

BEFORE THE PRESIDING DISCIPLINARY JUDGE

**IN THE MATTER OF A MEMBER
OF THE STATE BAR OF ARIZONA,**

**CARRIE SHEW. CANIZALES,
Bar No. 030129**

Respondent.

PDJ 2019-9042

**FINAL JUDGMENT AND
ORDER**

[State Bar No. 18-2220]

FILED JULY 25, 2019

The agreement for discipline by consent filed by the parties on July 8, 2019, pursuant to Rule 57(a), Ariz. R. Sup. Ct., was accepted.

Accordingly:

IT IS ORDERED, Carrie Shew Canizales, Bar No. 030129 is reprimanded for her conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents effective the date of this order.

IT IS FURTHER ORDERED Respondent, **Carrie Shew Canizales,** is placed on probation for two (2) years.

IT IS FURTHER ORDERED Respondent, **Carrie Shew Canizales,** shall participate in LRO Member Assistance Program (LRO MAP) as a term of probation, and shall contact the State Bar Compliance Monitor at (602) 340-7258, within ten (10) days from service of this order, to schedule an assessment. The Compliance

Monitor shall develop terms and conditions of participation. Her terms of probation Respondent shall include her timely participation and adherence to the terms of participation in LRO MAP. As terms of participation she shall ingest no alcoholic substances, shall participate in random alcohol and drug testing, be a law-abiding citizen, and that she maintains a certified ignition interlock device in any vehicle she operates. The terms of participation, including reporting requirements, are incorporated by reference. Respondent shall be responsible for any costs associated with participation with compliance.

IT IS FURTHER ORDERED Respondent shall commit no further violations of the law or Rules of Professional Conduct

IT IS FURTHER ORDERED Respondent shall pay the costs and expenses of the State Bar of Arizona for \$1,200.00, within thirty (30) days from this order. There are no costs associated with the Office of the Presiding Disciplinary Judge in these proceedings.

DATED this 25th day of July 2019.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Copy of the foregoing mailed/emailed
this 25th day of July, 2019, to:

Rebecca Nicole Kennelly
Staff Bar Counsel
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

J. Scott Rhodes
Jennings Strouss & Salmon, PLC
One East Washington Street, Suite 1900
Phoenix, Arizona 85004-2554
Email: srhodes@jsslaw.com
Respondent's Counsel

by: MSmith

BEFORE THE PRESIDING DISCIPLINARY JUDGE

**IN THE MATTER OF A MEMBER OF
THE STATE BAR OF ARIZONA,**

**CARRIE SHEW CANIZALES,
Bar No. 030129**

Respondent.

PDJ 2019-9042

**DECISION ACCEPTING
DISCIPLINE BY CONSENT**

[State Bar Nos. 18-2220]

FILED JULY 25, 2019

Under Rule 57(a), Ariz. R. Sup. Ct.,¹ an Agreement for Discipline by Consent (“Agreement”), was filed on July 8, 2019. This matter was not submitted to the Attorney Discipline Probable Cause Committee and no formal complaint has been filed. Carrie Shew Canizales is represented by J. Scott Rhodes, *Jennings, Strouss & Salmon, PLC*. The State Bar of Arizona is represented by Staff Bar Counsel Rebecca Nicole Kennelly.

Rule 57 requires admissions be tendered solely “...in exchange for the stated form of discipline....” Under that rule, the right to an adjudicatory hearing is waived only if the “...conditional admission and proposed form of discipline is approved....” If the agreement is not accepted, those conditional admissions are automatically withdrawn and shall not be used against the parties in any subsequent proceeding. Ms.

¹ Unless otherwise stated all Rule references are to the Ariz. R. S. Ct.

Canizales has voluntarily waived the right to an adjudicatory hearing, and waived all motions, defenses, objections or requests that could be asserted upon approval of the proposed form of discipline. Notice of the Agreement and an opportunity to object within five (5) days pursuant to Rule 53(b)(3), was not required as the State Bar of Arizona is the complainant in this proceeding.

