

IN THE SUPREME COURT OF THE STATE OF NEVADA

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Elizabeth A. Brown
Clerk of Supreme Court

IN RE DISCIPLINE OF
R. CHRISTOPHER READE,
BAR NO. 006791.

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CASE NO. 70989

**Review of the Southern Nevada Disciplinary Board's Findings of Fact,
Conclusions of Law and Recommendation**

R. CHRISTOPHER READE'S PETITION FOR REHEARING

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1 **STATEMENT OF RELEVANT OVERLOOKED FACTS**

2 The issue before this Court subject to this Petition for Rehearing is simply
3 when the suspension which Respondent has served should be deemed to have
4 commenced. At every stage of the proceedings in this matter, the Parties have
5 recognized that Respondent Reade met with the State Bar prior to any criminal
6 proceedings being filed and that Reade was directed to suspend himself by
7 undertaking Inactive Status in extraordinary mitigation, which would count towards
8 Reade's suspension. The Opinion overlooks and materially misapprehends the
9 mitigation evidence, most specifically Reade's direction from and compliance with
10 the State Bar moving Reade to Inactive status on January 16th, 2014, the date from
11 which a suspension should run.
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13 In the summer of 2013, Reade met with the Office of Bar Counsel to discuss
14 possible criminal charges and Reade's intent to protect his clients and employees by
15 voluntarily terminating his practice of law and bar involvement prior to any
16 proceedings. (Vol. II, ROA171-175; ROA218-219). Reade was directed by Bar
17 Counsel that Reade could protect the Bar and could show incomparable mitigation
18 if Reade be suspended through taking Inactive status pursuant to the direction of
19 and upon agreement with Bar Counsel. (Vol. II, ROA171-175; ROA218-219).
20 Reade sold his law firm effective November 2013 to Edward Boyack. Reade, his
21 Counsel and Boyack met with Bar Counsel multiple times to craft the result that
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1 would ensure the protection of clients, staff, the Bar and the public, including Reade
2 suspending himself prior to any criminal proceedings. (Vol. II; ROA150-153 and
3 ROA171:9-177:19). Reade resigned from all Bar, public and pro bono services,
4 committees and chairmanships as agreed. (Vol II.; ROA147-148; ROA170-177).
5 The Bar promised a suspension between 18 to 24 months based upon the facts and
6 Reade's cooperation, retroactive to going Inactive. (Vol I.; ROA218).
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9 Reade voluntarily suspended himself pursuant to, in agreement with and in
10 reliance upon the representations of the Bar. Reade and his Counsel met with Bar
11 Counsel again on January 13th, 2014 to verify Reade's steps undertaken to protect
12 clients, employees and the public. Reade did everything requested by Bar Counsel.
13 (Vol. I; ROA101). Effective January 16th, 2014, Reade complied, and the State Bar
14 transferred Reade to Inactive status as a self-suspension. (Vol. I; ROA101). Unlike
15 most cases where discipline comes after criminal charges are filed, Reade and the
16 Bar tackled it before a plea was entered. Reade pled guilty in Federal Court in
17 reliance that his suspension commenced January 16th, 2014. The uncontroverted
18 evidence is that all Parties agreed that his suspension ran from January 16th, 2014.
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22 Having been told that he had done everything required by the Bar for
23 suspension of his practice, Reade dedicated himself through the Legal Aid Center of
24 Southern Nevada, and under the supervision of licensed attorneys, regarding 28 real
25 estate fraud cases throughout 2014, donating over 1,000 unpaid hours of time while
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1 awaiting his disposition. (Vol II; ROA 172:3-173:4). On May 27, 2014, the State
2 Bar and Reade filed with this Court a Joint Petition for a Temporary Suspension
3 which expressly discusses the agreement by the Bar to place Reade on Inactive
4 Status on January 16, 2014 and that Reade did exactly as requested by the Bar.
5 (Vol. I, ROA 7). On June 25, 2014, this Court entered an Order of Temporary
6 Suspension. (Vol. I, ROA1-35; ROA 71-72).

