

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF DISCIPLINE OF
DOUGLAS C. CRAWFORD, ESQ., BAR
NO. 181.

No. 51724

FILED

FEB 18 2009

TRAZIE K. 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 of disbarment, based on a conditional guilty plea stipulating to the underlying facts and rule violations by attorney Douglas Crawford.

This attorney discipline matter involves 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 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, 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 of 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, 756 P.2d 464, 527-28 (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 factors 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 addiction (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

¹We 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.

²Crawford 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 this 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.

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 willingly accept to work with a mentor and continue to refrain from handling any client funds 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

³Based 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.

all the requirements set forth above before he will be reinstated to the practice of law.⁴

It is so ORDERED.⁵

Hardesty, C.J.
Hardesty

Parraguirre, J.
Parraguirre

Douglas, J.
Douglas

Saitta, J.
Saitta

Gibbons, J.
Gibbons

Pickering, J.
Pickering

cc: Jeffrey D. Albregts, Chair, Southern Nevada Disciplinary Board
Rob W. Bare, Bar Counsel
Kimberly K. Farmer, Executive Director
Michael J. Warhola, LLC
Perry Thompson, Admissions Office, U.S. Supreme Court

⁴We reject Crawford's argument that the disciplinary panel misconstrued the evidence regarding recovery from gambling addiction, as this argument lacks merit.

⁵The Honorable Michael Cherry, Justice, voluntarily recused himself from participation in the decision of this matter.