

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF DISCIPLINE OF
FRANK PHELAN, BAR NO. 10716.

No. 71146

FILED

SEP 16 2016

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *Tracie K. Lindeman*
CHIEF DEPUTY CLERK

ORDER DECLINING TO SUSPEND OR REFER ATTORNEY


This is a petition under SCR 111 concerning attorney Frank Phelan, based on a conviction for one count of driving under the influence, a misdemeanor. Phelan self-reported the conviction to the State Bar. Because the crime is not one of those specifically enumerated in SCR 111(6) as a “serious” crime, temporary suspension and referral to the disciplinary board are discretionary with this court. SCR 111(9).

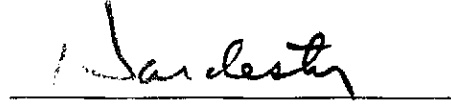
The seriousness of drinking and driving cannot be minimized, however, first offense driving under the influence is not the type of offense for which professional discipline is typically imposed. 2 Geoffrey C. Hazard, Jr., W. William Hodes, & Peter R. Jarvis, *The Law of Lawyering*, § 69.04, at 69-13 (4th ed. 2015); *In the Matter of Respondent I*, 2 Cal. State Bar Ct. Rptr. 260, 266 n.6, 272 (Rev. Dept. 1993). Accordingly, having considered the petition and supporting documentation,¹ we conclude that

¹This court recently considered another SCR 111 petition involving Phelan based on his conviction for misdemeanor trespass. *In re Discipline of Frank Phelan*, Docket No. 70149 (Order Declining to Impose Temporary Suspension, May 11, 2016). We note that the prior petition is not mentioned in the petition filed by bar counsel in this case.

Phelan's offense does not warrant the imposition of a temporary suspension or referral to a disciplinary board at this time.

It is so ORDERED.

 C.J.
Parraguirre

 J.
Hardesty

 J.
Pickering

cc: C. Stanley Hunterton, Bar Counsel, State Bar of Nevada
Phelan Law Firm, LLC
Kimberly K. Farmer, Executive Director, State Bar of Nevada