

SUPREME COURT OF NEVADA

In re: Douglas Crawford

Bar No: 181

Docket No: 51724

Filed February 18, 2009

ORDER OF SUSPENSION

Suspension imposed on attorney who misappropriated clients' funds to support a gambling addiction.

This is an automatic review of a Southern Nevada Disciplinary Board hearing panel's recommendation of disbarment, based on a conditional guilty plea stipulating to the underlying facts and rule violations by attorney Douglas Crawford.

This attorney discipline matter involved numerous instances in which Crawford misappropriated clients' funds in order to support his gambling addiction. On May 1, 2007, this court temporarily suspended Crawford, based on the seriousness of his alleged misconduct. SCR 102(4). Following the temporary suspension, the State Bar of Nevada filed two separate complaints against Crawford, on June 6 and September 6, 2007. Thereafter, the parties entered into a conditional guilty plea agreement in which the facts and rule violations were stipulated, but the appropriate discipline was not specified.

Under the conditional guilty plea agreement, Crawford admitted to 65 violations of the Rules of Professional Conduct (RPC), primarily involving misappropriation of client funds, which totaled approximately \$398,345. Crawford agreed to seek not less than a five-year suspension, while the state bar retained the right to seek more than five years, including disbarment. A final recommendation as to discipline was left to the hearing panel, which determined that disbarment, rather than a lesser sanction, was appropriate.

While a disciplinary panel's findings and recommendation are persuasive, this court reviews the record de novo to determine whether discipline is proper. *In re Discipline Schaefer*, 117 Nev. 496, 515, 25 P.3d 191, 204, *as modified by* 31 P.3d 365 (2001). The purpose of attorney discipline is to protect the public, the courts, and the legal profession, not to punish the attorney. *State Bar of Nevada v. Claiborne*, 104 Nev. 115, 213, 765 P.2d 464, 527-27 (1988). In determining the appropriate discipline, SCR 102.5

outlines aggravating and mitigating circumstances that may be taken into consideration.

The question before this court is the appropriate discipline, as we see no reason to disturb the parties' stipulation to the facts and the rule violations. The state bar contends that the disciplinary panel properly recommended disbarment based on the severity of Crawford's misconduct. Crawford argues that the disciplinary panel's recommendation of disbarment is excessive, as mitigating circumstances warrant a five-year suspension.

We agree with Crawford that a number of mitigating factors apply to the present discipline proceeding, but aggravating facts are also present. The mitigating factors advanced by Crawford include personal and emotional problems (SCR 102.5(2)(c)), good character and reputation (SCR 102.5(2)(g)), restitution (SCR 102.5(2)(d)), remorse (SCR 102.5(2)(m)), and most importantly, according to Crawford, mental disabilities of depression and gambling addictions (SCR 102.5(2)(i)).¹ As for aggravating factors, prior attorney discipline matters (SCR 102.5 (1)(a)),² selfish motive for the misconduct (SCR 102.5(1)(b)), multiple offenses (SCR 102.5 (1)(d)) and substantial experience as an attorney (SCR 102.5(1)(i)) are all relevant to our decision.

Having reviewed the record and briefs regarding this matter, we conclude that the mitigating circumstances outweigh the aggravating circumstances, and as a result, a five-year suspension is the appropriate discipline.³ We impose, however, strict requirements that Crawford must meet before applying for reinstatement. First, as required under SCR 116(5), Crawford must successfully complete the state bar examination, including the Multistate Professional Responsibility Examination. Second, Crawford must maintain his gambling recovery efforts, which he offered to the Supreme Court and the State Bar of Nevada, including attending his weekly Gamblers Anonymous and 12-step program meetings along with continued weekly meetings with his psychiatrist. Third, Crawford must not engage in the unauthorized practice of law or handle any client funds or trust accounts during his suspension. Additionally, as a condition of his possible reinstatement, Crawford must be willing to accept to work with a mentor and continue to refrain from handling any client fund or trust accounts for a reasonable amount of time following reinstatement. The length of

this mentorship requirement should be determined at any reinstatement hearing. Fourth, Crawford must make restitution for the funds misappropriated. Crawford must first make any restitution necessary to clients for amounts he misappropriated. Then, he must make restitution to the Client Security Fund for the amounts it paid to Crawford's clients.

Accordingly, Crawford is suspended for five years from the practice of law in the state of Nevada. As required under SCR 102(2), Crawford must petition for reinstatement under SCR 116 and comply with all the requirements set forth above before he will be reinstated to the practice of law.⁴

It is so ORDERED.⁵

In re: Darren Walker

Bar No: 9214

Docket No: 52737

Filed February 5, 2009

ORDER OF SUSPENSION

Suspension warranted when attorney completely failed to respond to the complaint or otherwise participate in the disciplinary proceeding. Restitution in the amount of \$5,000 and \$900 was ordered to be paid to the two clients harmed by the misconduct.

