



# PUBLIC MATTER

## FILED

MAY 02 2005

STATE BAR COURT  
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LOS ANGELES

### STATE BAR COURT OF CALIFORNIA HEARING DEPARTMENT - LOS ANGELES

In the Matter of

**CHRISTIAN MICHAEL DILLON,**  
No. 89376,

A Member of the State Bar.

Case No. 03-C-02050 RAH

**AMENDED DECISION**

#### INTRODUCTION

This disciplinary proceeding arises out of the criminal conviction of Respondent Christian Michael Dillon on May 14, 2003, of violations of Vehicle Code sections 23152, subdivision (a) [driving under the influence of alcohol or drugs] and 23152, subdivision (b) [driving with blood alcohol level in excess of 0.08%].

After Respondent reached a stipulation as to facts and conclusions of law with the Office of the Chief Trial Counsel of the State Bar of California ("State Bar"), which incorporated his criminal conviction, this Court approved the stipulation and accepted Respondent as a participant in the State Bar Court's Program for Respondents with Substance Abuse or Mental Health Issues (hereinafter referred to as "Alternative Discipline Program"). (Rules 800-807, Rules Proc. of State Bar.)

As set forth in greater detail below, Respondent withdrew from the Lawyer Assistance Program ("LAP") in September 2004, and has acknowledged that such withdrawal constitutes a violation of the Contract and Waiver for Participation in the State Bar Court's Pilot Program for

1 Respondent's with Substance Abuse or Mental Health Issues, which he signed on July 9, 2004. As  
2 a result, Respondent is hereby terminated from the Alternative Discipline Program.

3 In light of Respondent's misconduct in this proceeding, the Court hereby publicly reprovess  
4 Respondent and orders him to comply, for a period of three years, with the conditions set forth in the  
5 Discipline section of this Decision.

6 **SIGNIFICANT PROCEDURAL HISTORY**

7 By minute order filed June 19, 2003, the State Bar Court Review Department referred State  
8 Bar Court Case No. 03-C-02050 to the Hearing Department, pursuant to rule 951(a) of the California  
9 Rules of Court, for a hearing and decision regarding whether the facts and circumstances surrounding  
10 Respondent's misdemeanor violation of Vehicle Code sections 23152, subdivision (a) and 23152,  
11 subdivision (b), involved moral turpitude or other misconduct warranting discipline.

12 On July 8, 2003, this Court filed a Notice of Hearing on Conviction and caused it to be  
13 properly served upon Respondent. Respondent filed his Response to the Notice of Hearing on  
14 Conviction on July 29, 2003.

15 Thereafter, by minute order filed August 13, 2003, the Review Department augmented its  
16 previous referral order to the Hearing Department to include a hearing and decision recommending  
17 the discipline to be imposed in the event the Hearing Department finds that the facts and  
18 circumstances surrounding the offense of which Respondent was convicted involved moral turpitude  
19 or other misconduct warranting discipline.

20 On August 17, 2004, this Court approved a Stipulation Re Facts and Conclusions of Law  
21 ("Stipulation") that had been signed by the parties on October 3, 2003, and October 6, 2003. The  
22 Court's order approved the Stipulation *nunc pro tunc* to July 9, 2004. (Rule 802(a), Rules Proc. of  
23 State Bar.) The Stipulation included Respondent's admission that his conviction for violation of  
24 Vehicle Code sections 23152, subdivisions (a) and (b) involved other misconduct warranting  
25 discipline.

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1 stipulated to by the parties<sup>1</sup>. No opposition to that motion was filed by Respondent. As such, the  
2 Court grants DTC Shafer's motion and files this Amended Decision to reflect the terms of that  
3 stipulation.

#### 4 FACTS AND CONCLUSIONS OF LAW

##### 5 **A. Jurisdiction**

6 Respondent was admitted to the practice of law in California on November 29, 1979, and has  
7 been a member of the State Bar of California at all times relevant to this proceeding.

