

bar counsel report

SUPREME COURT OF NEVADA

In re: Valner L. Johnson
Bar No.: 4109
Docket No.: 57988
Filed: April 6, 2011

ORDER OF DISBARMENT BY CONSENT

Attorney consented to disbarment.

The Southern Nevada Disciplinary Board and attorney Valner L. Johnson, bar no. 4109, have filed, pursuant to SCR 112, a joint petition for Johnson's disbarment by consent. The petition is supported by Johnson's affidavit, in which he states that he consents to disbarment and does so freely and voluntarily; that he has not been subjected to any coercion or duress; that he is fully aware of the implication of his consent; and that he has had an opportunity to consult with counsel prior to consenting to disbarment. Johnson concedes that the material facts in the petition are true.¹ He submits the affidavit with full knowledge that if the state bar were to prosecute his case, he could not successfully defend against the charges.

Pursuant to SCR 112(1), an attorney who is the subject of an investigation or proceeding involving allegations of misconduct may consent to disbarment by submitting the requisite affidavit. Johnson's affidavit meets the requirements of SCR 112(1). The joint petition meets the requirements of SCR 112(1). Therefore, the petition for disbarment by consent is granted. Valner L. Johnson is hereby disbarred. The parties shall comply with the applicable provisions of SCR 115 and SCR 121.1 regarding notice and publication.

In re: David L. Tanner
Bar No.: 2366
Docket No.: 57696
Filed: March 31, 2011

ORDER OF TEMPORARY SUSPENSION AND REFERRAL TO DISCIPLINARY BOARD

Attorney temporarily suspended after conviction for misdemeanor theft.

Bar Counsel for the State of Nevada has filed a petition pursuant to the reporting requirements of SCR 111. The petition is supported by documentation indicating that on April 7, 2010, in the Justice Court of Las Vegas Township, attorney David L. Tanner, bar no. 2366, entered a plea of guilty to one count of misdemeanor theft in violation of NRS 205.0832,

for which he was ordered to pay restitution in the amount of \$16,168.33 and to perform 100 hours of community service. Two felony counts were dismissed.

Pursuant to SCR 111, temporary suspension and referral to the appropriate disciplinary board are mandatory when an attorney has been convicted of a serious crime, which includes theft (See former SCR 111(1), (2), (4)).² Accordingly, pursuant to former SCR 111(1), we hereby temporarily suspend David L. Tanner from the practice of law in Nevada.³ Furthermore, pursuant to SCR 111(4), we refer this matter to the appropriate disciplinary board for the institution of a formal proceeding before a hearing panel in which the sole issue to be determined shall be the extent of the discipline to be imposed.

In re: Robert S. Beckett
Bar No.: 3383
Docket No.: 57763
Filed: April 4, 2011

ORDER GRANTING PETITION FOR REINSTATEMENT

Attorney reinstated following temporary suspension.

This is a petition for reinstatement pursuant to SCR 111(10) filed by attorney Robert S. Beckett. On December 30, 2010, this court temporarily suspended Beckett from the practice of law and referred him to the disciplinary board based upon his plea of no contest to a charge of obstructing a public officer. Our order was premised on the fact that Beckett's offense constituted a "serious" crime under SCR 111(6), for which temporary suspension and referral to the appropriate disciplinary board are mandatory under SCR 111(7) and (8).⁴

Beckett contends that he should be reinstated to the practice of law during the pendency of his disciplinary proceedings because the criminal case underlying our December 30, 2010, order has been dismissed with prejudice.⁵ Beckett acknowledges that, even if he is reinstated, our order of reinstatement would not terminate the pending disciplinary proceedings.⁶

SCR 111(10) gives us discretion to reinstate an attorney whose underlying conviction has been reversed. The petition is accompanied by a certified copy of a February 2, 2011, order from the Pahrump Township Justice Court dismissing case no. 10CR01587 with prejudice. In light of the fact that the charge underlying our order of temporary suspension has been dismissed with prejudice, and our previous determination that Beckett's California misdemeanor conviction did not warrant imposition of a temporary suspension, we conclude that there is no longer a basis for Beckett being temporarily suspended

pending the outcome of his disciplinary proceedings. We therefore grant the petition. Attorney Robert S. Beckett, bar no. 3383, is hereby reinstated to the practice of law pending the outcome of his disciplinary proceedings. ■

1. The petition states that on December 8, 2009, the State Bar of Nevada filed a complaint against Johnson, case nos. 08-224-1870 and 09-041-1870, alleging that he falsified multiple pleadings and provided them to a client, in violation of RPC 1.3 (diligence), RPC 1.4 (communication), RPC 1.7 (conflict of interest: current clients) and RPC 8.4(c) (misconduct: engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation). The complaint further alleged that Johnson had overdrawn his trust account in violation of RPC 1.15 (safekeeping property). The petition further states that Johnson has three additional matters pending with the state bar: case no. 09-155-1870 alleges that Johnson withheld settlement funds from clients and misrepresented settlement amounts, case no. SG11-0132 alleges that Johnson is under indictment by the United States Attorney's Office for attempting to convince a client to assist him in perpetrating a felony; and SG11-0212 alleges that Johnson falsified a court order in a probate matter.
2. We will apply the version of SCR 111 in effect at the time of the offense, which occurred in 2005-6. *Cf. McKellar v. McKellar*, 110 Nev. 200, 203, 871 P.2d 296, 298 (1994) (statutes are generally presumed to apply prospectively only). We note that the offense occurred prior to the amendment of SCR 111 in 2007 to impose upon an attorney convicted of a crime a duty to inform bar counsel within 30 days. See SCR 111(2).
3. We direct the clerk of this court to file Tanner's opposition provisionally received on February 11, 2011. We conclude that Tanner has failed to demonstrate good cause why he should not be temporarily suspended. See former SCR 111(1).
4. Although not mentioned in the petition, on January 8, 2010, we also referred Beckett to the disciplinary board based on his plea of no contest to one count misdemeanor wet reckless driving in California. We declined to impose a temporary suspension at that time.
5. Alternatively, Beckett requests that the court set aside his temporary suspension pursuant to SCR 111(7). We conclude that Beckett has failed to demonstrate good cause to set aside our order of temporary suspension under SCR 111(7).
6. SCR 111(10) provides that "reinstatement will not terminate any formal proceeding pending against the attorney, the disposition of which shall be determined by the hearing panel on the basis of the available evidence."

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.

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