RPC 3.4(c) (Fairness of Opposing Party and Counsel: Knowingly disobeying an obligation under the rules of a tribunal), RPC 5.5 (Unauthorized Practice of Law) and RPC 8.1 (b) (Bar Admission and Disciplinary Matters) and are hereby **PUBLICLY REPRIMANDED**. ■

1. On January 25, 2013, in Docket No. 62094, this court entered an order temporarily suspending Dy-Ragos from the practice of law, based on his conviction of a serious crime as provided for in SCR 111(1), (6)-(8). See *In re Discipline of Dy-Ragos*, Docket No. 62094 (Order of Temporary Suspension and Referral to Disciplinary Board, January 25, 2013). The conduct that was the subject of the conviction was also the subject of one of the state bar's complaints against Dy-Ragos and was considered by both parties in reaching the proposed guilty plea agreement and by the disciplinary panel in recommending approval of the guilty plea agreement in Docket No. 63884.
2. Based on this court's approval of the conditional guilty plea agreement in Docket No. 63884, Dy-Ragos's Motion to Reconsider and/or to Set Aside SCR 111 Temporary Suspension currently pending in Docket No. 62094 is denied as moot, and Docket No. 62094 is closed.

DISCIPLINE KEY

Resignation with charges pending: SCR 98(5)(b)
Types of possible discipline listed generally: SCR 102
Attorneys convicted of crimes: SCR 111
Conditional guilty plea agreements (discipline by consent): SCR 113
Reciprocal discipline: SCR 114
Disbarred/Suspended attorneys: SCR 115
Reinstatement: SCR 116
Disability Inactive: SCR 117

Supreme Court Rules (SCRs):
www.leg.state.nv.us/CourtRules/SCR.html

DISBARMENT – License to practice revoked.

SUSPENSION – License suspended for a time certain, ineligible to practice. More than six months requires petition for reinstatement and court order.

DISABILITY INACTIVE – Ineligible to practice until further order of the court. In the interim, disciplinary proceedings held in abeyance.

INTERIM TEMPORARY SUSPENSION – Interim suspension based on showing of a substantial threat of serious harm to the public, in effect until further court order, usually after hearing.

RESIGNATION WITH CHARGES PENDING – Ineligible to practice. Requires Bar Counsel approval. Resignation is irrevocable, with readmission only possible upon application as a new admittee.

PUBLIC REPRIMAND – Misconduct found and public censure issued, including attorney's name and the underlying facts and charges. Published in *Nevada Lawyer* and made available to the press. Remains eligible to practice law.

LETTER OF REPRIMAND – Lowest level of discipline. Not published, but disclosed upon request under the new rules. May also include up to a \$1,000 fine and restitution. Remains eligible to practice.

ADMINISTRATIVE SUSPENSION – Attorneys may be administratively suspended for failure to pay bar fees (SCR 98(12)), and/or for failure to complete and report the required Continuing Legal Education hours (SCR 212). While these are **not disciplinary suspensions**, the attorney is **ineligible to practice law** until the deficiency is remedied and the procedures to transfer back to active status completed as set forth in the applicable rules.