

Bar Counsel Report

In Re: JAYMIE R. MITCHELL

Bar No.: 8576

Case No.: 85933

Filed: 01/18/2023

ORDER TRANSFERRING ATTORNEY TO DISABILITY INACTIVE STATUS

The State Bar and attorney Jaymie Mitchell have filed a joint petition asking this court to transfer Mitchell to disability inactive status because she currently is incapable of continuing the practice of law due to a mental health condition for which she is receiving treatment. Having reviewed the petition and supporting exhibit, we conclude that Mitchell is incapacitated for the purpose of practicing law.

Accordingly, we transfer attorney Jaymie Mitchell to disability inactive status commencing from the date of this order. See SCR 117(2). Mitchell must comply with SCR 117(4) in seeking reinstatement and may not resume active status until reinstated by order of this court. The parties shall comply with SCR 115 and SCR 121.1. See SCR 117(7).

It is so ORDERED.¹

In Re: GARRETT T. OGATA

Bar No.: 7469

Case No.: CR19-1101

Filed: 02/01/2023

LETTER OF REPRIMAND

To Garrett T. Ogata:

About 3:01 a.m. on August 30, 2019, the Nevada Highway Patrol arrested you for Driving Under the Influence (“DUI”) alongside Interstate route 215 and Eastern. You rear-ended an occupied vehicle at high speed on the interstate, causing serious injuries to its two occupants. This was your second DUI within 7 years.

On January 12, 2021, you pleaded no contest to a misdemeanor offense of DUI (second offense) and guilty to a felony offense of Reckless Driving causing substantial bodily harm. You negotiated a plea deal with the special prosecutor to reduce the felony to a misdemeanor if you completed the conditions of probation. After you successfully completed all conditions, on December 9, 2021, the District Court reduced the felony reckless driving charge to a

misdemeanor offense. You did not report your arrest or conviction to the State Bar as required by SCR 111(2).

On November 4, 2021, the State Bar of Nevada filed a mandatory petition with the Nevada Supreme Court under SCR 111 advising them of the convictions and requesting their discretionary election on referral of the DUI conviction for discipline consideration. On January 28, 2022, the Nevada Supreme Court issued an order referring the matter to the Southern Nevada Disciplinary Board for discipline consideration.

A Southern Nevada Disciplinary Board Formal Hearing Panel convened on November 16 and November 18, 2022, to consider the State Bar’s complaint filed March 2, 2022, alleging that you violated Rule of Professional Conduct (“RPC”) 8.4(a) (Misconduct) and Nevada Supreme Court Rule (“SCR”) 111(2) (Self-report). The panel received sworn testimony and documentary evidence regarding your conduct. The Panel concluded unanimously that you violated both rules. It held that you should receive a Letter of Reprimand for your conduct. This letter constitutes delivery of the Panel’s reprimand.

RPC 8.4 (b) (Misconduct) states in relevant part: “It is professional misconduct for a lawyer to: (b) Commit a criminal act that reflects adversely on the lawyer’s honesty, trustworthiness, or fitness as a lawyer in other respects;”

Here, you committed a criminal act, namely a second offense DUI, a violation of Nevada Revised Statutes (“NRS”) 484C.110 and 484C.400. The Panel found that this criminal act reflected adversely on your fitness as a lawyer.

SCR 111(2) (Duty to inform bar counsel) states: “Upon being convicted of a crime by a court of competent jurisdiction, other than a misdemeanor traffic violation not involving the use of alcohol or a controlled substance, an attorney subject to these rules shall inform bar counsel within 30 days.”

Here, you pleaded no contest to a traffic violation involving the use of alcohol, namely the DUI charged in the Eighth Judicial District Court. SCR 111(1) directs that a “conviction” includes a no contest plea “... regardless of whether a sentence is suspended or deferred or whether a final judgment of conviction has been entered, and regardless of any pending appeals.” SCR 111(2) required you to report your DUI conviction no later than February 10, 2021. You did not report your conviction.

“Suspension is generally appropriate when a lawyer knowingly engages in criminal conduct which does not contain the elements listed in standard 5.11 and that seriously adversely reflects on the lawyer’s fitness to practice.” ABA Standards for Imposing Lawyer Sanctions §5.12 (2nd Ed. 2019).

However, the panel weighed aggravating and mitigating circumstances. It found that the mitigating

circumstances warranted a downward deviation from the suspension standard to a Letter of Reprimand. The aggravating factors included selfish motive, multiple offenses, vulnerability of victims, substantial experience in the practice of law and illegal conduct. The mitigating factors included full restitution to the victims, lack of a prior record, remorse, character or reputation, cooperative attitude toward the proceeding, imposition of other penalties or sanctions, and continuous sobriety and rehabilitation since the date of the accident. It ordered the State Bar to monitor your progress in treatment during a one-year term of probation. The panel also ordered you to submit quarterly reports of your progress to the State Bar.

Please allow this Reprimand to serve as a thoughtful reminder of your professional ethical obligations. We wish you well in your practice and trust that no similar problems will arise in the future.

ENDNOTE:

1. This order constitutes our final disposition of this matter. Consistent with SCR 121(7), this order is public but all other proceedings and documents in this matter shall remain confidential.

TIP

**FROM THE BAR
COUNSEL**

Civility and the Rules of Professional Conduct

On January 19, 2023, the State Bar of Nevada's Board of Governors adopted the Creed of Professionalism and Civility, available at nvbar.org> For Lawyers > Ethics & Discipline > Creed. Civility is defined as formal politeness and courtesy in behavior or speech. As attorneys, it is important that we maintain civility in our profession.

At times, an adversarial process can bring about emotions that cause irritation, hostility, or anger. Advancing one's position in the face of adversity can, at times, be difficult and cause frustration or uncivilized behavior. Zealous representation does not require us to ignore personal courtesy or professional integrity.

Professionalism and civility are standards members of the bar should seek to function under as the ordinary work environment, however, failure to be civil toward opposing counsel and others can result in sanctions. Nevada Rules of Professional Conduct (RPC) 3.4 (Fairness to Opposing Party and Counsel), RPC 4.4 (Respect for Rights of Third Persons), and RPC 8.4 (Misconduct) set forth important rules regarding how attorneys conduct themselves in interactions with others. These interactions include those with opposing counsel and their clients, court personnel, and any other third person we may come in contact with.

RPC 4.4(a) states, "In representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person, or use methods of obtaining evidence that violate the legal rights of such person." This rule helps us understand how we should treat others. As you interact with others, please remember our Creed of Professionalism and Civility.