

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN RE: DISCIPLINE OF KEITH E.
GREGORY, ESQ.

No. 37929

FILED

DEC 06 2001

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Rehn*
CHIEF DEPUTY CLERK

**ORDER APPROVING CONDITIONAL GUILTY PLEA
IN EXCHANGE FOR STATED FORM OF DISCIPLINE**

This is an automatic appeal from a Southern Nevada Disciplinary Board hearing panel's decision. The panel recommends that we approve a conditional guilty plea agreement in exchange for a stated form of discipline under SCR 113 concerning attorney Keith E. Gregory. The agreement provides that Gregory shall be suspended for five years, with the suspension to be stayed and Gregory placed on probation for five years, subject to several conditions, and that Gregory shall receive a public reprimand. The conditions require that: (1) Gregory shall not receive any public discipline during the probationary period; if Gregory receives any public discipline during this period, then the suspension will be imposed; (2) Gregory shall complete six hours of continuing legal education in ethics each year during the probationary period; these hours are in addition to the minimum hours that must be completed by all Nevada lawyers; (3) within thirty days of this order, Gregory shall send a letter of apology to the client harmed by his conduct and to his former law firm; and (4) Gregory shall pay restitution to his former firm in the amount of \$7,500, in regular monthly installments through the state bar, with the payments to be completed by the end of the first year of Gregory's probation.

The plea agreement resolved one formal complaint filed against Gregory. The complaint alleged violations of SCR 151 (competence), SCR 153 (diligence), SCR 154 (communication), SCR 166(4) (declining or terminating representation), SCR 181 (truthfulness in statements to others), and SCR 203(3) (misconduct involving fraud, deceit, dishonesty, or misrepresentation).

01-20490

According to the facts set forth in the plea agreement, and incorporated by the panel in its findings, in October 1994, Gregory formed a law firm with his friend of twenty-eight years, James McBride. In March 1997, McBride committed suicide. Following McBride's death, Gregory experienced personal and financial difficulties. At about this time, Gregory separated from his wife, and began suffering from severe depression.

Also, at the time McBride committed suicide, Gregory had left the firm and joined a larger state-wide firm. The dissolution of Gregory & McBride had resulted in a substantial tax debt, and the financial pressure from this debt exacerbated Gregory's depression. He was treated for depression from 1997 through December 1998. Gregory's psychiatrist submitted an affidavit in which he stated that Gregory's judgment during this period was adversely affected by his mental condition, and that he experienced difficulty in performing the duties of his position.

In November 1997, while at the larger firm, Gregory filed a breach of contract action on behalf of a corporation and its president. Gregory encountered difficulty in personally serving the defendant, and he and the client agreed that the complaint should be served by publication. Gregory failed to take steps to complete service by publication.

From April to June 1998, Gregory failed to communicate with the client concerning the status of the case. When the client finally reached Gregory, despite the fact that service had not been completed, Gregory represented to the client that it had, and that a prove-up hearing for a default judgment had been set for July 1998. By that time, the 120-day time period within which to serve the complaint under NRCP 4(e) had passed, and the statute of limitations had run on the client's claim.

Relying on Gregory's representation, the client traveled from New Mexico for the prove-up hearing. When the client arrived, Gregory told the client that he had cancelled the hearing because of another matter, and that the hearing would be rescheduled. On the supposedly "rescheduled" date, the client again traveled to Las Vegas, and was again told that the hearing would be re-set. Gregory's firm reimbursed the client for his travel costs.

For the next several months, the client was unable to contact Gregory. In January 1999, the client was told that Gregory had left the

firm. The firm later paid \$15,000 to the client in settlement of a malpractice claim.

Gregory was admitted in 1983, and has no prior discipline. He has acknowledged responsibility for paying restitution, and he expressed remorse for his conduct. He also indicated that he is willing to abide by the panel's recommended conditions. In addition, we agree with the panel that his conduct in this matter represents an isolated incident triggered by the personal tragedies Gregory suffered during this period in his life.

We thus conclude that while Gregory's conduct was serious, the discipline set forth in the panel's recommendation is appropriate in light of the mitigating circumstances. Accordingly, we suspend Gregory for five years, with the suspension to be stayed, and place Gregory on probation for five years, subject to the conditions recommended by the panel. In addition, Gregory is hereby publicly reprimanded. The panel shall have continuing jurisdiction over Gregory, and any future misconduct shall be grounds for the panel to recommend to this court that the suspension should be imposed.

It is so ORDERED.¹

Maupin, C.J.
Maupin

Young, J.
Young

Agosti, J.
Agosti

Leavitt, J.
Leavitt

Shearing, J.
Shearing

Rose, J.
Rose

Becker, J.
Becker

cc: Richard J. Pocker, Chair, Southern Nevada Disciplinary Board
Rob W. Bare, Bar Counsel
Allen W. Kimbrough, Executive Director
Perry Thompson, U.S. Supreme Court Admissions Office
Beckley, Singleton, Chtd.

¹This is our final disposition of this matter. Any new proceedings concerning Gregory shall be docketed under a new docket number.