

Alabama Standards for Imposing Lawyer Discipline

Section II. Standards for Imposing Lawyer Discipline.

C. Factors to Be Considered in Imposing Discipline.

STANDARD 9.0. AGGRAVATION AND MITIGATION.

Standard 9.1. Generally.

After misconduct has been established, aggravating and mitigating circumstances may be considered in deciding what discipline to impose.

Standard 9.2. Aggravation.

9.21. Definition. Aggravation or aggravating circumstances are considerations or factors that may justify an increase in the degree of discipline to be imposed.

9.22. Factors that may be considered in aggravation. Aggravating factors include:

- (a) prior disciplinary offenses;
- (b) dishonest or selfish motive;
- (c) a pattern of misconduct;
- (d) multiple offenses;
- (e) bad faith obstruction of the disciplinary proceedings by intentionally failing to comply with rules or orders of the disciplinary agency;
- (f) submission of false evidence, false statements, or other deceptive practices during the disciplinary process;
- (g) refusal to acknowledge wrongful nature of conduct;
- (h) vulnerability of victim;
- (i) substantial experience in the practice of law;
- (j) indifference to making restitution.

Standard 9.3. Mitigation.

9.31. Definition. Mitigation or mitigating circumstances are any considerations or factors that may justify a reduction in the degree of discipline to be imposed.

9.32. Factors that may be considered in mitigation. Mitigating factors include:

- (a) absence of a prior disciplinary record;
- (b) absence of a dishonest or selfish motive;
- (c) personal or emotional problems;
- (d) timely good faith effort to make restitution or to rectify consequences of misconduct;
- (e) full and free disclosure to disciplinary board or cooperative attitude toward proceedings;
- (f) inexperience in the practice of law;
- (g) character or reputation;
- (h) physical or mental disability or impairment;
- (i) delay in disciplinary proceedings;
- (j) interim rehabilitation;
- (k) imposition of other penalties or discipline;
- (l) remorse;
- (m) remoteness of prior offenses.

Standard 9.4. Factors That Are Neither Aggravating Nor Mitigating.

The following factors should not be considered as either aggravating or mitigating:

- (a) forced or compelled restitution;
- (b) agreeing to the client's demand for certain improper behavior or result;
- (c) withdrawal of complaint against the lawyer;

- (d) surrender of license prior to completion of disciplinary proceedings;
- (e) complainant's recommendation as to discipline;
- (f) failure of injured client to complain.