IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF DISCIPLINE OF BRANDON L. PHILLIPS, BAR NO. 12264.

No. 86627

FILED

AUG 22 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY
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 Brandon L. Phillips. Under the agreement, Phillips admitted to violating RPC 1.1 (competence), RPC 1.3 (diligence), RPC 3.1 (meritorious claims and contentions), RPC 3.4 (fairness to opposing party and counsel), and RPC 4.4 (respect for rights of third persons). He agreed to a one-year suspension, stayed for two years subject to certain conditions.

Phillips admitted to the facts and violations as part of his guilty plea agreement. The record therefore establishes that Phillips violated the above-listed rules by failing to prepare and file orders as directed by the court, filing multiple erroneous bankruptcy filings and failing to comply with bankruptcy court rules, and filing more than one nonconforming document in district court without correcting those documents. Phillips failed to timely correct or withdraw both the erroneous bankruptcy filings and the nonconforming documents even after he was put on notice they were

erroneous or nonconforming. The opposing party in the bankruptcy proceedings incurred $3,000 in unnecessary attorney fees related to Phillips' actions.

The issue for this court is whether the agreed-upon discipline sufficiently protects the public, the courts, and the legal profession. *See In re Discipline of Arabia*, 137 Nev. 568, 571, 495 P.3d 1013, 1109 (2021) (stating the purpose of attorney discipline). 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 or mitigating factors." *In re Discipline of Lerner*, 124 Nev. 1232, 1246, 197 P.3d 1067, 1077 (2008).

Phillips admitted to negligently violating duties owed to his clients (competence and diligence) and the legal system (meritorious claims and contentions). The baseline sanction for such misconduct, before considering the aggravating or mitigating circumstances, is suspension. Standards for Imposing Lawyer Sanctions, *Compendium of Professional Responsibility Rules and Standards*, Standard 4.42 (Am. Bar Ass'n 2017) (explaining that suspension is appropriate when "a lawyer engages in a pattern of neglect and causes injury or potential injury to a client"); Standard 4.52 (providing that suspension is "appropriate when a lawyer engages in an area of practice in which the lawyer knows he or she is not competent, and causes injury or potential injury to a client"). The record supports the panel's finding of two mitigating circumstances (absence of dishonest or selfish motive and full and free disclosure to the disciplinary authority or cooperative attitude toward the proceeding). It also supports

the panel's finding of four aggravating circumstances (prior disciplinary offenses, pattern of misconduct, multiple offenses, and substantial experience in the practice of law). Phillips' prior discipline history is particularly relevant given that it includes three letters of reprimand and a public reprimand for similar rule violations as those at issue here. Specifically, he received a letter of reprimand and a public reprimand for failing to file documents in two separate appeals even after being directed to do so and being sanctioned for failing to do so. Phillips also received a letter of reprimand for failing to attend a follow-up hearing and failing to communicate with a client when he took over as lead counsel in a taxation hearing after co-counsel admitted to not being an attorney. Considering all four factors, we conclude that the agreed-upon discipline is appropriate.

Accordingly, we hereby suspend attorney Brandon L. Phillips from the practice of law for one year from the date of this order, stayed for two years subject to the conditions outlined in the conditional guilty plea agreement. Those conditions include the requirements that Phillips (1) not accept any new bankruptcy cases; (2) no longer practice as a solo practitioner; (3) seek employment at a law firm where at least one attorney will supervise him; (4) complete five CLE credits in ethics, in addition to his annual CLE requirement; and (5) submit quarterly reports to the State Bar. If Phillips successfully completes the requirements outlined in the conditional guilty plea agreement, a public reprimand shall be entered for the State Bar cases SBN22-00006 and SBN22-00528. Additionally, Phillips must maintain current contact information with the State Bar. Lastly, Phillips shall pay the costs of the disciplinary proceedings, including $2,500

under SCR 120, within 30 days from the date of this order. The State Bar shall comply with SCR 121.1.

It is so ORDERED.

_____, C.J.
Stiglich

_____, J.
Lee

_____, J.
Bell

cc: Chair, Southern Nevada Disciplinary Board
Reisman Sorokac
Bar Counsel, State Bar of Nevada
Executive Director, State Bar of Nevada
Admissions Office, U.S. Supreme Court