

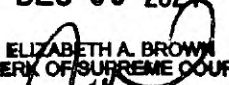
IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF DISCIPLINE OF
ROY L. NELSON, III, BAR NO. 7842.

No. 88415

FILED

DEC 09 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

ORDER OF SUSPENSION

This is an automatic review of a Southern Nevada Disciplinary Board hearing panel's recommendation that attorney Roy L. Nelson, III be suspended for three years for violating RPC 1.3 (diligence), RPC 1.4(a) (communication), RPC 1.16(a) (terminating representation), RPC 8.1(b) (bar disciplinary matters), and SCR 115(3) (duty to notify clients and forums when suspended). Because no briefs have been filed, this matter stands submitted for decision based on the record. SCR 105(3)(b).

The State Bar has the burden of showing by clear and convincing evidence that Nelson committed the violations charged. *In re Discipline of Drakulich*, 111 Nev. 1556, 1566, 908 P.2d 709, 715 (1995). Here, however, the facts and charges alleged in the complaint are deemed admitted because Nelson failed to answer the complaint, and a default was entered. SCR 105(2). The record therefore establishes that Nelson violated the above-referenced rules by failing to appear for multiple court hearings for his client, failing to communicate with the client for several months, withholding information or providing false information to the client, pressuring the client to enter into a plea agreement without thorough consideration or explanation, and failing to respond to several of the State Bar's requests for information about the client's grievance. Nelson also

failed to inform the client or the court when Nelson was suspended by this court on August 11, 2022, and failed to withdraw as counsel of record, leaving the client without representation. *See In re Discipline of Nelson*, No. 84369, 2022 WL 3336085 (Nev. Aug. 11, 2022) (Order of Suspension).

Turning to the appropriate discipline, we review the hearing panel's recommendation de novo. SCR 105(3)(b). Although we "must . . . exercise independent judgment," the panel's recommendation is persuasive. *In re Discipline of Schaefer*, 117 Nev. 496, 515, 25 P.3d 191, 204 (2001). 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).

Nelson knowingly violated duties owed to his client (diligence, communication, terminating representation, duty to notify clients when suspended) and intentionally violated duties owed to the profession (bar disciplinary matters, duty to notify forums when suspended), as set forth above. Nelson's misconduct harmed the client. In particular, a warrant was issued for the client's arrest, the client entered a guilty plea to a crime without proper advice, and the client was left without representation for a time when Nelson failed to inform the client that Nelson had been suspended. And Nelson's failure to cooperate with the State Bar's investigation harmed the integrity of the profession, which depends on a self-regulating disciplinary system.

The baseline sanction for Nelson's misconduct, before consideration of aggravating or mitigating circumstances, is suspension. *See Standards for Imposing Lawyer Sanctions, Compendium of Professional*

Responsibility Rules and Standards, Standard 4.42(a) (Am. Bar Ass'n 2023) (recommending suspension “when a lawyer knowingly fails to perform services for a client and causes injury or potential injury to a client”). The record supports five aggravating circumstances (prior discipline, pattern of misconduct, multiple offenses, bad faith obstruction of the disciplinary proceedings by intentionally failing to comply with rules or orders, and substantial experience in the practice of law). See SCR 102.5(3) (listing aggravating circumstances). The record shows no mitigating circumstances. Considering all the factors, we conclude that a suspension is warranted.

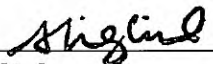
Nelson’s current violations reflect a recurring pattern of misconduct. Nelson has been disciplined previously for many of these same rule violations, including failing to timely respond to the State Bar’s requests for information concerning client grievances. Thus, while the injury to the client here was moderate, it appears that progressive discipline is warranted. We are not convinced, however, that Nelson’s misconduct warrants the three-year suspension recommended by the hearing panel. In cases involving similar violations, we have imposed suspensions ranging from six months to two years. See, e.g., *In re Discipline of Carrasco*, No. 71490, 2017 WL 962443 (Nev. Mar. 10, 2017) (Order of Suspension) (suspending attorney for six months for violating RPC 1.3 (diligence), RPC 1.4 (communication), RPC 1.15 (safekeeping property), and RPC 8.1(b) (bar admission and disciplinary matters)); *In re Discipline of Itts*, No. 71628, 2017 WL 2200265 (Nev. May 18, 2017) (Order of Suspension) (suspending attorney for two years for violating RPC 1.3 (diligence), RPC 1.4 (communication), RPC 1.15 (safekeeping property), RPC 8.1(b) (bar admission and disciplinary matters), and RPC 8.4(d) (misconduct)). Thus,

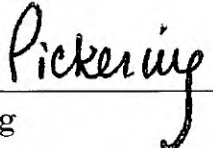
while a suspension is appropriate, we conclude that an 18-month suspension, as recommended by the State Bar, is adequate to serve the purpose of attorney discipline, which is to protect the public, the courts, and the legal profession. *See State Bar of Nev. v. Claiborne*, 104 Nev. 115, 213, 756 P.2d 464, 527-28 (1988). We also reject the hearing panel's recommendation that Nelson be required to submit to a mental health evaluation before seeking reinstatement. There is no evidence in the record to suggest that Nelson has any mental health concerns. And regardless, Nelson will have to show that he "has the requisite honesty and integrity to practice law" and "is competent to practice," when seeking reinstatement. SCR 116(5)(f), (g).

Accordingly, we hereby suspend attorney Roy L. Nelson, III from the practice of law in Nevada for 18 months commencing from the date of this order. Nelson shall also pay the costs of the disciplinary proceeding, including \$2,500 under SCR 120, within 30 days from the date of this order. The parties shall comply with SCR 115 and SCR 121.1.

It is so ORDERED.

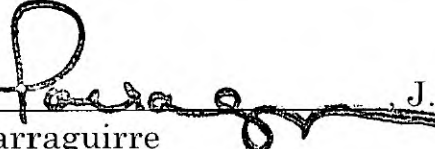

_____, C.J.
Cadish


_____, J.
Stiglich


_____, J.
Pickering


_____, J.
Herndon


_____, J.
Lee


_____, J.
Parraguirre


_____, J.
Bell

cc: Chair, Southern Nevada Disciplinary Board
Roy L. Nelson, III
Bar Counsel, State Bar of Nevada
Executive Director, State Bar of Nevada
Admissions Office, U. S. Supreme Court