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9 On September 22, 2014, Bar Counsel filed a Complaint alleging one count of
10 violation of NRPC 8.4(b). (Vol. I, ROA73-82). The Complaint expressly
11 recognized the agreement by Reade with the State Bar to suspend himself as of
12 January 16th, 2014 and for discipline to run from that date. (Vol. I, ROA 78 at
13 ¶¶11-12). On October 20th, 2015, Reade entered into a Conditional Guilty Plea for
14 stated discipline of a suspension of 24 months retroactive to January 16th, 2014.
15 (Vol. I, ROA83-91; Vol II, ROA218). The Conditional Guilty Plea expressly
16 included language that the suspension was “retroactive to January 16, 2014, the date
17 Respondent was transferred to inactive status with the State Bar.” (Vol. I, ROA90;
18 Vol II, ROA218). A Hearing was conducted on October 21st, 2014. (Vol. I,
19 ROA102). Bar Counsel told the Panel that Reade did everything requested and
20 required and that the suspension should run from January 16th, 2014 as stipulated
21 and required. The Panel agreed that suspension should run from January 16th, 2014.

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26 On October 9th, 2015, this Court entered an Order Rejecting Conditional
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1 Guilty Plea finding suspension to be appropriate but that two years was insufficient
2 and ordered a new Hearing. (Vol. I, ROA92-94). In its Order, this Court
3 acknowledged and recognized that “Reade self-reported the charges and guilty plea
4 to the State Bar and met with bar counsel in January 2014 before he was sentenced
5 [sic]¹, voluntarily transferred to inactive status, and filed a joint petition with the
6 State Bar pursuant to SCR 111 in May 2014.” This Court indicated no issue with
7 the voluntary suspension commencement date of January 2014 pursuant to Reade’s
8 cooperation and compliance with the State Bar.
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11 The Parties thereafter entered a Stipulation of Facts, stipulating to the
12 discussions and agreement by the State Bar for Reade to suspend himself on
13 January 16th, 2014 when the State Bar transferred him to Inactive Status and for
14 discipline to run from that date. (Vol. I, ROA96-102). On June 23rd, 2016, a three-
15 member panel conducted an Evidentiary Hearing and took evidence, testimony and
16 argument on mitigation. (Vol. II, ROA130-478). The Parties stipulated to, and the
17 Panel found, two aggravating factors and nine mitigating factors. (Vol. II; ROA
18 204:24-206:11; 220:16-221:11). The uncontroverted testimony was that, rather than
19 making the Bar suspend Reade, Reade suspended himself at the request of and for the
20 protection of the Bar. (Vol. II; ROA 171:9-173:24). While Bar Counsel argued for a
21 longer suspension, Bar Counsel properly acknowledged that the State Bar had
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27 ¹ The meeting and Agreement was prior to charges even being filed and Reade entering a guilty plea.
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1 proposed and agreed to the suspension running retroactive to January 16th, 2014
2 when Respondent transferred to his inactive status. (Vol. II; ROA 194:1-6). No
3 contrary evidence or testimony was presented requesting or supporting a suspension
4 effective date other than January 16th, 2014 when the State Bar transferred Reade to
5 Inactive Status. Reade and his Counsel told the Panel that all of the efforts by
6 Reade suspending himself were done at the direction of Bar Counsel and
7 culminated on January 16th, 2014. (Vol. II; ROA 218:6-19). Ultimately the Panel
8 found that the suspension should run from the date that Reade suspended himself,
9 which Bar Counsel then provided was January 16th, 2014. (Vol. II; ROA 221:12-
10 20). The Panel made special note to the Court that the live testimony of mitigation
11 was compelling in Reade's favor. (Vol. II; ROA 222:23-223:10). There was never
12 any thought, request, demand, or discussion by any Parties that the suspension
13 would be retroactive to any date other than January 16th, 2014.
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18 On August 8th, 2016, the Findings of Fact, Conclusions of Law, and
19 Recommendation were filed. (Vol. I; ROA115-123). On September 9th, 2016,
20 Reade filed his Opening Brief in support of the thirty month suspension retroactive
21 to January 16th, 2014. On October 6th, 2014, Bar Counsel filed its Answering Brief
22 regarding *inter alia* the appropriate length of suspension retroactive to January 16,
23 2014. (Answering Brief at P. 1). No Parties argued or even suggested any date
24 other than January 16th, 2014 for the commencement of the suspension.
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1 This Court entered an Opinion for a four year suspension retroactive to the
2 June 25th, 2014 Order of Temporary Suspension rather than January 16th, 2014
3 when the Bar transferred Reade to Inactive status. The Decision makes no
4 reference to and overlooks the January 16th, 2014 date set forth by all Parties.
5 Reade therefore petitions for rehearing pursuant to NRAP 40 for the suspension
6 to be retroactive to January 16th, 2014 as agreed.
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8 ARGUMENT

