

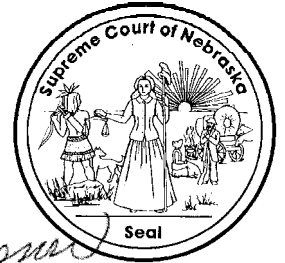
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Page Document
1 Memo Opinion

Date
05/10/2018

I, Wendy A. Wussow, Clerk of the Nebraska Supreme Court, certify that I have compared the following 4 page(s) to be a full, true, and correct copy of the original record on file.

Supreme Court No: S-17-0971
Caption: State ex rel Counsel for Discipline v. Leary
Trial Court: Original Action



IN TESTIMONY WHEREOF, I have placed my signature and seal of said court

Date: May 10, 2018

BY THE COURT:

Wendy A. Wussow

CLERK

FILED

MAY 10 2018

NEBRASKA SUPREME COURT
COURT APPEALS

IN THE SUPREME COURT OF NEBRASKA

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State of Nebraska ex rel.)
Counsel for Discipline)
of the Nebraska Supreme Court,)
Relator,)
v.)
Erin Leary,)
Respondent.)

No. S-17-971.

MEMORANDUM OPINION
AND
JUDGMENT ON APPEAL

HEAVICAN, C.J., MILLER-LERMAN, CASSEL, STACY, FUNKE and PAPIK, JJ.,
and SCHREINER, District Judge.

PER CURIAM.

INTRODUCTION

The Arizona Supreme Court entered a private reprimand of
respondent, Erin Leary, on June 15, 2017. The Counsel for
Discipline of the Nebraska Supreme Court, relator, filed a motion
for reciprocal discipline against respondent. We grant the motion
for reciprocal discipline.

FACTS

Erin Leary was admitted to the practice of law in the State
of Nebraska on July 12, 1984. She has been admitted to the practice
of law in Arizona since 2000.

On June 15, 2017, the Arizona Supreme Court, through the
office of the Presiding Disciplinary Judge, entered a Final
Judgment and Order of Admonition ("Admonition"). The Admonition



1 was entered on consent of the parties and was based on facts not
2 repeated here.

3 On September 12, 2017, relator filed a motion for reciprocal
4 discipline pursuant to Neb. Ct. R. § 3-321 of the disciplinary
5 rules. On October 17, we filed an order to show cause as to why we
6 should not impose reciprocal discipline. On December 1, respondent
7 responded to the order to show cause, arguing that the proper
8 "identical" reciprocal discipline is a private reprimand by the
9 Committee on Inquiry or Disciplinary Review Board. See Neb. Ct. R.
10 § 3-304. On November 1, relator filed a response to the order to
11 show cause, in which relator requested that we impose a public
12 reprimand.

13 ANALYSIS

14 The basic issues in a disciplinary proceeding against an
15 attorney are whether discipline should be imposed and, if so, the
16 type of discipline appropriate under the circumstances. *State ex*
17 *rel. Counsel for Dis. v. Murphy*, 283 Neb. 982, 814 N.W.2d 107
18 (2012). In a reciprocal discipline proceeding, a judicial
19 determination of attorney misconduct in one jurisdiction is
20 generally conclusive proof of guilt and is not subject to
21 relitigation in the second jurisdiction. *Id.* Neb. Ct. R. § 3-304
22 of the disciplinary rules provides that the following may be
23 considered as discipline by the Nebraska Supreme Court for attorney
24 misconduct:

1 (A) Misconduct shall be grounds for:

2 (1) Disbarment by the Court; or

3 (2) Suspension by the Court; or

4 (3) Probation by the Court in lieu of or subsequent to
5 suspension, on such terms as the Court may designate; or

6 (4) Censure and reprimand by the Court; or

7 (5) Temporary suspension by the Court; or

8 (6) Private reprimand by the Committee on Inquiry or
9 Disciplinary Review Board.

10 (B) The Court may, in its discretion, impose one or more of
11 the disciplinary sanctions set forth above.

12
13 Section 3-321 of the disciplinary rules provides in part:

14 (A) Upon being disciplined in another jurisdiction, a member
15 shall promptly inform the Counsel for Discipline of the
16 discipline imposed. Upon receipt by the Court of appropriate
17 notice that a member has been disciplined in another
18 jurisdiction, the Court may enter an order imposing the
19 identical discipline, or greater or lesser discipline as the
20 Court deems appropriate, or, in its discretion, suspend the
21 member pending the imposition of final discipline in such
22 other jurisdiction.

23
24 In imposing attorney discipline, we evaluate each case in light of
25 its particular facts and circumstances. *State ex rel. Counsel for*
26 *Dis. v. Murphy, supra.*