The Agreement details a factual basis to support the conditional admissions. It is incorporated by this reference. Ms. Canizales admits a Rule 42, violation of ER 8.4(b) (criminal act). The parties stipulate to reprimand with two years of probation, the terms of which shall be by participation in the Arizona State Bar Member Assistance Program (MAP), and payment of costs of \$1,200.00 within 30 days.

For purposes of the agreement, the parties stipulate Ms. Canizales knowingly became intoxicated and operated a motor vehicle on a public roadway. Her knowing misconduct violated her duty to the public and caused potential harm to the public. The presumptive sanction is suspension.

The parties agree aggravating factors 9.22(c) pattern of misconduct² and 9.22(k) illegal conduct are present. The parties further agree the mitigating factors 9.32(a)

² Respondent acknowledges that she was conditionally admitted to the practice of law with a therapeutic contract due to her seven prior convictions for DUI, two of which were separate felonies. Her contract was terminated successfully in April 2016. She received three separate speeding citation in the three months that followed, and her license was suspended. During that suspension she was convicted of driving without a license. The following month she was convicted of speeding and again in July 2016 and again in March 2017 resulting in the suspension of her license. Her license had been reinstated prior to her March 2018 conviction

absence of prior disciplinary record, 9.32(c) personal or emotional problems,³ 9.32(e) full and free disclosure and cooperative attitude towards proceedings, 9.32 (i) mental or chemical dependency,⁴ and 9.32(k) imposition of other penalties or sanctions warrant a reduction in the presumptive sanction of suspension to reprimand.

A motion to seal portions of the agreement relating to these personal or emotional problems and her treatment of them was filed. **The motion is granted.**

That Respondent successfully completed her period of conditional admission without admission demonstrates that she has the capability to obey the law. That she followed that competition with multiple speeding tickets immediately following her accomplishment calls into question her regard for the law. That she refused to be tested after her DUI draws even darker inferences of substance abuse. Notwithstanding, that she cooperated throughout the process and has implemented thoughtful steps to address her issues are important mitigating factors.

Her terms of probation Respondent shall include her timely participation and adherence to the terms of participation in LRO MAP. As terms of participation she shall ingest no alcoholic substances, shall participate in random alcohol and drug

for DUI. She refused to consent to a chemical test resulting in her license again being suspended. In June 2018 she was involved in a two-vehicle collision by making an improper left turn and striking another vehicle. She was driving on a suspended license at that time.

³ Evidence in support of this factor was filed under seal.

⁴ The four-pronged criteria for application of this factor has not been met and therefore will be considered under 9.32(c) personal or emotional problems.

testing, be a law-abiding citizen, and that she maintains a certified ignition interlock device in any vehicle she operates.

IT IS ORDERED accepting the Agreement and incorporating it with any supporting documents by this reference and granting the motion to seal portions of that agreement. A final judgment and order is signed this date.

DATED this 25th day of July 2019.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

COPY of the foregoing e-mailed/mailed
on this 25th day of July 2019, to:

Rebecca N. Kennelly
Bar Counsel
State Bar of Arizona
4201 N 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

J. Scott Rhodes, Esq.
Jennings, Strouss & Salmon, PLC
One East Washington Street, Suite 1900
Phoenix, AZ 85004-2554
Attorneys for Applicant
Email: srhodes@jsslw.com
Respondent's Counsel

by: MSmith

Rebecca Nicole Kennelly, Bar No. 025597
Staff Bar Counsel
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Telephone (602)340-7247
Email: LRO@staff.azbar.org

J. Scott Rhodes, Bar No. 016721
Jennings Strouss & Salmon PLC
One E. Washington Street, Suite 1900
Phoenix, AZ 85004-2554
Telephone 602-262-5862
Email: srhodes@jsslaw.com
Respondent's Counsel

BEFORE THE PRESIDING DISCIPLINARY JUDGE

**IN THE MATTER OF A MEMBER
OF THE STATE BAR OF ARIZONA,**

**CARRIE SHEW CANIZALES
Bar No. 030129**

Respondent.

