

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN RE: DISCIPLINE OF PHYLLIS
JOANN BRYAN, ESQ., BAR NO. 7290.

No. 53457

FILED

NOV 18 2009

TRACIE A. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

ORDER OF REFERRAL TO DISCIPLINARY BOARD

This is a petition under SCR 114 to reciprocally discipline attorney Phyllis Joann Bryan, based on discipline imposed upon her in California. Bryan did not file a response to the petition, although a response is permitted by SCR 114(3).

Bryan's underlying disciplinary matter involved two different client matters. In the first case, Bryan's misconduct was found to have violated California Rules of Professional Conduct 3-110(A) and 4-100(B)(3). In the second case, Bryan's misconduct was found to have violated California Rules of Professional Conduct 3-110(A) and 3-700(D)(1) and California Business and Professions Code sections 6103, 6068(i), 6068(m), and 6068(o)(3).

The California Supreme Court ordered Bryan suspended from the practice of law in California for one year, the execution of which was stayed for one year with 90 days of actual suspension. Bryan was placed on probation for two years, subject to conditions requiring her to: comply with the professional conduct rules; report any changes of information within 10 days; meet promptly with the probation deputy and respond truthfully to inquiries regarding compliance; submit written quarterly probation reports; successfully complete ethics school; pass the MPRE;

comply with court rules regarding notice to clients; and pay costs of the disciplinary proceedings. Bryan failed to inform bar counsel of the discipline as required by SCR 114(1).

SCR 114(4) provides that this court shall impose identical reciprocal discipline unless the attorney demonstrates, or this court finds, that on the face of the record upon which the discipline is predicated it clearly appears that certain factors exist that would warrant a different result. If this court determines that any of the factors exist, it shall enter an appropriate order. Id.

One of the factors meriting a different result occurs when “the misconduct established warrants substantially different discipline in this state.” SCR 114(4)(c). From our review of the record it appears that, based on the magnitude and seriousness of the established misconduct,¹ substantially different discipline may be warranted here in Nevada.

¹ Although Nevada does not have a Rule of Professional Conduct comparable to California Business and Professions Code section 6068(o)(3), the remaining violations do have comparable Nevada cognates. Specifically, Bryan’s actions constitute misconduct under RPC 1.1 (competence), 1.4 (communication), 1.15 (safekeeping property), 1.16(d) (declining or terminating representation: upon termination of representation), 3.4 (fairness to opposing party and counsel: knowingly disobeying an obligation under the rules of a tribunal), and 8.1 (bar admission and disciplinary matters). Accordingly, with the exception of Bryan’s violation of California Business and Professions Code section 6068(o)(3), see SCR 114(4)(d), her actions constitute misconduct under the Nevada Rules of Professional Conduct. Moreover, pursuant to SCR 114(5), California’s adjudication of misconduct “conclusively establishes the misconduct for the purposes of a disciplinary proceeding in this state.”

We therefore refer this matter to the appropriate panel of the state bar disciplinary board for determination of the appropriate discipline to be imposed.²

It is so ORDERED.³

1 Hardesty, C.J.
Hardesty

Parraguirre, J.
Parraguirre

Cherry, J.
Cherry

Gibbons, J.
Gibbons

Douglas, J.
Douglas

Saitta, J.
Saitta

Pickering, J.
Pickering

² We note that any discipline recommended by the disciplinary board would be separate from and in addition to Bryan's suspension ordered by the State Bar for nonpayment of 2008 dues. It would also be separate from and in addition to her suspension by this court for failure to comply with the rules regarding continuing legal education. In re: Continuing Legal Education, Docket No. 50106 (Order Granting Petition, December 4, 2007).

³ This order constitutes our final disposition of this matter. Any further proceedings concerning Bryan shall be docketed as a new matter.

cc: Rob W. Bare, Bar Counsel
Kimberly K. Farmer, Executive Director
Phyllis J. Bryan
Perry Thompson, Admissions Office, United States Supreme Court