Bar Counsel Report

In Re: ANDREW D. SEDLOCK
Bar No.: 9183
Case No.: 88257
Filed: 02/21/2025

ORDER OF DISBARMENT

This is an automatic review of a Southern Nevada Disciplinary Board hearing panel's recommendation that attorney Andrew D. Sedlock be disbarred based on violations of RPC 1.2 (scope of representation and allocation of authority between client and lawyer), RPC 1.3 (diligence), RPC 1.4 (communication), RPC 1.8 (conflicts of interest: current clients: specific rules), RPC 1.15 (safekeeping property), RPC 1.16 (declining or terminating representation), RPC 3.2 (expediting litigation), RPC 7.3 (solicitation of clients), RPC 8.1 (bar admission and disciplinary matters), and RPC 8.4 (misconduct). Because no briefs have been filed, this matter stands submitted for decision based on the record. SCR 105(3)(b).

The State Bar has the burden of showing by clear and convincing evidence that Sedlock committed the violations charged. *In re Discipline of Drakulich*, 111 Nev. 1556, 1566, 908 P.2d 709, 715 (1995). Here, however, the facts and charges alleged in the complaint are deemed admitted because Sedlock failed to answer the complaint, and a default was entered.[1] SCR 105(2). The record therefore establishes that Sedlock violated the above-referenced rules by (1) failing to diligently represent a personal injury client, which required the client to retain new counsel to remedy an adverse ruling; (2) retaining a third-party to impermissibly solicit clients at the scene of a car accident; (3) improperly advancing client settlement funds to cover litigation costs for personal injury cases; (4) settling cases without client authorization; (5) failing to disburse settlement payouts, commingling client and operating funds, and mishandling and misappropriating roughly $300,000 in client funds; (6) failing to pay approximately $103,695 in medical liens on behalf of clients; (7) failing to communicate with clients as to the status of their cases; (8) failing to terminate client representation after abandoning his law firm; and (9) failing to respond to the State Bar's lawful requests for information and participate in the disciplinary proceedings.

Turning to the appropriate discipline, we review the hearing panel's recommendation de novo. SCR 105(3)(b). Although we "must … exercise independent judgment," the panel's recommendation is persuasive. *In re Discipline of Schaefer*, 117 Nev. 496, 515, 25 P.3d 191, 204 (2001). 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).

Sedlock intentionally or knowingly violated duties owed to clients (safekeeping property, conflicts of interest, communication, and diligence), the legal system (expediting litigation), and the profession (failing to decline or properly withdraw representation and failing to respond to lawful requests for information by a disciplinary authority). Sedlock's clients suffered actual injuries through financial loss and Sedlock's lack of communication and diligent representation. And Sedlock's failure to cooperate in the disciplinary investigation harmed the integrity of the profession, which depends on a self-regulating disciplinary system. The baseline sanction for such misconduct, before considering aggravating or mitigating factors, is disbarment. *See* Standards for Imposing Lawyer Sanctions, *Compendium of Professional Responsibility Rules and Standards*, Standard 4.11 (Am. Bar Ass'n 2023) ("Disbarment is generally appropriate when a lawyer knowingly converts client property and causes injury or potential injury to a client."). The record supports the panel's findings of one mitigating circumstance (absence of prior discipline) and five aggravating circumstances (dishonest or selfish motive, pattern of misconduct, multiple offenses, substantial experience in the practice of law, and indifference to making restitution). Considering the relevant factors, including the aggravating and mitigating circumstances, we agree with the hearing panel that disbarment is appropriate and serves the purpose of attorney discipline. *In re Discipline of Arabia*, 137 Nev. 568, 571, 495 P.3d 1103, 1109 (2021) (recognizing that the purpose of attorney discipline is to protect the public, the courts, and the legal profession).

Accordingly, we hereby disbar attorney Andrew D. Sedlock from the practice of law in Nevada. Such disbarment is irrevocable. SCR 102(1). Sedlock shall pay the costs of the disciplinary proceedings, including $3,000 under SCR 120(3) plus the costs for the disciplinary proceeding as specified in SCR 120(1) and set forth in the State Bar's Memorandum of Costs filed March 7, 2024, within 30 days from the date of this order. The State Bar shall comply with SCR 121.1.