PDJ 2019- 9042

State Bar File No. 18-2220

**AGREEMENT FOR DISCIPLINE
BY CONSENT [PARTIALLY
SUBJECT TO MOTION TO
SEAL]**

The State Bar of Arizona, through undersigned Bar Counsel, and Respondent, Carrie Shew Canizales, who is represented in this matter by counsel, J. Scott Rhodes, hereby submit their Agreement for Discipline by Consent, pursuant to Rule 57(a), Ariz. R. Sup. Ct. A probable cause order has not yet been

entered in this matter. Respondent voluntarily waives the right to an adjudicatory hearing, unless otherwise ordered, and waives all motions, defenses, objections or requests which have been made or raised, or could be asserted thereafter, if the conditional admission and proposed form of discipline is approved.

The State Bar is the complainant in this matter, therefore no notice of this agreement is required pursuant to Rule 53(b)(3), Ariz. R. Sup. Ct.

Respondent conditionally admits that her conduct, as set forth below, violated Rule 42, Ariz. R. Sup. Ct., ER 8.4(b). Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline: Reprimand with two years of probation, the term of which shall be participation in the Arizona State Bar Member Assistance Program (MAP). Respondent also agrees to pay the costs and expenses of the disciplinary proceeding, within 30 days from the date of this order, and if costs are not paid within the 30 days, interest will begin to accrue at the legal rate.¹ The State Bar's Statement of Costs and Expenses is attached hereto as Exhibit A.

¹ Respondent understands that the costs and expenses of the disciplinary proceeding include the costs and expenses of the State Bar of Arizona, the Disciplinary Clerk, the Probable Cause Committee, the Presiding Disciplinary Judge and the Supreme Court of Arizona.

FACTS

GENERAL ALLEGATIONS

1. Respondent was licensed to practice law in Arizona on April 1, 2013.

COUNT ONE (File no. 18-2220/SBA)

2. On Thursday, March 15, 2018, at approximately 2 p.m., a Yavapai County Sheriff's Deputy parked on the side of Highway 69 was informed by a passing motorist that a vehicle was swerving in the roadway. The deputy caught up to the vehicle and noted that it was traveling 55 miles per hour in a posted 65 miles per hour zone. When the deputy initiated a traffic stop, the driver, later identified as Respondent, did not immediately pull over but exited Highway 69 and continued to a gas station before stopping.

3. The deputy observed open containers of alcohol in Respondent's vehicle, and Respondent exhibited signs and symptoms of intoxication. Respondent was arrested for Driving Under the Influence (DUI), and her breath alcohol concentration was determined to be 0.157 at 4:15 p.m. and 0.154 at 4:22 p.m.

4. On May 23, 2018, Respondent pled guilty in Mayer Justice Court to a misdemeanor violation of A.R.S. § 28-1381(A)(1), Driving or Actual Physical

Control While Under the Influence/Impaired to the Slightest Degree. Respondent was sentenced on the same day to eleven (11) months of unsupervised probation with orders to enroll in an approved alcohol treatment program, pay a total fine of \$1,663.00, and serve ten (10) days in the Yavapai County Jail, though the Court suspended nine (9) days and gave Respondent credit for previously serving one (1) day.

5. Prior to her admission to practice, Respondent had seven prior DUI convictions, listed below with the date of violation and available description of the offense classification:

- i. February 9, 1998—DUI .10 or more, Class 1 Misdemeanor
- ii. May 21, 1998—DUI, Class 1 Misdemeanor
- iii. June 23, 1998—DUI .24, Class 1 Misdemeanor
- iv. October 7, 1998—Endangerment, Class 6 Felony, and DUI, Class 1 Misdemeanor
- v. April 6, 2001—Aggravated DUI, Class 4 Felony
- vi. May 25, 2009—DUI, Class 1 Misdemeanor
- vii. May 27, 2009—DUI .20 or more, Class 1 Misdemeanor

6. Respondent graduated from the Phoenix School of Law in December 2010, passed the Bar Exam in February 2011, and following a formal hearing was granted conditional admission with a therapeutic contract in April 2013. The contract was terminated successfully in April 2016.