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##### 9 **B. Facts and Circumstances Surrounding Respondent's Conviction**

10 In the early morning hours of January 11, 2003, Orange County Deputy Sheriffs observed  
11 Respondent's car weaving between lanes and nearly collide with several other cars. The deputies  
12 stopped Respondent and noticed signs of intoxication, including slurred speech, watery and  
13 bloodshot eyes and the smell of alcohol. Respondent admitted to the deputies that he had been  
14 drinking at a local bar. Respondent complied with the deputies' request to perform field sobriety  
15 tests, but he had difficulty performing the tests. The deputies concluded that Respondent was under  
16 the influence of alcohol and placed him under arrest. The deputies reported that Respondent passed  
17 out while he was being transported to Orange County jail.

18 Upon his arrival at the jail, Respondent was asked to submit to a chemical test of either his  
19 breath or blood. Respondent agreed to a blood test. The results of that test indicated a blood alcohol  
20 level of .20%, two and one-half times the legal limit.

21 Respondent was subsequently charged in Orange County Superior Court with violations of  
22 Vehicle Code sections 23152, subdivision (a) [driving under the influence] and 23152, subdivision  
23 (b) [driving with blood alcohol level of 0.08% or more]. The complaint also included an  
24 enhancement as a result of the high blood alcohol level. (See Veh. Code, § 2600.)

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26 <sup>1</sup>See Parties' Stipulation to Probation Condition Number Four Re: Treatment Conditions,  
27 filed January 28, 2005.

1 On May 14, 2003, Respondent pled guilty to violations of Vehicle Code sections 23152,  
2 subdivisions (a) and (b), with a prior offense.<sup>2</sup> He was sentenced on the same date, receiving 45 days  
3 in jail, a monetary fine and five years' probation. The conditions of Respondent's criminal probation  
4 included his attendance at three meetings of Alcoholics Anonymous per week, completion of an 18-  
5 month Multiple Offender Alcohol Program, a restricted driver's license for 18 months and the  
6 installation of an ignition interlock device.

7 Respondent did not appeal his conviction and self-reported the conviction to the State Bar  
8 on May 23, 2003.

9 The parties have stipulated that the facts and circumstances surrounding Respondent's  
10 convictions for violations of Vehicle Code section 23152, subdivisions (a) and (b) did not involve  
11 moral turpitude but did involve other misconduct warranting discipline. They further stipulate that  
12 Respondent's conduct constitutes a wilful violation of Business and Professions Code section 6068,  
13 subdivision (a). Finally, the parties stipulate that Respondent's violation of the conditions of his  
14 criminal probation imposed as a result of his August 2000 DUI conviction constitutes a wilful  
15 violation of Business and Professions Code section 6103.

16 The Court agrees with the conclusions of law that Respondent's conduct involves other  
17 misconduct warranting discipline and, additionally, constitutes the wilful violation of Business and  
18 Professions Code sections 6068, subdivision (a) and 6103.

### 19 AGGRAVATION AND MITIGATION

#### 20 A. Aggravating Circumstances

21 Respondent has a record of prior discipline in one matter. (Standard 1.2(b)(i), Standards for  
22 Attorney Sanctions for Professional Misconduct ("Standards").) By order filed January 14, 1987,  
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24 <sup>2</sup> Respondent was previously convicted in Orange County Superior Court on August 16, 2000,  
25 of driving under the influence. Respondent was still on probation for this offense at the time of his  
26 January 11, 2003 arrest in the current matter. Respondent admits that his use of alcohol on January 11,  
27 2003 violated the conditions of his probation in the August 2000 offense. In a declaration lodged with  
the State Bar Court on November 12, 2003, Respondent stated that he had an additional DUI conviction  
in early 1979.