It is so ORDERED.

In Re: GARY LEE GUYMON
Bar No.: 3726
Case No.: 90079
Filed: 02/24/2025

ORDER GRANTING PETITION FOR TEMPORARY SUSPENSION AND RESTRICTION ON ACCESS TO CLIENT FUNDS

This matter involves two competing petitions regarding Nevada-licensed attorney Gary Lee Guymon. The Bar has filed a petition under SCR 102(1)(d), asking this court to temporarily suspend Guymon from the practice of law in Nevada and enjoin Guymon from making withdrawals from accounts in which Guymon is currently holding any client funds pending resolution of formal disciplinary proceedings. Guymon has filed a petition for an order transferring him to disability inactive status under SCR 117(3), in which Guymon contends

that he is suffering from a disability due to mental health and addiction problems that makes it impossible to adequately defend against the investigation and any potential disciplinary proceedings. The Bar opposes Guymon's petition.

We first address Guymon's request under SCR 117(3). Guymon's petition and supporting mental health letter are facially inadequate to support a contention that Guymon presently suffers from a disability which incapacitates Guymon from practicing law. *See* SCR 117(3) ("If the court determines that the attorney is not incapacitated from practicing law, it shall take such action as it deems necessary, including a direction for the resumption of the disciplinary proceeding against the attorney."). Among other things, Guymon's supporting mental health letter consists of a half-page cursory opinion from a psychologist who interviewed Guymon on February 6 and 7, the latter of which is the same day Guymon filed the SCR 117(3) petition (and just three days after his arrest) that simply reiterates the standard and provides vague background suggesting Guymon is not presently experiencing a significant depressive episode. We therefore deny Guymon's petition for transfer to disability inactive status.

Turning to the Bar's SCR 102(1)(d) petition, we grant the petition. The petition and supporting documentation show that Guymon "appears to be posing a substantial threat of serious harm to the public." SCR 102(1)(d)(2). In particular, Guymon has been arrested on charges of (1) solicitation to commit murder, (2) sex trafficking of an adult, (3) pandering (three charges), (4) conspiracy to commit murder, (5) perjury, (6) coercion with force or threat of force – sexually motivated: and (7) bribing or intimidating a witness to influence testimony (three charges). These charges all relate to allegations of conduct by Guymon involving clients. The allegations and supporting documentation thus satisfy SCR 102(1)(d)(2). We further conclude that Guymon's handling of client funds should be restricted. *See* SCR 102(1)(d)(3) (stating that the court may place restrictions on an attorney's handling of funds entrusted to the attorney).

Accordingly, attorney Gary Lee Guymon is temporarily suspended from the practice of law, pending the resolution of any disciplinary investigation and formal disciplinary proceedings against him. Guymon is precluded from accepting new cases or continuing to represent existing clients immediately upon service of this order. *See* SCR 102(1)(d)(3) (providing 15-day period to wind down representation of existing clients "unless the court orders otherwise"). In addition, pursuant to SCR 102(1)(d)(3), we impose the following conditions on Guymon's handling of funds entrusted to him: Guymon is prohibited from making any withdrawals from accounts in which he is currently holding any client funds, except upon written approval of bar counsel.

The Bar shall immediately serve Guymon with a copy of this order. Such service may be accomplished by personal service, certified mail, delivery to a person of suitable age at Guymon's place of employment or residence, or by publication. When served on either Guymon. or a depository in which Guymon maintains any accounts holding client funds, this order shall constitute an injunction against withdrawal of the proceeds except in accordance with the terms of this order. SCR 102(1)(d)(3). The parties shall comply with the provisions of SCR 115 and SCR 121.1.

