

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN RE: DISCIPLINE OF GARY M.
SEGAL.

No. 44401

FILED

MAR 25 2005

ANNE M. BLUETT
CLERK OF SUPREME COURT
A. Bluetts
DEPUTY CLERK

ORDER OF SUSPENSION

This is an automatic appeal from a Southern Nevada Disciplinary Board hearing panel's recommendation that attorney Gary M. Segal be suspended from the practice of law for six months and one day. This court issued a briefing schedule, but Segal did not file an opening brief, so the case has been submitted on the record.

Segal was charged with violations of SCR 153 (diligence), SCR 154 (communications), SCR 165 (safekeeping property), SCR 171 (expediting litigation), SCR 200(2) (bar association and disciplinary matters), and SCR 203(4) (misconduct prejudicial to the administration of justice). After meeting with the bar to discuss the grievances on February 23, 2004, Segal failed to respond to any further communications from the bar. Therefore, bar counsel filed a complaint against him on July 21, 2004.

In Count 1 of the complaint, Segal was charged with failing to diligently pursue alimony payments and the transfer of titles to property in a divorce matter, and not communicating with the client. In Count 2, Segal was charged with failing to competently or diligently litigate a client's personal injury lawsuit, not communicating with the client or

informing him that the case had been closed, and not returning the files to the client upon termination of representation. In Count 3, Segal was charged with failing to competently or diligently litigate another personal injury case, and not communicating with the client or informing her that the case had been closed. In Count 4, Segal was charged with failing to competently or diligently finalize a divorce decree and expedite litigation. In Count 5, Segal was charged with failing to comply with the terms of a previous mentoring agreement, and engaging in conduct prejudicial to the administration of justice. In all five counts, Segal was charged with failing to respond to lawful demands for information from the bar.

Segal failed to answer to the complaint, and so a default was entered against him and all charges were deemed admitted under SCR 105(2).

Despite the default, at the formal hearing held on November 18, 2004, Segal was permitted to testify as to mitigating circumstances. Segal admitted that he had experienced problems in the past, but claimed that his problems occurred while he was a solo practitioner. Since January of 2004, Segal has been affiliated as an independent contractor with another attorney. According to Segal, as a result of this affiliation, he now has calendaring systems, mail handling procedures, forms, paralegal support, and other assistance that he did not have as a solo practitioner, and is better able to meet deadlines, keep track of his cases, and respond to clients. Segal also testified that he is no longer accepting cases that he knows he cannot handle, such as personal injury work or cases involving out-of-state clients. Additionally, Segal stated that he works with the other attorney on about 250 cases, and has been able to handle this workload without any problems since early 2004. He claimed

that he has done significant work pro bono or at reduced fees, and has helped people in many ways that have not been recognized or compensated.

Segal also testified that he had been going through personal and marital problems, for which he continues to undergo treatment and therapy. Because of this treatment, Segal claims that he is better able to deal with his personal issues and that his marriage and family remain intact. According to Segal, he has also reduced his alcohol consumption and his drinking no longer impairs his work.

Segal has had no prior discipline, but had entered into a mentoring agreement in lieu of discipline under SCR 105.5. Although he claimed to have done what was required under the agreement, Segal failed to advise his mentor that he had taken the requisite actions.

Additionally, from March until mid-November of 2004, Segal failed to respond to the bar's inquiries regarding the grievances and complaint against him. Despite his affiliation with the other attorney during this period, Segal testified that the normal office mail handling procedures were not followed because the correspondence from the bar was marked "confidential." He also testified that he was "ashamed" and too embarrassed to seek the office's help in responding to the bar's complaint, and that he thought he could handle it himself but was too busy working 50 to 60 hours per week.

While the hearing panel recognized Segal's lack of prior discipline and expressed confidence that he was working to address the serious issues raised in the complaint, it accepted the allegations as true in light of his default. The panel recommended a six month and one day suspension, which will require Segal to petition for reinstatement before

he may resume practicing law.¹ According to the panel, having to go through the reinstatement process after his suspension will give Segal the opportunity to accept personal responsibility for the serious problems that he created and to demonstrate that he is fit to practice law. The panel also recommended that Segal be ordered to pay all costs of the disciplinary proceedings.

We agree with the panel's recommendation and suspend Segal for a period of six months and one day. Segal shall also pay all costs of the disciplinary proceedings.²

It is so ORDERED.

Becker, C. J.
Becker

Rose, J.
Rose

Gibbons, J.
Gibbons

Hardesty, J.
Hardesty

Maupin, J.
Maupin

Douglas, J.
Douglas

Parraguirre, J.
Parraguirre

¹SCR 116(1).

²Segal and the state bar shall comply with SCR 115.

This is our final disposition of this matter. Any new proceedings concerning Segal shall be docketed under a new docket number.

cc: Howard Miller, Chair, Southern Nevada Disciplinary Board
Rob W. Bare, Bar Counsel
Allen W. Kimbrough, Executive Director, State Bar
Perry Thompson, Admission Office,
Supreme Court of the United States
Gary M. Segal