

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF BRIAN C. KELLY,
ESQ.

No. 50575

FILED

JAN 24 2008

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

ORDER DECLINING TO IMPOSE TEMPORARY SUSPENSION

This is a petition under SCR 111 concerning attorney Brian C. Kelly, based on his conviction for one misdemeanor count of violating an extended order for protection against domestic violence. This crime does not meet the definition of "serious crime" set forth in SCR 111(6), but it did not appear to be a minor offense and appeared to adversely reflect on Kelly's fitness to practice law. Accordingly, we directed Kelly to show cause why an immediate temporary suspension should not be imposed and the matter referred for formal discipline. Kelly filed a timely response.

Kelly argues that he is likely to succeed in his appeal to the district court, asserting that he was not properly served with the extended protective order. He further maintains that any action is premature while his appeal to the district court is pending.

SCR 111(1)'s definition of "conviction" does not require that any appeals be exhausted; to the contrary, the rule states that upon conviction, "regardless of any pending appeals," bar counsel's duties under the rule are triggered. Accordingly, Kelly's argument that the state bar's petition was premature lacks merit.

Having considered the petition and the response, we conclude that Kelly's offense does not warrant the imposition of a temporary

suspension. The state bar remains free to exercise its discretion in determining whether to proceed under SCR 105.

It is so ORDERED.

1 - Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

Douglas, J.
Douglas

cc: Rob W. Bare, Bar Counsel
Kimberly Farmer, Executive Director
Law Offices of John P. Springgate