

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF DISCIPLINE OF  
DAVID A. FRANCIS, BAR NO. 7705.

No. 60134

**FILED**

DEC 07 2012

TEACHE L. LISHEMAN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
CHIEF DEPUTY CLERK

ORDER OF TEMPORARY SUSPENSION AND  
REFERRAL TO THE SOUTHERN NEVADA DISCIPLINARY BOARD

This is a petition by bar counsel pursuant to SCR 111(4) concerning attorney David Francis, based on Francis's convictions in Las Vegas Municipal and Justice courts, pursuant to guilty pleas, of first-offense driving under the influence and violation of NRS 240.150 (prohibited acts by notary).<sup>1</sup> See SCR 111(1).

Regarding Francis's first-offense driving under the influence conviction,<sup>2</sup> it is not one of those specifically enumerated in SCR 111(6)-(8) as a "serious" crime requiring suspension and automatic referral to the disciplinary board. As such, temporary suspension and referral to the disciplinary board are discretionary with this court. SCR 111(9).

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<sup>1</sup>Francis filed a response to the petition and bar counsel filed a reply. Although such filings are not expressly permitted by the rules, we have considered both in resolving this matter.

<sup>2</sup>As a result of his conviction, Francis was sentenced to 45 days in jail; ordered to stay out of trouble; ordered to attend a Victim Impact Panel, a DUI program, and a Coroner's DUI program; and was assessed fines and costs.

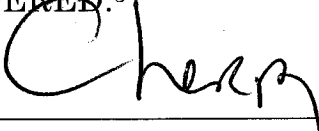
The gravity of drinking and driving cannot be minimized; however, first-offense driving under the influence is not the type of offense for which professional discipline is typically imposed. 1 Geoffrey C. Hazard, Jr. & W. William Hodes, The Law of Lawyering § 65.4 (3d ed. Supp. 2009); In the Matter of Respondent I, 2 Cal. State Bar Ct. Rptr. 260, 266 n.6, 272 (Rev. Dept. 1993). Accordingly, having considered the petition and the supporting documentation related to this conviction, we conclude that Francis's offense does not warrant the imposition of a temporary suspension or referral to the disciplinary board at this time. However, within 15 days of the date of this order, Francis shall provide bar counsel with an update of where he stands in relation to completing the terms of his sentence, including proof of any completed terms. If the terms of the sentence have been met, then no further action is necessary. If Francis has yet to complete the terms, then Francis shall, on a bi-monthly basis, provide bar counsel with an update. If Francis fails to comply with this court's order, or fails to complete any of the terms of his sentence, bar counsel shall notify this court.

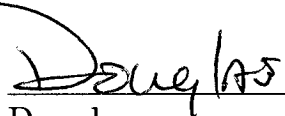
Regarding Francis's conviction for violation of NRS 240.150, we conclude that the petition conclusively establishes Francis's conviction of a serious crime warranting temporary suspension. Francis's conviction indicates that he engaged in improper conduct as an attorney, misrepresentation, fraud, and deceit; all elements of a serious crime, less than a felony, as defined in SCR 111(6). See State ex. rel. Oklahoma Bar Ass'n v. Dobbs, 94 P.3d 31, 59 (Okla. 2004) (attorney's action in ordering his secretary, a notary public, to notarize affidavit bearing client's signature, without having personally observed client executing affidavit, violated rule of professional conduct prohibiting conduct involving

dishonesty, fraud, deceit, or misrepresentation); Milligan v. Board of Professional Resp., 166 S.W.3d 665, 672 (Tenn. 2005) (where an attorney signed both his clients' names to a release and had a notary falsely notarize the signatures, the court concluded: "[c]learly, such conduct involves dishonesty, fraud, deceit, or misrepresentation . . . whether or not he acted with the [clients'] permission").


Accordingly, we temporarily suspend Francis from the practice of law and refer this matter to the Southern Nevada Disciplinary Board for the initiation of formal disciplinary proceedings in which the sole issue to be determined is the extent of discipline to be imposed. See SCR 111(7), (8).

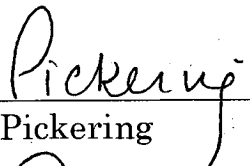
It is so ORDERED.<sup>3</sup>

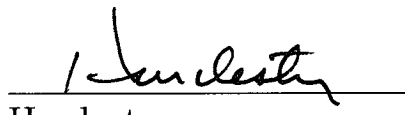
  
\_\_\_\_\_, C.J.  
Cherry

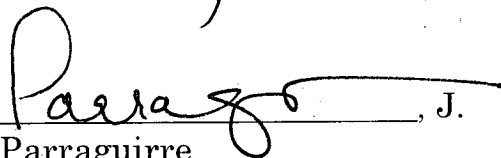
  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Saitta

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Pickering

  
\_\_\_\_\_, J.  
Hardesty

  
\_\_\_\_\_, J.  
Parraguirre

<sup>3</sup>This order constitutes our final disposition of this matter. Any future proceedings concerning Francis shall be filed under a new docket number.

cc: David A. Clark, Bar Counsel  
Jeffrey R. Albregts, Chair, Southern Nevada Disciplinary Board  
Kimberly K. Farmer, Executive Director, State Bar of Nevada  
Christiansen Law Offices