It is so ORDERED.[2]

In Re: BRIAN J. SMITH
Bar No.: 11279
Case No.: 89309
Filed: 02/27/2025

ORDER APPROVING CONDITIONAL GUILTY PLEA – STAYED SUSPENSION

This is an automatic review of a Southern Nevada Disciplinary Board hearing panel's recommendation that this court approve, pursuant to SCR 113, a conditional guilty plea agreement in exchange for a stated form of discipline for attorney Brian J. Smith. Under the agreement, Smith admitted to violating RPC 1.3 (diligence), RPC 1.4 (communication), and RPC 1.15 (safekeeping property) and agreed to a six-month-and-one-day suspension stayed until December 13, 2026, subject to certain conditions.[3]

Smith admitted the facts and violations as part of the conditional guilty plea agreement. Smith failed to diligently represent his client in removing the client's name from the Nevada sex offender list, failed to respond to the client's inquiries, and did not properly safekeep the client's retainer. As a result, the client had to handle the matter separately and did not receive a refund of the unearned portion of the retainer.

The issue for this court is whether the agreed-upon discipline sufficiently "protect[s] the public, the courts, and the legal profession." *In re Discipline of Arabia*, 137 Nev. 568, 571, 495 P.3d 1103, 1109 (2021) (stating the purpose of attorney discipline). 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).

Smith admitted to knowingly violating duties owed to his client (diligence, communication, and safekeeping property). Smith further admitted his conduct caused actual injury to the client because there were no funds available to return to the client when Smith failed to perform the agreed-upon legal services. The baseline sanction for such violations, before considering the aggravating or mitigating circumstances, is suspension. *See* Standards for Imposing Lawyer Sanctions, *Compendium of Professional Responsibility Rules and Standards*, Standards 4.12, 4.42(a) (Am. Bar Ass'n 2023) (providing that suspension is appropriate when "a lawyer knows or should know that he is dealing improperly with client property and causes injury or potential injury to a client" and when "a lawyer knowingly fails to perform services for a client

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and causes injury or potential injury to a client"). The record supports one aggravating circumstance (substantial experience in the practice of law) and four mitigating circumstances (personal or emotional problems; full and free disclosure to the disciplinary authority and cooperative attitude towards the proceeding; imposition of other penalties; and remorse). Considering all four factors, we conclude that the agreed-upon discipline is appropriate.

Accordingly, we hereby suspend attorney Brian J. Smith from the practice of law in Nevada for six months and one day, with the suspension stayed until December 13, 2026, subject to the conditions outlined in the conditional guilty plea agreement. Those conditions include that Smith receive no discipline for conduct engaged in during the stay period; not engage in solo practice; submit to an evaluation with the Nevada Lawyer Assistance Program and follow any recommendations; report monthly to the Office of Bar Counsel; return $2,500 to the client within five months following the date of this order; and return the remaining $2,500 to the client within one year following the date of this order. Smith shall also pay the costs of the disciplinary proceedings, including $2,500 under SCR 120, within one year following the date of this order. The State Bar shall comply with SCR 121.1.

It is so ORDERED.

In Re: ATIF M. SHEIKH
Bar No.: 14617
Case No.: 89565
Filed: 02/18/2025

ORDER APPROVING CONDITIONAL ADMISSION AGREEMENT

This is an automatic review of a Southern Nevada Disciplinary Board hearing panel's recommendation that this court approve, pursuant to SCR 113, a conditional admission agreement in exchange for a stated form of discipline for attorney Atif M. Sheikh. Under the agreement, Sheikh admitted to violating RPC 1.2(a) (scope of representation and allocation of authority between client and lawyer); RPC 1.4(a) (communication); RPC 1.16(c), (d) (declining or terminating representation); RPC 3.4(c) (fairness to opposing party and counsel); RPC 8.1(b) (bar admission and disciplinary matters); and RPC 8.4(d) (misconduct) in the representation of two clients. Sheikh agreed to a suspension of six months and one day, stayed subject to a 24-month probationary period to be monitored by the State Bar.

Sheikh admitted to the facts and violations as part of the admission agreement. As to the first client grievance, Sheikh failed to communicate with the client after the client informed Sheikh that he was terminating Sheikh's services in an arbitration matter. Sheikh did not respond to the client's termination request or to the client's request for documents and other inquiries related to the client's case, which resulted in the district court striking the client's motion for a trial de novo. Sheikh further failed to respond to opposing counsel or the district court's attempts to reach him regarding multiple hearings on the motion to strike, including a show cause hearing where the district court fined Sheikh $500 for failing to appear.

