

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF DISCIPLINE OF
DANIEL D. HEATON.

No. 45120

FILED

JUN 06 2005

[Signature]
CLERK OF SUPREME COURT
DEPUTY CLERK

ORDER IMPOSING RECIPROCAL DISCIPLINE

This is a petition for reciprocal discipline under SCR 114 against attorney Daniel D. Heaton, based on discipline imposed upon him in Utah. Heaton did not respond to the petition in any way.¹

On November 29, 2004, Heaton was suspended in Utah for three years based on a pattern of misconduct, in which Heaton essentially accepted retainers for legal services and then failed to perform the work or communicate with his clients. He also failed to respond to the Utah bar's inquiries. Heaton was found to have violated the equivalents of SCR 151 (competence), SCR 153 (diligence), SCR 154 (communication), SCR 155 (fees), SCR 165 (safekeeping property), SCR 166 (terminating

¹Under SCR 79, Nevada attorneys have a duty to maintain a current address with the State Bar of Nevada. SCR 114 requires the state bar to mail a petition for reciprocal discipline to the attorney's address provided under SCR 79 and to provide proof to this court that the petition has been served. The state bar fulfilled its duties in this case. The rules require nothing further.

representation), SCR 200(2) (failure to respond to disciplinary authority), SCR 203(1) (violation of ethical rule), and SCR 203(3) (conduct involving fraud, dishonesty, deceit or misrepresentation). The Utah court considered mitigating factors, including lack of prior discipline, contemporaneous personal problems arising from the dissolution of Heaton's marriage and his children's relocation to Texas, and substance abuse, which had been treated. The Utah order indicates that Heaton has been drug-free since January 2002. Several aggravating factors were also considered, including dishonesty, fraud or misrepresentation, a pattern of misconduct, multiple offenses, obstruction of disciplinary proceedings, lack of timely good faith efforts to make restitution, criminal conduct, and prior misconduct of engaging in the unauthorized practice of law.

Heaton failed to notify the Nevada State Bar of the Utah discipline as required by SCR 114(1). The state bar learned of the Utah discipline through the Utah bar, and this petition followed. Heaton did not respond to the petition.

SCR 114(4) provides that this court shall impose identical reciprocal discipline unless the attorney demonstrates or this court finds that one of three exceptions applies. None of the exceptions applies to this case, and so we grant the petition for reciprocal discipline.

Accordingly, Heaton is suspended for three years.² Heaton and the state bar shall comply with the requirements of SCR 115 and SCR 121.1.

It is so ORDERED.³

Becker, C. J.
Becker

Rose, J.
Rose

Gibbons, J.
Gibbons

Hardesty, J.
Hardesty

Maupin, J.
Maupin

Douglas, J.
Douglas

Parraguirre, J.
Parraguirre

cc: Rob W. Bare, Bar Counsel
Allen W. Kimbrough, Executive Director
Daniel D. Heaton
Perry Thompson, Admissions Office,
Supreme Court of the United States

²We note that under SCR 116(1), Heaton must petition for reinstatement before he may again practice law in Nevada.

³This is our final order in this matter. Any additional proceeding concerning Heaton shall be docketed under a new docket number.