

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN RE: DISCIPLINE OF FRANK D.
WINSTON.

No. 37314

FILED

FEB 23 2001

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *A. Richards*
CHIEF DEPUTY CLERK

ORDER GRANTING PETITION FOR RECIPROCAL DISCIPLINE AND
SUSPENDING ATTORNEY WINSTON

This is a petition for reciprocal discipline pursuant to SCR 114. Attorney Frank D. Winston is licensed in Nevada and California. On August 30, 2000, the Supreme Court of California imposed a stayed suspension of two years and an actual suspension of ninety days, and placed Winston on probation for two years, subject to several conditions. These conditions require Winston to: (1) abide by the rules of professional conduct, (2) submit quarterly reports to the California authorities stating that he has complied with all ethical rules, (3) keep the bar informed of his address, (4) cooperate with disciplinary authorities monitoring his probation, (5) attend the California State Bar Ethics School within one year of his suspension, and (6) notify his clients of his suspension in accordance with California requirements. In addition, Winston must take and pass the Multi-State Professional Responsibility Examination and must pay the costs of the California disciplinary proceeding.

The California discipline was based on violations of California's counterparts to SCR 154 (communication), for failing to respond to phone calls and letters, and SCR 166(4) (declining or terminating representation), for failing to

refund unearned fees or to return client files after being discharged by two clients. The California authorities noted several mitigating circumstances, including Winston's restitution to his clients, his cooperation with disciplinary authority, his long history of pro bono work, and health problems that contributed to and in part caused his misconduct.

Winston filed a response to the petition, in which he states that he does not contest the imposition of reciprocal discipline, but asks that the period of his Nevada suspension and probation run concurrently with his California suspension and probation. According to Winston, he does not maintain a Nevada office, and he has not practiced law in any jurisdiction since his suspension in California. Winston states that the California Supreme Court advanced the date of his suspension so that it began on November 15, 2000, and terminated on February 14, 2001. The state bar filed a notice of non-opposition to Winston's request.

SCR 114(3) provides that, with few exceptions, this court shall impose identical discipline. We conclude that none of the exceptions apply, and so the petition should be granted. We further grant Winston's request that his Nevada suspension and probation run concurrently with his California suspension and probation. Accordingly, Winston is suspended for two years from November 15, 2000, with the suspension to be stayed; Winston is placed on probation for two years subject to the conditions stated in the California order, including an actual suspension of ninety days from November 15, 2000. Winston shall not be required to comply with the reinstatement provisions of SCR 116, but shall provide copies of his reports to the California disciplinary authorities to Nevada bar counsel. Additionally, Winston shall provide

Nevada bar counsel with proof that he passed the MPRE and has otherwise met the conditions of his California probation. Finally, Winston and the state bar shall comply with the provisions of SCR 115.

It is so ORDERED.

Maupin, C.J.
Maupin

Young, J.
Young

Shearing, J.
Shearing

Agosti, J.
Agosti

Rose, J.
Rose

Leavitt, J.
Leavitt

Becker, J.
Becker

cc: Richard M. Pocker, Chair,
Southern Nevada Disciplinary Board
Rob W. Bare, Bar Counsel
Wayne Blevins, Executive Director
Dee Shore, Admissions Office, U.S. Supreme Court
Frank D. Winston