

SUPREME COURT OF NEVADA

In re Gardner

429 P.3d 1247 (Nev. 2018) · Decided November 9, 2018

SUMMARY

The Nevada Supreme Court approved a conditional guilty plea agreement concerning attorney Douglas J. Gardner's violations of Nevada Rule of Professional Conduct 1.15 involving the handling of client property. The court imposed a 24-month suspension, with all but the first three months stayed, followed by two years of probation and specified conditions.

CASE DETAILS

COURT	Supreme Court of Nevada
JURISDICTION	Nevada
DECIDED	November 9, 2018
DISPOSITION	approved
PROCEDURAL POSTURE	Automatic review of a Southern Nevada Disciplinary Board hearing panel's recommendation to approve a conditional guilty plea agreement and specified attorney discipline.
STANDARD OF REVIEW	Automatic review of the agreed-upon attorney discipline under SCR 113; the court independently determined whether the discipline sufficiently protected the public, the courts, and the legal profession.
PRECEDENTIAL VALUE	Published Nevada Supreme Court opinion; precedential value not otherwise specified in the source text.

TOPICS

appellate procedure

remedies

PRACTICE AREAS

legal ethics

attorney discipline

professional responsibility

QUESTIONS PRESENTED

1. Whether the conditional guilty plea agreement and agreed-upon discipline sufficiently protect the public, the courts, and the legal profession.
2. What discipline is appropriate for Gardner's admitted violations of RPC 1.15.

HOLDINGS

1. The agreed-upon discipline is appropriate and sufficiently protects the public, the courts, and the legal profession.
2. Gardner is suspended for 24 months, with all but the first three months stayed, commencing on the date of the order, and is placed on probation for two years subject to payment, reporting, continuing-legal-education, and cost-payment conditions.

KEY QUOTATIONS

"In determining the appropriate discipline, we weigh four factors: "the duty violated, the lawyer's mental state, the potential or actual injury caused by the lawyer's misconduct, and the existence of aggravating and mitigating factors.""

FACTUAL BACKGROUND

Gardner admitted that he violated RPC 1.15 by allowing his trust account to be out of balance on three occasions, depositing personal funds into the account, and making personal payments from it. One client may have suffered actual harm, and Gardner's personal use of the trust account exposed other clients to potential injury; the record also supported four aggravating and seven mitigating circumstances.

PROCEDURAL HISTORY

Attorney Douglas J. Gardner entered a conditional guilty plea agreement admitting violations of RPC 1.15 and agreeing to a 24-month suspension, with all but the first three months stayed for two years subject to conditions. A Southern Nevada Disciplinary Board hearing panel recommended approval, and the Nevada Supreme Court conducted automatic review under SCR 113.

DISPOSITION

approved

CASES CITED

- State Bar of Nev. v. Claiborne, 104 Nev. 115, 213, 756 P.2d 464, 527-28 (1988)
- In re Discipline of Lerner, 124 Nev. 1232, 1246, 197 P.3d 1067, 1077 (2008)