This is an automatic review of a Southern Nevada Disciplinary Board hearing panel's recommendation that attorney Darren Walker be suspended for 30 months with any reinstatement subject to several conditions.

Walker failed to respond to a three-count formal complaint filed by the State Bar of Nevada, and his formal hearing therefore proceeded on a default basis, with the charges deemed admitted. See SCR 105(2). Walker was personally served with the complaint and with notice of the hearing date and time, but he did not appear at the hearing. The panel concluded that three violations of RPC 8.1(b) (Knowing failure to respond to disciplinary authority) and one violation of RPC 5.5(a)(1) (Unauthorized Practice of Law) had been shown by clear and convincing evidence. SCR 105(2)(e). The panel also considered, as an aggravating factor, Walker's "completely and utterly failing to respond to the complaint or otherwise participate in the proceeding." See SCR 102.5 (1)(e). The record reflects that Walker appeared determined to avoid the disciplinary proceeding and

that the state bar went to great effort to ensure that Walker received notice of all stages of the proceeding.

While a disciplinary panel's findings and recommendations are persuasive, this court reviews the record de novo to determine whether discipline is proper. *In re Discipline of Schaefer*, 117 Nev. 496, 515, 25 P.3d 191, 204, *as modified* by 31 P.3d 365 (2001). Walker did not file a brief with this court disputing the disciplinary panel's recommendations.

Having reviewed the record, we conclude that discipline greater than that recommended by the disciplinary panel is appropriate. Walker has exhibited an appalling disregard for the disciplinary process and has abandoned his responsibilities as a member of the State Bar of Nevada. Accordingly, Walker is hereby suspended from the practice of law in Nevada for 40 months. Before he may seek reinstatement pursuant to SCR 116, Walker must pay (1) \$5,000 in restitution to Alicia Mohammed, (2) \$900 in restitution to Debra Pellegrino, and (3) the state bar's costs in this matter pursuant to SCR 120(1). Walker must also satisfy Nevada's continuing legal education (CLE) requirements during his suspension as a condition for reinstatement. SCR 210(1) (setting forth CLE requirements). Finally, before Walker may be reinstated, he must pass the Nevada bar examination. See SCR 116(5) (providing that proof of competency, including passage of the bar exam, may be required by this court as a condition for reinstatement).

NORTHERN NEVADA DISCIPLINARY BOARD

LETTERS OF (PRIVATE) REPRIMAND⁶ **File No. N08-29-769**

Letter of reprimand appropriate when attorney failed to respond to the State Bar of Nevada.

Client retained Attorney in or about April 2006 to negotiate possible debt reductions in connection with two (2) of her credit cards. In her

CONTINUED ON PAGE 42 ►

April 2008 grievance to the State Bar of Nevada, Client made several allegations regarding Attorney's representation.

The state bar initially sent Attorney two (2) letters (dated April 16 and May 7, 2008, the latter letter sent via certified mail with a signed receipt returned to the state bar) requesting a response to Client's grievance. Attorney subsequently provided a response dated May 11, 2008.

In a certified letter dated June 17, 2008, the Office of Bar Counsel requested that Attorney provide an update regarding the status of Client's matter and confirm the return of her original file. A signed receipt for the June 17 letter was returned to the state bar. However, Attorney did not provide a response.

On July 23, 2008, a grievance file was opened and Attorney was so informed in a certified letter dated July 24, 2008, for which a signed receipt was returned to the state bar. Attorney again was directed to provide a response to the state bar within 10 days. Despite the foregoing, Attorney did not respond to the state bar as required by the Rules of Professional Conduct. Attorney was reprimanded for violating RPC 8.1(b) (Bar Admission and Disciplinary Matters).

File No. N08-33-120

Attorney was reprimanded for advancing settlement funds to a client.

Client retained Attorney in connection with a workers' compensation matter. The matter eventually settled and Attorney received funds which ultimately were distributed to Client.

During the representation, however, Attorney made two monetary advances to Client before receipt of settlement funds. Specifically, separate disbursements of \$1,000 and \$850 were made on or about July 26 and July 31, 2006, respectively. Attorney did not receive settlement funds until on or about August 8, 2006.

In Attorney's response to the State Bar of Nevada, he acknowledged that monetary advances were made to Client. Attorney also stated that he did so after receiving "urgent" requests from Client for funds.

