

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF DISCIPLINE OF  
TIMOTHY R. TREFFINGER, BAR NO.  
12877.

No. 70143

**FILED**

MAY 18 2016

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

**ORDER DIRECTING BRIEFING**

This is a petition under SCR 111 concerning attorney Timothy R. Treffinger, based on a conviction for possession of a controlled substance (heroin), a category E felony under NRS 453.336.<sup>1</sup> The documents provided with the petition demonstrate that Treffinger has pleaded guilty but that no judgment of conviction has been entered because he has been placed in a diversion program pursuant to NRS 453.3363.

Under SCR 111(1), a guilty plea constitutes a “conviction” for purposes of the rule “regardless of whether a sentence is suspended or deferred or whether a final judgment of conviction has been entered, and regardless of any pending appeals.” In contrast, NRS 453.3363(4) provides that “discharge and dismissal [following successful completion of a diversion program under the statute] is without adjudication of guilt and *is not a conviction* . . . for purposes of employment, civil rights or any statute or regulation or license or questionnaire or for any other public or private purpose.” (Emphasis added.) And this court recently held that

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<sup>1</sup>Because the offense is a felony, it would qualify as a “serious crime” under SCR 111(6).

this provision precludes an employer from using an employee's guilty plea as a conviction for purposes of denying unemployment benefits during the time that the employee is participating in a diversion program under NRS 453.3363. *Hohenstein v. Nev. Emp't Sec. Div.*, 131 Nev., Adv. Op. 17, 346 P.3d 365 (2015). NRS 453.3363(4), however, provides an exception to its proscription that was not addressed in *Hohenstein*. The exception, set forth in NRS 453.3363(5), provides that "[a] professional licensing board may consider a proceeding under this section in determining suitability for a license or liability to discipline for misconduct." It is unclear how these provisions interact with SCR 111(1) and whether NRS 453.3363(4) precludes this court from treating the guilty plea as a conviction while Treffinger is on probation pursuant to the diversion program. Accordingly, the State Bar shall have 30 days from the date of this order to file and serve a brief addressing these issues. Treffinger shall have 15 days from service of the State Bar's brief to file and serve a responding brief, if any. The briefs shall not exceed 30 pages and shall otherwise comply with NRAP 32(a)(4)-(6), (8).

It is so ORDERED.

1. J. Sanders, A.C.J.

cc: C. Stanley Hunterton, Bar Counsel, State Bar of Nevada  
Timothy R. Treffinger