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Supreme Court
SCRU-11-0000068
11-MAR-2020
01:37 PM

SCRU-11-0000068

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

In the Matter of the
RULES OF THE SUPREME COURT OF THE STATE OF HAWAI'I

ORDER AMENDING RULE 2.13 OF THE
RULES OF THE SUPREME COURT OF THE STATE OF HAWAI'I
(By: Recktenwald, C.J., Nakayama, McKenna, Pollack, and Wilson, JJ.)

IT IS HEREBY ORDERED that Rule 2.13 of the Rules of the Supreme Court of the State of Hawai'i is amended, effective July 1, 2020, as follows (deleted material is bracketed and stricken, new material is underscored):

Rule 2. DISCIPLINARY RULES.

2.13. Attorneys convicted of crimes.

(a) Upon learning an attorney has been found guilty of a crime that:

- (1) is a felony;
- (2) would have been a felony if committed in Hawai'i, or
- (3) involves dishonesty or false statement,

Counsel shall obtain proof of the finding of guilt and file it with the Board and with the clerk of the supreme court. For purposes of this [r]Rule, a finding of guilt is a verdict or judgment of guilty, a guilty plea, or a no contest plea. Deferred acceptance of a plea, a sentence suspension, or a conditional discharge does not change the definition of guilt for purposes of this [r]Rule.

(b) When proof of a finding of guilt is filed with the supreme court, the court may issue an order providing the attorney the opportunity to respond within 20 days of the service of the order upon the attorney, informing the

supreme court as to why the attorney should not be immediately suspended.
Manner of service shall be at the discretion of the supreme court. However, the
supreme court [shall]may[; unless the interests of justice indicate otherwise;]
enter an order immediately restraining the attorney from the practice of law,
pending final disposition of a disciplinary proceeding based on the finding of
guilt.

(c) The supreme court may set aside such order restraining the attorney from the practice of law in the interest of justice and for good cause shown. An order restraining an attorney from the practice of law shall not constitute a suspension of the attorney for the purposes of Rule 2.16 unless the supreme court so orders.

(d) When proof of a finding of guilt is filed with the supreme court, the supreme court shall refer the matter to the Board for institution of a formal proceeding in which the sole issue to be determined shall be the discipline to be imposed. Such a disciplinary proceeding shall not be brought to hearing until the conviction is final, unless the respondent requests that the proceeding continue. For purposes of this [r]Rule, a conviction is deemed final when:

(1) the availability of appeal has been exhausted and the time for filing a petition for certiorari in the United States Supreme Court on direct review of the judgment of conviction has elapsed and no petition has been filed or the petition has been denied; or

(2) the judgment of conviction has been affirmed.

(e) The final conviction of an attorney for any crime shall be conclusive evidence of the commission of that crime in any disciplinary proceeding instituted against the attorney based upon the conviction.

(f) If [~~a lawyer~~]an attorney suspended solely under the provisions of paragraph (b) demonstrates to the supreme court that the underlying finding of guilt has been reversed or vacated, the order for interim suspension shall be vacated and, upon payment of all required registration fees, the [~~lawyer~~]attorney may be placed on active status. Vacation of the interim suspension will not automatically prohibit or terminate any formal proceeding against the [~~lawyer~~]attorney and disposition of any formal proceeding against the [~~lawyer~~]attorney must be on the basis of the available evidence other than the finding of guilt.

DATED: Honolulu, Hawai'i, March 11, 2020.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Sabrina S. McKenna

/s/ Richard W. Pollack

/s/ Michael D. Wilson