As to the second client in this matter, Sheikh authorized the opposing parties to apply Sheikh's signature to a proposed stipulation and order to dismiss Sheikh's client's suit against them, despite Sheikh's client rejecting the settlement offer. The opposing parties filed the proposed order with the court, which the district court signed and dismissed the matter. The court electronically served Sheikh with the dismissal order, but Sheikh did not inform the client, who found out about the dismissal through an independent search of the court records. The client reached out to Sheikh, but Shiekh did not respond. Sheikh did not ensure receipt of the settlement proceeds and thus the client did not receive the funds.[4] Finally, Sheikh failed to respond to the State Bar's requests for information after the client filed a grievance with the State Bar, but Sheikh eventually entered into a conditional admission agreement and participated in the disciplinary hearing.

The issue for this court is whether the agreed-upon discipline sufficiently protects the public, the courts, and the legal profession. *See In re Discipline of Arabia*, 137 Nev. 568, 571, 495 P.3d 1103, 1109 (2021) (stating the purpose of attorney discipline). 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).

Sheikh admitted to knowingly violating duties owed to his clients (scope of representation and allocation of authority between client and lawyer, communication, and declining or terminating representation); and to the profession and legal system (fairness to opposing party and counsel, bar admission and disciplinary matters, and misconduct). Sheikh further admitted harm or potential harm to his clients. The baseline sanction for such violations, before considering the aggravating or mitigating circumstances, is suspension. Standards for Imposing Lawyer Sanctions, *Compendium of Professional Responsibility Rules and Standards*, Standard 4.42(a) (Am. Bar Ass'n 2023) (providing that suspension is appropriate when "a lawyer knowingly fails to perform services for a client and causes injury or potential injury to a client"); Standard 6.22 (providing that suspension is appropriate "when a lawyer knows that he or she is violating a court order or rule, and causes injury or potential injury to a client or party, or causes interference or potential interference with a legal proceeding"); Standard 7.2 (providing that suspension is appropriate "when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional and causes injury or potential injury to a client, the public, or the legal system"). The record supports two aggravating circumstances (pattern of misconduct and multiple offenses) and two mitigating circumstances (absence of prior discipline and inexperience in the practice of law). The evidence supports the panel's findings regarding aggravating and mitigating circumstances. Considering all four factors, we

conclude that the agreed-upon discipline is appropriate.

Accordingly, we hereby suspend attorney Atif M. Sheikh from the practice of law for six months and one day from the date of this order, with the suspension stayed for twenty-four months subject to the conditions outlined in the panel's findings of fact, conclusions of law, and recommendation. Those conditions include the following: (1) Sheikh must not engage in further professional misconduct while on probation that results in a screening panel recommending new disciplinary charges be filed; (2) Sheikh must participate in any fee dispute arising from an allegation of further professional misconduct in good faith; (3) Sheikh must maintain current contact information with the Office of Bar Counsel; (3) Sheikh must inform the Office of Bar Counsel of any changes to his contact information within thirty (30) days of that change; (4) Sheikh must obtain an attorney mentor approved by the State Bar within thirty (30) days from the date of this order; (5) Sheikh must meet monthly with the attorney mentor regarding Sheikh's calendar, workload, stress, how Sheikh is managing these subjects, and any other issues related to the practice of law or law practice management; (6) the selected and approved attorney mentor must provide Sheikh with guidance on legal subjects, rules and procedure, and ethics, and timely provide monthly reports to the State Bar probation monitor no later than the first (1st) of each month; (7) Sheikh must sign the mentor's monthly reports, which shall address the monthly meetings, concerns, and Sheikh's compliance with the terms of the mentoring relationship; (8) Sheikh must file monthly audits with the Office of Bar Counsel, which address the list of his active cases, their procedural status, and a brief discussion of the next steps Sheikh intends to take with each case; and (9) Sheikh must complete the Transitioning into Practice (TIP) program within one year from the date of this order and submit proof of completion to the Office of Bar Counsel. Sheikh shall also pay the costs of the disciplinary proceedings, including $2,500 under SCR 120, within 30 days from the date of this order. The State Bar shall comply with SCR 121.1.