Attorney was reprimanded for violating RPC 1.8(e) (Conflict of Interest: Current Clients: Specific Rules), which specifically states that, absent specific exceptions which did not exist in Client's matter, an attorney "shall not provide financial assistance to a client in connection with pending or contemplated litigation."

**SOUTHERN NEVADA
DISCIPLINARY BOARD**

LETTERS OF (PRIVATE) REPRIMAND

File No. 08-074-1149

Letter of reprimand appropriate when attorney failed to be diligent in civil proceeding.

Attorney represented Client in a civil matter which was filed in Fourth Judicial District Court in Elko, Nevada. Although Client's matter originally was filed in or about April 2001 by another lawyer, Attorney subsequently assumed responsibility for the case and served as the attorney-of-record.

In or about September 2006, a defense motion to dismiss Client's matter with prejudice was granted pursuant to the "five-year rule" because Attorney had not brought Client's case to trial.

In mitigation, Attorney cooperated with the Office of Bar Counsel regarding Client's grievance to the State Bar of Nevada and accepted responsibility for missing the five-year deadline. Attorney was reprimanded for violating RPC 1.3 (Diligence).

File No. 08-037-1700

Attorney reprimanded for failure to diligently return property to a client after being discharged as attorney of record.

In or about October 2007, Client retained Attorney to assist him with estate and business planning. Client paid Attorney an initial retainer fee of \$2,900. In January 2008, Client paid Attorney an additional \$1,000 to establish an S Corporation.

Client, in his March 19, 2008, grievance to the State Bar of Nevada, claimed that despite paying Attorney

five months earlier, Attorney was nowhere to be found. Client noted that he had sent Attorney e-mails, facsimiles, and countless messages that never were returned. Client stated he fired Attorney “due to his negligence and complete failure at promised performance. I have requested accountings for my monies over and over to no avail. I have also requested a refund.”

In Attorney’s response to the State Bar of Nevada, he explained the work performed for Client. Attorney’s response further indicated that by the end of December 2007, Client informed Attorney that his financial situation was deteriorating and that a personal bankruptcy was a possibility. Attorney noted that it was at this time the attorney-client relationship began to deteriorate. Attorney also claimed to have attempted to schedule a telephone conference with Client to address his concerns about his planning without success.

Client’s reply to Attorney’s response took issue with the work Attorney performed and denied that Attorney ever attempted to schedule a telephone conference. Client also claimed that certain work Attorney performed was not done properly and cost him even more money to file correctly.

Client sent further correspondence to the state bar on August 12, 2008, that he still had not received his file from Attorney, and that Attorney had also ignored repeated requests for his file from Client’s new attorney. On September 3, 2008 the state bar contacted the new attorney, who confirmed that he made numerous attempts to obtain the Client’s corporate books to no avail.

The panel was particularly troubled that Attorney has failed to return Client’s property for the past six months, despite being repeatedly asked by Client and his new attorney to return the file and corporate books. Such conduct is simply unacceptable.

Attorney was reprimanded for having violated RPC 1.3 (Diligence), RPC 1.4 (Communication) and RPC 1.15 (Safekeeping Property).

1. We reject Crawford’s asserted mitigating factor of full and free disclosure to the state bar (SCR 102.5(2)(e)), as Crawford stipulated to several rule violations involving failures to respond to the state bar’s inquiries regarding complaints of misconduct.
2. Crawford argues that it was improper for the state bar to introduce his prior discipline because both instances were private reprimands that occurred prior to the rule changes that now allow for introduction of private reprimands in disciplinary matters. But Crawford failed to provide any legal authority to support that argument; therefore, we need not consider it. *Mainor v. Nault*, 120 Nev. 750, 777, 101 P.3d 308, 326 (2004). Furthermore, it has always been permissible for

the state bar to introduce private reprimands in disciplinary proceedings. We reject Crawford’s other arguments regarding the state bar’s use of his prior discipline, as the arguments lack merit.

3. Based on our resolution of this matter, we need not address Crawford’s argument regarding whether the current disbarment rule could be constitutionally applied to him.
4. We reject Crawford’s argument that the disciplinary panel misconstrued the evidence regarding recovery from gambling addiction, as this argument lacks merit.
5. The Honorable Michael Cherry, Justice, voluntarily recused himself from participation in the decision of this matter.
6. See SCR 121 (Confidentiality) as amended eff. March 1, 2007.

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):
<http://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 6 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 PRIVATE REPRIMAND – Lowest level of discipline. Not published, but disclosed upon request under the new rules. May also include up to a \$1,000 fine. Remains eligible to practice.

ADMINISTRATIVE SUSPENSION/INACTIVE STATUS – Attorneys may be administratively suspended for failure to pay bar fees (SCR 98(12)), and/or placed on CLE inactive status 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.