9 **A. The Court Should Make Suspension Retroactive to January 16th, 2014.**

10 The Supreme Court Rules and this Court have placed a high value in
11 encouraging and examining mitigating circumstances to justify a reduction in the
12 degree of discipline to be imposed, including timely good faith efforts to rectify the
13 consequences of one's actions and full and free disclosure to disciplinary authority
14 or cooperative attitude toward proceeding." SCR 102.5(2). Nevada law emphasizes
15 weighing the specific mitigating factors in a case in crafting discipline not to punish
16 the attorney but to protect the public interest and trust. See In re Discipline of
17 Lerner, 124 Nev. 1232, 1246, 197 P.3d 1067, 1077 (2008) (four factors); State Bar
18 of Nev. v. Claiborne, 104 Nev. 115, 129, 756 P.2d 464, 473 (1988).
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23 The cooperative goal and rationale of Reade meeting with Bar Counsel was
24 to be proactive in undertaking prophylactic steps to protect the Bar and the public
25 before Reade was charged rather than leaving the Bar to be reactive thereafter.
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1 Both Reade and Bar Counsel repeatedly stipulated and agreed that Reade performed
2 everything asked of him by Bar Counsel to protect clients, the Bar and the Public,
3 including starting the suspension of his practice on January 16th, 2014. However
4 the Decision overlooks all of the extraordinary facts of Reade's cooperation with
5 the Bar, including agreeing to voluntarily suspend practice and allowing the State
6 Bar to render Reade Inactive before any criminal proceedings occurred.
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9 This Opinion states that this Court has entered sanctions greater than those
10 imposed against Reade for a single violation of RPC 8.4 in (1) In Re Discipline of
11 Gage, 2014 Nev. Unpub. LEXIS 839 (2014) and (2) In Re Discipline of
12 Whittemore, 2015 Nev. LEXIS 18 (2015). Beyond the fact that the mitigation
13 evidence between those decisions and the facts in this matter being inapposite, Gage
14 and Whittemore first halted their licensure through involuntary Orders of
15 Temporary Suspension. Reade voluntarily and cooperatively suspended his practice
16 at the direction of the Bar before criminal charges were filed on January 16th, 2014.
17 No public policy purpose is served by overlooking mitigation and not recognizing
18 the cooperative and preventative acts of Reade coming to Bar Counsel and
19 voluntarily agreeing to commence suspension on January 16th, 2014.
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23 The purpose of attorney discipline is not to punish an attorney but to protect
24 the public and the integrity of the bar, which requires review all relevant factors on
25 a case-by-case basis to determine one's "fitness to serve as an officer of the court
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1 and to continue the practice of a profession imbued with the public interest and
2 trust.” See State Bar of Nev. v. Claiborne, 104 Nev. 115, 129, 756 P.2d 464, 473
3 (1988). The public interest and trust is ill served by having the suspension start on
4 June 25th, 2014 when all Parties acknowledge and stipulate that Reade complied on
5 January 16th, 2014 in an exceptional effort to protect the public and the Bar.
6 Attorney self-suspension with the Bar should not only be allowed; promoting and
7 rewarding attorneys who mitigate with the Bar prior to any criminal proceedings
8 should be encouraged and recognized. Bar Counsel did not rush under SCR 111
9 because the preventative purposes of SCR 111 had already been cooperatively met
10 by removing Reade voluntarily from practice. The emergent dangers normally
11 present when an attorney pleads guilty to a serious crime are avoided if cooperative
12 mitigation before the criminal proceedings is encouraged and recognized.
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17 Full and free disclosure and cooperation in proceedings is supported to be a
18 factor justifying a reduction in discipline. SCR 102.5(2). Not only did Reade’s