It is so ORDERED.

ENDNOTES:

1. The complaint and notice of intent to proceed on a default basis were served through certified mail at Sedlock's last known physical address and were emailed to Sedlock. While Sedlock had a conference call with the State Bar before the filing of the disciplinary complaint, Sedlock failed to respond to the complaint after it was filed and failed to appear at the disciplinary hearing.
2. This is our final disposition of this matter. Any new proceedings shall be docketed under a new docket number.
3. Under the agreement, this stayed suspension would be concurrent with the stayed suspension in *In re Discipline of Smith*, No. 87435, 2023 WL 8660948 (Nev. Dec. 14, 2023) (Order Approving Conditional Guilty Plea Agreement).
4. This client has a pending legal malpractice lawsuit against Shiekh.

TIP FROM THE BAR COUNSEL

Lawyer: Advocate, Educator ... Victim?

On March 5, 2025, the American Bar Association issued Formal Opinion 515 to recognize an "implicit confidentiality exception" to Rule 1.6 of the Model Rules of Professional Conduct when a lawyer is (i) the victim of a client's criminal activity or (ii) is a witness to a crime and the victim is associated with (ex. staff) or related to the lawyer (family).

This "implicit exception" operates similar to the "express exceptions" already recognized by RPC 1.6: It is "permissive," not mandatory, and applies to both the representation of clients and after the consultation with prospective clients alike.

Pursuant to RPC 1.6(b), a lawyer may already reveal confidential information "to the extent the lawyer reasonably believes necessary" to (i) "prevent reasonably certain death or substantial bodily harm," (ii) "prevent, mitigate or rectify substantial injury to the financial interests or property of another that is reasonably certain to result or has resulted from the client's commission of a crime or fraud in furtherance of which the client has used the lawyer's services," and (iii) "establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client." These "express exceptions," however, would not always justify initially reporting the crime itself to law enforcement, especially if the crime were not financial or if the disclosure not necessary to prevent death or substantial bodily harm.

Stating "implicit exceptions" to the rules are "rare," Formal Opinion 515 recognized the "express exceptions" – already enumerated by RPC 1.6(b) – exist to "prevent or rectify abuse of the client-lawyer relationship."

Requiring strict confidentiality beyond these exceptions would make lawyers easy targets of criminal activity, would deprive them of their right to invoke the criminal process, and undermine the public interest in enforcing criminal law. Like express exceptions, though, any disclosure permitted by the "implicit exception" must only be to the extent "reasonably necessary" to investigate and prosecute the alleged crime, or for medical treatment or insurance coverage.

Stating that it was hard to imagine a situation where the lawyer's representation is not materially impaired by his or her victimization, Formal Opinion 515 recognized an attorney-client relationship is likely impossible if the lawyer is seeking to prosecute the client. While withdrawal is appropriate when this conflict exists, withdrawal still requires leave from the court pursuant to RPC 1.16(c). Pursuant to RPC 1.4, the lawyer may even need to tell the client he or she reported or intends to report the criminal activity to law enforcement.

The rules of professional conduct are "rules of reason." If you, your office staff, or family are victimized by a client or prospective client, you may disclose this criminal activity to the appropriate law enforcement agency to the extent reasonably necessary to investigate and prosecute the matter. You may also disclose this criminal activity to the extent reasonably necessary to obtain medical treatment or determine insurance coverage. Withdrawal from the client's matter is not only appropriate but may be required if you are seeking to prosecute the client, but withdrawal may still require leave from the court. This common-sense approach to RPC 1.6 recognizes that attorneys can be (and sometimes are) victimized by their clients. A strict adherence to RPC 1.6—without recognizing this implied exception to the rule—could make lawyers easy targets of crime, deprive lawyers their rights, and undermine important public interests.