7. Respondent received three speeding citations in May and July 2016, resulting in the suspension of her driving privileges between December 5, 2016, and March 6, 2017. While suspended, Respondent was cited for a driving infraction on February 6, 2017, and pled guilty to Driving without a License on March 23, 2017. Respondent had reinstated her driving privileges prior to the March 15, 2018, DUI, but her refusal to consent to chemical tests resulted in the imposition of an implied consent suspension for twelve months, effective March 30, 2018.

8. On June 18, 2018, at approximately 5:35 p.m., Respondent was involved in a two-vehicle collision in the intersection of 16th Street and Roeser Road in Phoenix, Arizona. The City of Phoenix Crash Report noted that Respondent made an improper left turn and struck another vehicle. Respondent and a passenger in the other vehicle were transported to a nearby hospital to be treated for minor injuries. The responding officer checked the box for “no

apparent influence” for both Respondent and the other involved driver. Though Respondent’s driver’s license was suspended at the time of this incident, Respondent was not issued any citations or charges.

9. Respondent reinstated her driving privileges on April 1, 2019, and is required to maintain a certified ignition interlock device in any vehicle that she operates until April 1, 2020.

CONDITIONAL ADMISSIONS

Respondent’s admissions are being tendered in exchange for the form of discipline stated below and are submitted freely and voluntarily and not as a result of coercion or intimidation.

Respondent conditionally admits that her conduct violated Rule 42, Ariz. R. Sup. Ct., ER 8.4(b).

RESTITUTION

Restitution is not an issue in this matter.

SANCTION

Respondent and the State Bar of Arizona agree that based on the facts and circumstances of this matter, as set forth above, the following sanctions are

appropriate: Reprimand with two years of probation, the term of which shall be participation in the State Bar of Arizona Member Assistance Program.

If Respondent violates any of the terms of this agreement, further discipline proceedings may be brought.

NON-COMPLIANCE LANGUAGE

In the event that Respondent fails to comply with any of the foregoing probation terms, and information thereof, is received by the State Bar of Arizona, Bar Counsel shall file a notice of noncompliance with the Presiding Disciplinary Judge, pursuant to Rule 60(a)(5), Ariz. R. Sup. Ct. The Presiding Disciplinary Judge may conduct a hearing within thirty (30) days to determine whether a term of probation has been breached and, if so, to recommend an appropriate sanction. If there is an allegation that Respondent failed to comply with any of the foregoing terms, the burden of proof shall be on the State Bar of Arizona to prove noncompliance by a preponderance of the evidence.

LEGAL GROUNDS IN SUPPORT OF SANCTION

In determining an appropriate sanction, the parties consulted the American Bar Association's *Standards for Imposing Lawyer Sanctions (Standards)* pursuant to Rule 57(a)(2)(E). The *Standards* are designed to promote consistency in the

imposition of sanctions by identifying relevant factors that courts should consider and then applying those factors to situations where lawyers have engaged in various types of misconduct. *Standards* 1.3, Commentary. The *Standards* provide guidance with respect to an appropriate sanction in this matter. *In re Peasley*, 208 Ariz. 27, 33, 35, 90 P.3d 764, 770 (2004); *In re Rivkind*, 162 Ariz. 154, 157, 791 P.2d 1037, 1040 (1990).

In determining an appropriate sanction, consideration is given to the duty violated, the lawyer's mental state, the actual or potential injury caused by the misconduct and the existence of aggravating and mitigating factors. *Peasley*, 208 Ariz. at 35, 90 P.3d at 772; *Standard* 3.0.

The parties agree that *Standard* 5.12 is the appropriate *Standard* given the facts and circumstances of this matter. *Standard* 5.12 provides: "Suspension is generally appropriate when a lawyer engages in criminal conduct which does not contain the elements listed in *Standard* 5.11 and that seriously adversely reflects on the lawyer's fitness to practice."

The duty violated

As described above, Respondent's conduct violated her duty to the public.

The lawyer's mental state

For purposes of this Agreement the parties agree that Respondent knowingly became intoxicated and operated a motor vehicle on a public roadway and that her conduct was in violation of the Rules of Professional Conduct.

The extent of the actual or potential injury

For purposes of this Agreement, the parties agree that there was potential harm to the public.