19 extraordinary efforts not comparatively shorten his sanction when compared with
20 comparable cases, but as written, the suspension keeps Reade away out of practice
21 five months longer than those cases in which attorneys did not voluntarily
22 cooperate. By having the suspension start on June 25th, 2014, more than five (5)
23 months after the Bar made him Inactive, Reade will be out of practice for 53
24 months rather than 48 months simply because Reade took the extraordinary steps of
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1 working with Bar Counsel for self-suspension. If exceptional cooperation as
2 directed by Bar Counsel will result in attorneys not only not receiving credit for
3 mitigation but in actually serving longer suspensions, attorneys would have no
4 incentive to cooperate or ameliorate conduct because mitigation will be held against
5 them. The public interest and trust is served by honoring the agreements with
6 attorneys who mitigate rather overlooking cooperative efforts with the Bar.
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9 By recognizing the distinctive mitigation efforts that Reade undertook,
10 including January 16th, 2014 date that the Bar voluntarily moved Reade to Inactive
11 status, attorneys could trust entering into agreements with the State Bar and will
12 know that mitigation efforts will not be overlooked. Reade and others were told
13 that this case was to be the model for how attorneys could take steps to be proactive
14 in how to handle matters under these circumstances. (Vol. II; ROA150:1-153:19
15 and ROA171:9-177:19). Reade is now being held out of practice longer than
16 attorneys who did not cooperate or mitigate. If exceptional efforts to protect the
17 Bar and integrity of the profession will not be honored or recognized, but instead
18 result in longer suspensions than if one does not proactively cooperate, this case
19 will be a model for a very different message to attorneys. The incentive and public
20 interest to protect clients, the Bar or the public and to mitigate harm through timely
21 good faith efforts is lost if and when mitigation is ignored or results in compliant
22 attorneys being out of the practice longer than the Court's ordered Suspension.
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1 The courts, the public and integrity of attorney discipline are not protected by
2 keeping Reade out of the practice longer than the stated suspension by not
3 indicating the date of Reade's compliance by voluntarily suspending his practice.
4 Failure to recognize, reflect and reward Reade's extraordinary efforts related to the
5 suspension date contravenes the policy benefits to the Bar and the public of
6 encouraging and rewarding mitigation. The interests of justice and the public will
7 be served by affirming the suspension and allowing the suspension to be retroactive
8 to when the Bar made Reade Inactive: January 16th, 2014.
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11 CONCLUSION

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13 This Court should grant rehearing pursuant to NRAP 40 and should enter an
14 Order that Reade's suspension shall be retroactive to January 16th, 2014, the date
15 which the State Bar and Reade cooperatively suspended Reade by transferring
16 Reade to Inactive Status.
17

18 DATED this 20th day of November, 2017.

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1 or appendix where the matter relied on is to be found. I understand that I may be
2 subject to sanctions in the event that the Brief is not in conformity with the
3 requirements of the Nevada Rules of Appellate Procedure.
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5 DATED this 20th day of November, 2017.

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CERTIFICATE OF SERVICE

I certify that on this 20th day of November, 2017 that I served the Petition for Rehearing upon all counsel for record by serving it via Electronic Service through the Clerk's Office of the Nevada Supreme Court to the following addresses:

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