

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF DISCIPLINE OF
ANTHONY R. LOPEZ, JR.

No. 41356

FILED

OCT 27 2003

JANETTE M. BLOOM
CLERK OF SUPREME COURT
DEPUTY CLERK

ORDER IMPOSING RECIPROCAL DISCIPLINE

This is a petition under SCR 114 to reciprocally discipline attorney Anthony Lopez, based on discipline imposed upon him in Arizona. By the time the Arizona discipline order was entered, Lopez had closed down his Arizona practice and focused on his Nevada and California practices. Lopez and Arizona bar counsel agreed that a censure would be imposed, along with a two-year probation and accompanying conditions should Lopez reestablish an Arizona practice in the future. The conditions primarily require that Lopez submit to an audit by the Arizona Law Office Management Assistance Program (LOMAP) upon his resumption of practice there, and that his trust account practices be subject to oversight for the probationary period.

The discipline was based on Lopez's violation of the Arizona equivalents of SCR 165 (safekeeping property) and SCR 200(2) (failure to respond to disciplinary authority). The Arizona agreement reflects that Lopez failed to properly maintain his trust account records and permitted non-attorney staff to serve as signatories on the account, resulting in overdrafts on his Arizona trust account. In determining whether the agreed sanction was appropriate, the Arizona authorities considered two aggravating factors: a pattern of misconduct regarding the failure to respond and a prior instance of discipline, and seven mitigating factors:

significant delay in the disciplinary proceedings, absence of selfish or dishonest motive, cooperation during disciplinary proceedings, acceptance of responsibility, remorse, favorable reputation in the community, and personal and emotional problems including a medical condition and depression.

Lopez opposes the instant petition. He asks that since the Arizona probation is stayed, any probation by this court also be stayed. According to Lopez, SCR 114(2) requires that if discipline in the original jurisdiction was stayed, then proceedings in this state must be deferred until the stay expires. SCR 114(2), however, does not discuss deferrals or stays.¹

¹SCR 114(2) provides:

Duties of bar counsel. Upon being informed that an attorney subject to these rules has been disciplined in another jurisdiction, bar counsel shall obtain a certified copy of the disciplinary order. In the event that bar counsel receives information, from a source other than the attorney, indicating that an attorney subject to these rules may have been disciplined in another jurisdiction, bar counsel shall investigate the matter. If the investigation reveals that an attorney subject to these rules was in fact disciplined in another jurisdiction, bar counsel shall obtain a certified copy of the disciplinary order. Upon receipt of a certified copy, bar counsel shall file a petition for reciprocal discipline as described in subsection 3 of this rule.

We note that this language was added when SCR 114 was amended effective June 7, 2002. The prior version of SCR 114 included the language quoted by Lopez in his response, but that language has not been in effect for over a year.

Lopez also argues that his actions warrant substantially different discipline in Nevada.² He asserts that he has received no other discipline before or since the Arizona order at issue here, that he has since instituted procedural safeguards to ensure that no similar mistake occurs again, and that he no longer suffers from the medical and emotional problems that contributed to his earlier difficulties. He states that a public reprimand would cause irreparable harm to his reputation in the “small legal community in Las Vegas.”

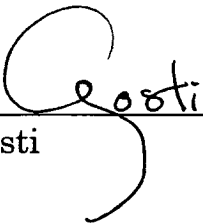
It appears that the Arizona authorities fully considered the mitigating factors applicable to this case when they imposed a censure rather than a suspension. In addition, Lopez has not demonstrated that a more lenient form of discipline is warranted in Nevada. Finally, the Arizona authorities deferred any probation period unless and until Lopez reestablished a practice there. No similar reason for deferral exists with respect to Lopez’s Nevada practice.

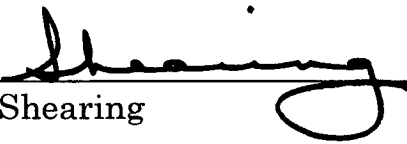
Accordingly, Lopez is hereby publicly reprimanded. In addition, Lopez shall be placed on probation for two years from the date of this order. Since Nevada does not have a LOMAP program, Lopez shall enter into a mentoring agreement within thirty days from the date of this order. The mentor shall be approved by bar counsel, and shall be knowledgeable about trust account record-keeping and procedures. The mentor shall meet with Lopez within thirty days of the mentoring agreement’s execution, to evaluate Lopez’s current procedures concerning his trust account, and shall thereafter submit an initial report to bar counsel. Lopez and the mentor shall meet at least monthly for the first six

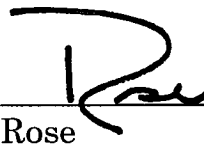
²See SCR 114(4)(c).

months of the probation period, and at least quarterly for the remainder of the probation period. The mentor shall provide reports to bar counsel at least quarterly for the entire probation period.

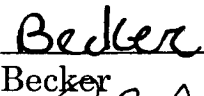
It is so ORDERED.

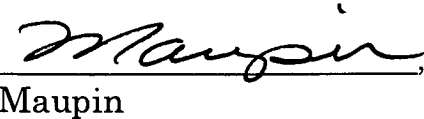

_____, C.J.
Agosti

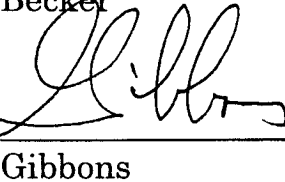

_____, J.
Shearing


_____, J.
Rose


_____, J.
Leavitt


_____, J.
Becker


_____, J.
Maupin


_____, J.
Gibbons

cc: Howard Miller, Chair, Southern Nevada Disciplinary Board
Rob W. Bare, Bar Counsel
Allen W. Kimbrough, Executive Director
Perry Thompson, Admissions Office,
Supreme Court of the United States
Anthony R. Lopez