

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF DISCIPLINE OF
ROY L. BISCHOFF, ESQ.

No. 45112

FILED

JUN 06 2005

[Signature]
JANET L. WOODWARD
CLERK OF SUPREME COURT
DEPUTY CLERK

ORDER IMPOSING RECIPROCAL DISCIPLINE

This is a petition under SCR 114 to reciprocally discipline attorney Roy L. Bischoff, based on his disbarment in Utah.

Bischoff was admitted to practice law in Nevada on October 18, 2001. Until February 1, 2005, he was also licensed as an attorney in Utah.

On February 1, 2005, a Utah court approved an order disbarring Bischoff.¹ The discipline was based on Bischoff's violation of

¹According to Rule 11 of the Utah Rules of Lawyer Discipline and Disability, a complaint is filed and tried in the district court of the county where the alleged offense occurred. The order for discipline is then signed by the district court judge, instead of the Utah Supreme Court. Utah Rules of Appellate Procedure 3 and 4 require an appeal to be filed within thirty days after the order is entered. According to bar counsel's affidavit, Bischoff did not appeal, so the order of disbarment appears to be a final order.

the Utah equivalents of SCR 151 (competence), SCR 152(1) (scope of representation), SCR 153 (diligence), SCR 154(1) (communication), SCR 155 (fees), SCR 165(2) (safekeeping property), SCR 166(4) (declining or terminating representation), SCR 171(1) (expediting litigation), SCR 200(2) (bar admission and disciplinary matters), and SCR 203(1) and (3) (misconduct). One mitigating factor, lack of prior discipline, was identified, but not given much weight because of the serious nature of Bischoff's misconduct. The following aggravating circumstances were found: dishonest or selfish motive; pattern of misconduct; multiple offenses; obstruction of disciplinary proceedings; refusal to acknowledge the wrongful nature of the misconduct involved; vulnerability of the victim; lack of a timely effort to make restitution in good faith; and illegal conduct.

The Utah disbarment was based on five informal complaints brought by Bischoff's former clients, most of which alleged that he had been paid to do work that he failed to perform, did not return repeated phone calls and requests for information from the clients, and terminated representation without informing the clients or returning client files. In one complaint, the court found that Bischoff apparently fabricated a letter from the Immigration and Naturalization Service in order to appease the client. Bischoff also failed to respond to the Utah bar's requests for information and did not appear in the court proceedings leading to his disbarment.

SCR 114(1) requires Nevada attorneys to inform Nevada bar counsel if they are subjected to professional disciplinary action in another jurisdiction. Bischoff failed to do this until he was contacted by the bar during its investigation of his Utah disbarment, so we conclude that he violated SCR 114(1).

Moreover, SCR 114(4) provides that this court shall impose identical reciprocal discipline unless the attorney demonstrates or this court determines that one of three exceptions applies:

- (a) That the procedure in the other jurisdiction was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or
- (b) That there was such an infirmity of proof establishing the misconduct as to give rise to the clear conviction that the court could not, consistent with its duty, accept the decision of the other jurisdiction as fairly reached; or
- (c) That the misconduct established warrants substantially different discipline in this state.

Discipline elsewhere is *res judicata*, as SCR 114(5) also provides, "In all other respects, a final adjudication in another jurisdiction that an attorney has been guilty of misconduct conclusively establishes the misconduct for the purposes of a disciplinary proceeding in this state."

Bischoff has failed to provide any affidavits or other evidence to meet his burden of proving that any of the exceptions applies and that he should not be similarly disbarred in Nevada. Consequently, we are not persuaded that any of the exceptions apply, and so we grant the petition.

Bischoff shall be disbarred from the practice of law fifteen days after entry of this order, and shall comply with the provisions of SCR 115.

It is so ORDERED.²

Becker, C. J.
Becker

Rose, J.
Rose

Maupin, J.
Maupin

Gibbons, J.
Gibbons

Douglas, J.
Douglas

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

cc: Rob W. Bare, Bar Counsel
Allen W. Kimbrough, Executive Director
Howard M. Miller, Chair, Southern Nevada Disciplinary Board
Roy L. Bischoff
Perry Thompson, Admissions Office, United State Supreme Court

²This is our final disposition of this matter. Any new proceedings concerning Bischoff shall be docketed under a different docket number.