

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF DISCIPLINE OF
BRIAN MALCOLM KEITH.

No. 50524

FILED

MAR 05 2008

TRACIE R. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

ORDER OF SUSPENSION

This is an automatic review of a Southern Nevada Disciplinary Board hearing panel's recommendation that attorney Brian M. Keith be suspended for two years, retroactive to May 9, 2006. Having reviewed the evidence submitted and the transcript from the disciplinary hearing, we approve the panel's recommendation, with one exception.¹

The present disciplinary case arises out of a felony conviction for driving under the influence of alcohol and causing bodily injury to others. On September 12, 2006, we temporarily suspended Keith, under SCR 111, for conviction of a felony. Subsequently, a formal complaint was filed and a hearing was held to determine the appropriate discipline for Keith's actions.

¹Neither Keith nor the state bar submitted a brief challenging the panel's recommendations.

Effective Date: March 5, 2008
Bar Number: 4110

While we review a disciplinary proceeding de novo, the panel's recommendations are persuasive.² We consider both aggravating and mitigating factors in connection with Keith's felony conviction in order to determine the appropriate discipline.³ The aggravating factors in this case include three previous arrests for driving while under the influence of alcohol and a prior reciprocal disciplinary action, which involved improper handling and misappropriation of a client's funds. Mitigating factors include Keith's self-reporting, willingness to cooperate with bar counsel, criminal punishment, remorse, and active participation in several alcohol treatment programs.


Based on the evidence presented, in connection with the aggravating and mitigating factors, we conclude that the disciplinary panel's recommendations should be approved, with one exception. Accordingly, we suspend Keith's license to practice law for two years, retroactive to May 9, 2006. In connection with this suspension, Keith must obey the law, have no criminal convictions during the suspension, and pay the costs of the disciplinary proceeding, excluding staff salaries. Also, since the suspension is more than six months, Keith must petition for reinstatement under SCR 116.

²In re Discipline of Schaefer, 117 Nev. 496, 515, 25 P.3d 191, 204, as modified by 31 P.3d 365 (2001).

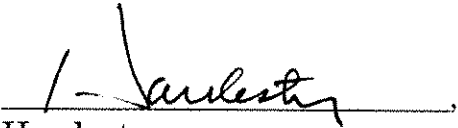
³See SCR 102.5.

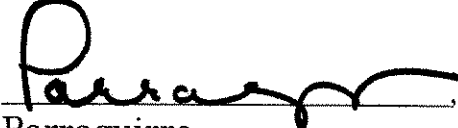
Finally, the panel recommended that it retain jurisdiction over Keith's future reinstatement hearing. We conclude that this portion of the recommendation is improper, and we disapprove it.⁴

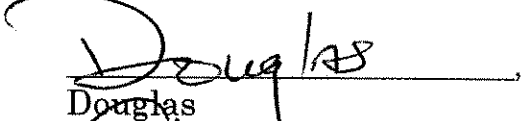
It is so ORDERED.

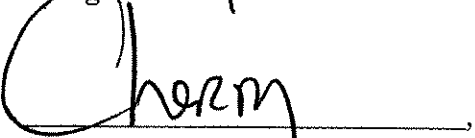

Gibbons C.J.

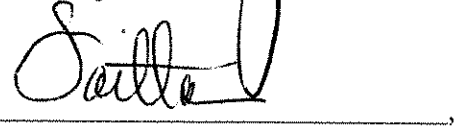

Maupin J.


Hardesty J.


Parraguirre J.


Douglas J.


Cherry J.


Saitta J.

⁴Cf. SFPP, L.P. v. Dist. Ct., 123 Nev. ___, 173 P.3d 715 (2007) (precluding a district court from retaining jurisdiction over a matter it has resolved).

cc: Jeffrey D. Albrechts, Chair, Southern Nevada Disciplinary Board
Rob W. Bare, Bar Counsel
Kimberly K. Farmer, Executive Director
Brian Malcom Keith
Perry Thompson, Admissions Office, U.S. Supreme Court