

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF DISCIPLINE OF
GERALD LUKE CICILIANO, BAR NO.
9530.

No. 63152

FILED

DEC 20 2013

TRACIE K. WINDEMAN
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

***ORDER REJECTING CONDITIONAL PLEA AGREEMENT
AND REMANDING FOR FURTHER PROCEEDINGS***

This is an automatic review of a Southern Nevada Disciplinary Board hearing panel's recommendation that we approve attorney Gerald Ciciliano's conditional guilty plea in exchange for a stated form of discipline. *See* SCR 113(1), (3); SCR 105(3)(b).

Under the conditional guilty plea agreement, Ciciliano admits to violating the following Rules of Professional Conduct, which encompass 19 grievances: RPC 1.1 (competence), RPC 1.3 (diligence), RPC 1.4 (communication), RPC 1.5 (fees), RPC 1.16 (declining or terminating representation), RPC 3.4 (fairness to opposing party and counsel), RPC 8.1(b) (bar admission and disciplinary matters), and RPC 8.4 (misconduct).

The agreed upon stated form of discipline contemplates that (1) Ciciliano is to be suspended for two years; (2) Ciciliano is to refund all unearned retainer fees and reimburse any funds distributed by the State Bar Client Security Fund, with any fee disputes to be submitted to the Fee Dispute Committee; (3) repayment of all unearned retainer fees is a condition precedent to Ciciliano seeking reinstatement; (4) Ciciliano shall take and pass the Multistate Professional Responsibility Exam (MPRE) within six months before applying to reinstatement; and (5) Ciciliano is to pay the costs of the disciplinary proceedings.

The findings and recommendations of a disciplinary hearing panel, though persuasive, are not binding on this court. *In re Stuhff*, 108 Nev. 629, 633, 837 P.2d 853, 855 (1992). The automatic review of a panel decision recommending a suspension is conducted de novo, requiring the exercise of independent judgment by this court. *Id.*; SCR 105(3)(b). The panel's findings must be supported by clear and convincing evidence. SCR 105(2)(f); *In re Drakulich*, 111 Nev. 1556, 1566, 908 P.2d 709, 715 (1995).

Having reviewed the record, we agree that the panel's findings regarding Ciciliano's violations of the Rules of Professional Conduct are supported by clear and convincing evidence. However, the conditions attached to Ciciliano's suspension are insufficient to protect the public.

Accordingly, we reject the conditional guilty plea agreement and remand this matter to the Southern Nevada Disciplinary Board for further proceedings.¹

It is so ORDERED.²

Pickering, C.J.
Pickering

Gibbons, J.
Gibbons

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

Douglas, J.
Douglas

Cherry, J.
Cherry

Saitta, J.
Saitta

¹Ciciliano is currently administratively suspended for failing to comply with CLE and state bar reporting and dues requirements. *See In the Matter of the Application of the Board of CLE*, Docket No. 61517 (Order Dismissing Petition as to Certain Respondent Attorneys and Granting Petition as to Certain Respondent Attorneys, December 28, 2012); SCR 78.5; SCR 79; SCR 98; NRS 7.034; NRS 425.520; RPC 6.1. Any revised conditional guilty plea or other disciplinary proceeding should account for this fact.

²This order constitutes our final disposition of this matter. Any further proceedings concerning Ciciliano shall be docketed as a new matter.

cc: Jeffrey R. Albregts, Chair, Southern Nevada Disciplinary Panel
Glenn Machado, Assistant Bar Counsel
Gerald Ciciliano, Esq.
Kimberly Farmer, Executive Director, State Bar of Nevada