

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF DISCIPLINE OF
EDWARD E. VARGAS, ESQ.

No. 45538

FILED

SEP 13 2005

ANNE T. ALDRICH
CLERK OF SUPREME COURT
DEPUTY CLERK

ORDER IMPOSING RECIPROCAL DISCIPLINE

This is a petition under SCR 114 to reciprocally discipline attorney Edward E. Vargas, based on his suspension in California.

Vargas was admitted to practice law in Nevada on March 26, 2004. He was previously admitted to practice law in California on October 21, 1988.

On February 9, 2005, a California state bar judge entered an order approving Vargas and the California state bar's joint stipulation of facts and disposition. In summary, Vargas pleaded nolo contendere to violating the California equivalents of Nevada's SCR 189 (unauthorized practice of law) and SCR 170 (meritorious claims and contentions).

The California discipline was based on Vargas being "of counsel" to a non-attorney legal service provider and permitting non-attorneys to interview clients and to sign his name on declarations,

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Bar Number: 8702

05-18077

pleadings, discovery and correspondence without seeing the documents himself. Complaints filed by the legal service provider were found by California courts to be insufficient and/or frivolous, and Vargas was sanctioned \$6,500 in one case. There were no aggravating or mitigating circumstances considered by the California State Bar Court.

Based upon this conduct, on May 27, 2005, the California Supreme Court suspended Vargas for one year, with the suspension stayed, and he was placed on probation for three years on the condition that he be actually suspended for 60 days. Vargas was also ordered to comply with the other conditions of probation recommended by the California State Bar Court, summarized as follows:

1. If Vargas is actually suspended for two or more years for probation violations, then he must prove his rehabilitation.
2. Vargas must comply with the provisions of the California State Bar Act and Rules of Professional Conduct.
3. Vargas must report any change of contact information, including his office address and telephone number, to the California State Bar's Membership Records Office and the Office of Probation within ten days of any change.
4. Within thirty days from the effective discipline date, Vargas must contact the probation office and schedule a meeting to discuss the terms and conditions of probation. During the period of probation, Vargas must promptly meet with the probation deputy as directed and upon request, either in person or by telephone.

5. Vargas must submit written quarterly reports to the probation office on each January 10, April 10, July 10, and October 10 of the probation period. Under penalty of perjury, Vargas must state whether he has complied with the California State Bar Act, the Rules of Professional Conduct, and all probation conditions during the preceding calendar quarter. Vargas must also state whether there are any proceedings pending against him in the California State Bar Court, and if so, the case number and current status of the case.
6. Vargas must answer fully, promptly and truthfully any inquiries of the probation office or probation monitor to determine whether he is complying with the probation conditions.
7. Within one year of the effective date of the discipline, Vargas must provide to the probation office satisfactory proof of attendance at a session of the California Ethics School, and proof that he has passed the test given at the end of that session.
8. Vargas must complete six hours of continuing legal education in the subject area of law office management, and must provide proof of completion to the probation office no later than 90 days before his probation expires.
9. Vargas must provide to the probation office proof that he has passed the Multi-State Professional Responsibility Examination ("MPRE") during the period of actual

suspension or within one year, whichever period is longer. Failure to pass the MPRE will result in an actual suspension without further hearing until passage.

10. If Vargas remains actually suspended for 90 days or more, he must comply with the requirements of California Rule of Court 955.

Vargas self-reported his California suspension to the State Bar of Nevada on June 14, 2005, and provided the bar with a copy of the California Supreme Court's order.

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, "[i]n 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."

Vargas has failed to provide any affidavits or other evidence to meet his burden of proving that any of the exceptions to SCR 114 applies and that he should not be reciprocally disciplined in Nevada. Consequently, we grant the bar's petition for reciprocal discipline.

We note, however, that Vargas has been reinstated to the active practice of law in California as of August 25, 2005. Additionally, it appears that during the period of his California suspension, Vargas refrained from the active practice of law in Nevada and removed himself from the Nevada state bar's referral service, because he was under the impression that his reciprocal suspension in Nevada was automatic and ran concurrently with his California suspension.

Accordingly, Vargas shall be suspended from the practice of law for one year, with the suspension stayed. He shall be placed on probation for three years, and shall comply with the conditions of probation recommended by the California State Bar Court. Additionally, Vargas shall comply with the provisions of SCR 115. If Vargas fails to meet the conditions of his probation and is actually suspended for more than six months, then he must meet the requirements of SCR 116 before being reinstated. Vargas must provide the State Bar of Nevada with copies of any documents that he provides to or receives from the California State Bar's Office of Probation, including proof of attending the California Ethics School and passage of the ethics test, completion of six hours of law office management classes, and passage of the MPRE, as required by the California disciplinary order. Vargas' failure to pass the MPRE within one year from the date of this order shall result in his actual suspension from the practice of law in Nevada without further hearing until passage.

Vargas must also comply with the Nevada Rules of Professional Conduct, and SCR 79.

It is so ORDERED.¹

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
Edward E. Vargas
Perry Thompson, Admissions Office, United State Supreme Court

¹This is our final disposition of this matter. Any new proceedings concerning Vargas shall be docketed under a different docket number.