

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN RE: DISCIPLINE OF DONALD L.
WHITE.

No. 40193

FILED

APR 28 2003

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

ORDER OF SUSPENSION

This is an automatic appeal from a Northern Nevada Disciplinary Board hearing panel's recommendation that attorney Donald L. White be suspended from the practice of law for one year, with additional specific terms and conditions.

After White was admitted to practice law in Nevada in October 1995, he opened a solo practice in Elko, where he lived. In February 2001, Pedro Reyna Galvan and his wife, Naomi Holt, retained White and paid him \$300 cash to help them take advantage of the Legal Immigration Family Equity (LIFE) Act.¹ Holt was a U.S. citizen, but Galvan was an undocumented alien. The LIFE Act allowed a person who qualified for permanent residency, but was ineligible to adjust status in the United States because of an immigration status violation, to pay a \$1,000 penalty to continue processing in the United States. In order to be eligible for adjustment, however, the alien had to be the beneficiary of an immigrant petition or application for labor certification filed by April 30, 2001. Holt and Galvan completed and signed their petition, and gave it to White with their supporting documentation on February 27, 2001. White

¹Pub. L. No. 106-553 (2000).

did not file the petition the following week, as they expected, although he assured Holt every time she called that everything was okay. White then stopped returning Holt's calls.

In July 2001, Holt and Galvan learned from the Immigration and Naturalization Service (INS) in Reno that White had not filed anything on Galvan's behalf. Holt tried to call White at his office, but his telephone had been disconnected. She finally obtained a cellular telephone number for White and a post office box mailing address, and was able to set up a meeting with him; he promised to give her the confirmation of filing he said that he had received from INS. White did not show up, however, and although he met with Holt later, White could not confirm that he had filed the petition. Documentation from INS eventually showed that White had finally submitted the petition in July 2001, with the wrong fee. White resubmitted the fee in August 2001, but again in the wrong amount. In October 2001, Holt submitted the appropriate fee to INS.

In August 2001, Holt and Galvan filed grievance letters with the State Bar. White did not respond to any of the State Bar's many letters requesting a response, so the State Bar opened a grievance file and began formal disciplinary proceedings against him. On October 30, 2001, White was suspended for failure to pay his bar dues. In December 2001, the State Bar learned that White was living with an aunt in Mesquite, Nevada; the Bar left telephone messages for White with the aunt, which he did not return, and sent him mail, which was signed for by "Hazel White." On July 17, 2002, Bar Counsel finally spoke with White by telephone. White confirmed that he knew about the formal hearing scheduled for August 21, 2002, agreed that it could be held in Reno, and said that he did not know whether he would attend—he had not decided—

but he would inform Bar Counsel by telephone of his decision. White did not call, and he did not show up for the hearing. Because White did not file an answer to the complaint and did not participate in the disciplinary proceedings, the charges against him are deemed admitted.²

On August 21, 2002, at the hearing before the Northern Nevada Disciplinary Board hearing panel, Bar Counsel submitted the documentary evidence supporting the complaint against White, and called Holt and Galvan as witnesses. Holt testified that, shortly before the hearing, by notice of action dated July 29, 2002, INS informed Holt and Galvan that their petition had been approved. They had to file additional forms, however, and could not use the expedited process authorized by the LIFE Act because they had not filed by the April 30, 2001 deadline.

After the hearing, the panel found unanimously that White violated SCR 151 (competence), SCR 153 (diligence), SCR 154 (communication) and two-to-one that he violated SCR 166(1)(b) (declining or terminating representation) in his representation of Holt and Galvan, and unanimously that he violated SCR 79 (address of member) and SCR 200(2) (failure to respond to lawful disciplinary authority) as a bar member. As aggravating factors, the panel found that White was aware of the formal hearing, but failed to attend or participate or to seek a continuance, demonstrated no remorse, and provided no explanation for his conduct.

The panel recommends a one-year suspension, with these conditions: White must

- Pay the costs of the disciplinary proceeding within sixty days after receipt of the bill;

²SCR 105(2).

- Pay \$300 restitution to Galvan within sixty days;
- Remove his fee suspension by paying fees and late charges;
- Pay costs, restitution and fees before petitioning for reinstatement;
- Notify any other state in which he may be licensed of this discipline; and
- Upon petitioning for reinstatement, prove that he has
 - Provided Bar Counsel all records necessary for a trust account audit;
 - Provided a list of all clients being served at the time of suspension and fully accounted for each matter;
 - Taken and passed the Multistate Professional Responsibility Exam; and
 - Provided proof that he is neither physically nor mentally impaired.

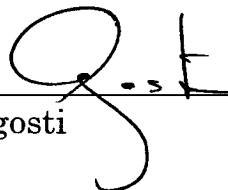
Finally, should White be reinstated, the panel recommends that he be required to enter into a mentoring agreement with the State Bar for six months beginning with reinstatement and pay all associated costs.

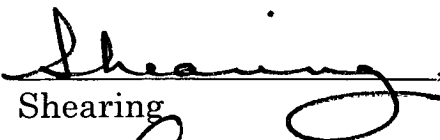
We conclude that the discipline recommended by the panel is appropriate. The recommended discipline protects the public, provides White with time to consider whether he wants to practice law, ensures that he will make amends for his misconduct before he may do so, and helps guard against future problems should he be reinstated. Accordingly, we approve the panel's recommendations. Donald L. White shall be suspended from the practice of law for one year.³ Further, he shall pay \$300 restitution to Galvan and the disciplinary proceedings' costs to the

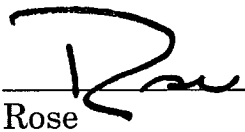
³Under SCR 115, the suspension is effective fifteen days from this order's date. White and the State Bar shall comply with SCR 115.

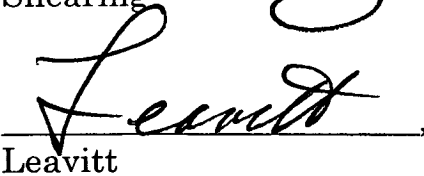
State Bar within sixty days from this order's date, shall remove his fee suspension by paying fees and late charges, and shall notify any other jurisdiction in which he is licensed of this discipline. Any reinstatement shall be subject to the conditions set forth by the hearing panel. Additionally, should White be reinstated, he must enter into a mentoring agreement with the State Bar for six months beginning with reinstatement and pay all associated costs.

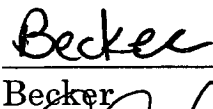
It is so ORDERED.⁴



_____, C.J.
Agosti


_____, J.
Shearing


_____, J.
Rose


_____, J.
Leavitt


_____, J.
Becker


_____, J.
Maupin


_____, J.
Gibbons

cc: James W. Bradshaw, Chair, Northern Nevada Disciplinary Board
Allen W. Kimbrough, Executive Director
Perry Thompson, Admissions Office, U.S. Supreme Court
Rob W. Bare, Bar Counsel
Donald L. White

⁴This constitutes our final disposition of this case. Any future proceedings should be filed under a new docket number.