

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF GABRIEL A.
GINAPP, BAR NO. 8467.

No. 75431

FILED

SEP 17 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

ORDER APPROVING CONDITIONAL GUILTY PLEA AGREEMENT

This is an automatic review of a Southern Nevada Disciplinary Board hearing panel's recommendation that this court approve, pursuant to SCR 113, a conditional guilty plea agreement in exchange for a stated form of discipline for attorney Gabriel A. Ginapp. Under the agreement, Ginapp admitted to violating RPC 8.1 (bar admission and disciplinary matters). The agreement provides for a suspension of six months and one day.¹

Ginapp has admitted to the facts and the violation alleged in the complaint. The record therefore establishes that Ginapp failed to respond to the State Bar's lawful requests for information related to a grievance filed against him.

¹This matter originally came before this court on a recommendation of disbarment for violations of RPC 1.8 (conflict of interest), RPC 8.1(b) (bar admission and disciplinary matters), and RPC 8.4 (misconduct) after a default was entered against Ginapp for failing to answer the complaint and he did not appear at the disciplinary hearing. We remanded the matter to allow Ginapp to pursue a motion to set aside the default with the appropriate chair. *In re Discipline of Ginapp*, Docket No. 71015 (Order of Limited Remand, October 24, 2017). The State Bar subsequently agreed to set aside the default and allow Ginapp to enter this conditional guilty plea.

In determining the appropriate discipline, we weigh four factors: "the duty violated, the lawyer's mental state, the potential or actual injury caused by the lawyer's misconduct, and the existence of aggravating and mitigating factors." *In re Discipline of Lerner*, 124 Nev. 1232, 1246, 197 P.3d 1067, 1077 (2008). Ginapp knowingly violated a duty owed to the legal profession when he failed to respond to lawful requests for information by a disciplinary authority. His failure to cooperate in the disciplinary investigation harmed the integrity of the profession, which depends on a self-regulating disciplinary system. The baseline sanction before considering aggravating and mitigating circumstances is suspension. *Standards for Imposing Lawyer Sanctions*, Compendium of Professional Responsibility Rules and Standards, Standard 7.2 (Am. Bar Ass'n 2017). The record supports one aggravating circumstance (substantial experience in the practice of law) and four mitigating circumstances (absence of a prior disciplinary record, personal or emotional problems, full and free disclosure to disciplinary authority or cooperative attitude, and remorse). Considering all of the circumstances, and particularly those related to the personal or emotional problems that contributed to the RPC 8.1 violation, we conclude that the agreed-upon discipline of a six-month-and-one-day suspension is sufficient to serve the purpose of attorney discipline because it will require Ginapp to apply for reinstatement and demonstrate that he is fit to resume the practice of law. *State Bar of Nev. v. Claiborne*, 104 Nev. 115, 213, 756 P.2d 464, 527-28 (1988) (stating that the purpose of attorney discipline is to protect the public, the courts, and the legal profession). Thus, we conclude that the guilty plea agreement should be approved. See SCR 113(1).

Accordingly, we hereby suspend attorney Gabriel A. Ginapp from the practice of law in Nevada for a period of six months and one day

commencing retroactively from the date of the formal hearing, February 13, 2018. Ginapp shall pay the costs of the disciplinary proceeding plus \$2,500, within 30 days of this order if he has not done so already. See SCR 120. The parties shall comply with SCR 115 and SCR 121.1.

It is so ORDERED.

Douglas, C.J.
Douglas

Cherry, J.
Cherry

Gibbons, J.
Gibbons

Pickering, J.
Pickering

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

Stiglich, J.
Stiglich

cc: Chair, Southern Nevada Disciplinary Panel
Gazda & Tadayon
Bar Counsel, State Bar of Nevada
Kimberly K. Farmer, Executive Director, State Bar of Nevada
Perry Thompson, Admissions Office, U.S. Supreme Court