Aggravating and mitigating circumstances

The presumptive sanction in this matter is suspension. The parties conditionally agree that the following aggravating and mitigating factors should be considered.

In aggravation:

Standard 9.22(c) – A pattern of misconduct: Respondent was convicted of seven prior misdemeanor DUIs; and,

Standard 9.22(k) – Illegal conduct.

In mitigation:

Standard 9.32(a) – Absence of a prior disciplinary record;

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Standard 9.32(e) – Full and free disclosure and cooperative attitude toward proceedings;

[REDACTED]

9.32(5) – Imposition of other penalties and sanctions: Respondent was sentenced to deferred jail time and probation, and she lost her driving privileges for one year and is currently restricted to driving vehicles equipped with a certified ignition interlock device. While not a sanction, Respondent was conditionally

admitted to practice law following a formal hearing in which all of her prior criminal events were examined, as well as her proof of sustained sobriety. Respondent successfully completed her period of conditional admission without incident.

Discussion

The parties have conditionally agreed that, upon application of the aggravating and mitigating factors to the facts of this case, a mitigated sanction is appropriate.

The parties have conditionally agreed that a greater or lesser sanction would not be appropriate under the facts and circumstances of this matter. This Agreement was based on the following: Respondent's conduct seriously adversely reflects on her fitness to practice law, but her conduct is susceptible to remediation through continued alcohol and mental health treatment. A reprimand with probation will assist Respondent by allowing her to enroll in MAP and will help protect the public by reminding Respondent of the dangerous consequences of alcohol abuse.

Based on the *Standards* and in light of the facts and circumstances of this matter, the parties conditionally agree that the sanction set forth above is within the range of appropriate sanction and will serve the purposes of lawyer discipline.

CONCLUSION

The object of lawyer discipline is not to punish the lawyer, but to protect the public, the profession and the administration of justice. *Peasley, supra* at ¶ 64, 90 P.3d at 778. Recognizing that determination of the appropriate sanction is the prerogative of the Presiding Disciplinary Judge, the State Bar and Respondent believe that the objectives of discipline will be met by the imposition of the proposed sanction of Reprimand with Probation and the imposition of costs and expenses. A proposed form of order is attached hereto as Exhibit B.

DATED this 1st day of July, 2019.

STATE BAR OF ARIZONA


Rebecca Nicole Kennelly
Staff Bar Counsel

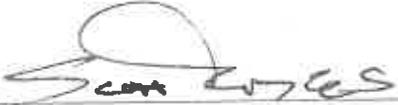
This agreement, with conditional admissions, is submitted freely and voluntarily and not under coercion or intimidation.

DATED this _____ day of July, 2019.

Carrie Shew Canizales
Respondent

DATED this 3rd day of July, 2019.

Jennings Strouss & Salmon PLC



J. Scott Rhodes
Counsel for Respondent

Approved as to form and content



Maret Vessella
Chief Bar Counsel

Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this ___ day of July, 2019.

This agreement, with conditional admissions, is submitted freely and voluntarily and not under coercion or intimidation.

DATED this 8 day of July, 2019.



Carrie Shew Canizales
Respondent

DATED this _____ day of July, 2019.

Jennings Strouss & Salmon PLC

J. Scott Rhodes
Counsel for Respondent

Approved as to form and content



Maret Vessella
Chief Bar Counsel

Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this ___ day of July, 2019.

Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this ___ day of July, 2019.

Copy of the foregoing emailed
this ____ day of July, 2019, to:

The Honorable William J. O'Neil
Presiding Disciplinary Judge
Supreme Court of Arizona
1501 West Washington Street, Suite 102
Phoenix, Arizona 85007
E-mail: officepdj@courts.az.gov

Copy of the foregoing mailed/emailed
this _____ day of July, 2019, to:

J. Scott Rhodes
Jennings Strouss & Salmon PLC
One E. Washington Street, Suite 1900
Phoenix, AZ 85004-2554
Email: srhodes@jsslaw.com
Respondent's Counsel

Copy of the foregoing hand-delivered
this ____ day of July, 2019, to:

Lawyer Regulation Records Manager
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266

by: _____
RNK/sab