1 in Bar Misc. 5061, the Supreme Court suspended Respondent from the practice of law for a period  
2 of one year, stayed execution of the order of suspension and placed him on probation for a period  
3 of one year on conditions which did not include any period of actual suspension. The discipline  
4 ordered by the Supreme Court was based upon Respondent's conviction on October 23, 1985, of a  
5 misdemeanor violation of Penal Code section 270 [failure to provide child support] as a result of his  
6 failure to make court-ordered payments for the support of his children for the months of August  
7 through December 1984 and in June and July 1985.

8 No other aggravating circumstances appear from the record of this proceeding.

9 **B. Mitigating Circumstances**

10 The parties have stipulated that no harm resulted from Respondent's misconduct. (Standard  
11 1.2(e)(iii).) Additionally, the parties have stipulated that Respondent was candid and cooperative  
12 with the State Bar during these proceedings. (Standard 1.2(e)(v).)

13 **DEGREE OF DISCIPLINE**

14 In determining the appropriate disposition in this matter, the Court looks at the purposes of  
15 disciplinary proceedings and sanctions. The purpose of State Bar disciplinary proceedings is not  
16 to punish the attorney, but to protect the public, preserve public confidence in the profession and  
17 maintain the highest possible professional standards for attorneys. (*Chadwick v. State Bar* (1989)  
18 49 Cal.3d 103, 111; *Cooper v. State Bar* (1987) 43 Cal.3d 1016, 1025; Standard 1.3.) Standard  
19 1.6(b) provides that the specific discipline for a particular violation found must be balanced with any  
20 mitigating or aggravating circumstances, with due regard for the purposes of imposing disciplinary  
21 sanctions.

22 The Supreme Court has stated that the State Bar Court should always look to the Standards  
23 for Attorney Sanctions for guidance when making a disciplinary recommendation. Although the  
24 State Bar Court is not required to strictly follow the Standards in every case, the guidance of the  
25 Standards should be followed whenever possible to help ensure greater consistency in disciplinary  
26 sanctions for similar offenses. (*In re Young* (1989) 49 Cal.3d 257, 267 (fn. 5); *In re Naney* (1990)

1 51 Cal.3d 186, 190.)

2 Standard 1.7(a) provides that, if a member is found culpable of professional misconduct and  
3 has a record of one prior imposition of discipline, the degree of discipline imposed in the current  
4 proceeding shall be greater than the discipline imposed in the prior proceeding unless the prior  
5 discipline was remote in time and so minimal in severity that imposing greater discipline would be  
6 manifestly unjust. In this case, Respondent's prior discipline was imposed in 1987, sixteen years  
7 prior to the acts which gave rise to this proceeding. While Respondent's failure to provide financial  
8 support for his children was a violation of law, it neither involved moral turpitude nor was directly  
9 related to the practice of law. Given the nature of the misconduct and its remoteness in time, the  
10 Court concludes that it would be manifestly unjust to impose greater discipline in the current  
11 proceeding than was imposed in the prior proceeding.

12 Standard 3.4 provides that for the conviction of a crime that involves other misconduct  
13 warranting discipline, the discipline should be appropriate to the nature and extent of the misconduct.  
14 (*In the Matter of Carr* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 108, 118; *In the Matter of Katz*  
15 (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 502, 510.)

16 In determining the disposition to be imposed in this proceeding, the Court looks to *In re*  
17 *Kelley* (1990) 52 Cal.3d 487 for guidance. That case involved an attorney with separate DUI  
18 convictions in 1984 and 1986. Kelley's second conviction occurred while she was still on probation  
19 for the first offense and constituted a violation of her probation in the earlier matter. Kelley's blood  
20 alcohol level in the second case was between .16 percent and .17 percent. Before the Supreme  
21 Court, Kelley argued that she should not be subject to any discipline because her conduct was  
22 unrelated to the practice of law.

23 Because the Supreme Court found that a nexus existed between the attorney's misconduct  
24 and the practice of law, the Court expressly declined to decide whether such a nexus was necessary  
25 in finding that the misconduct warranted the imposition of discipline. The Supreme Court concluded  
26 that a nexus existed between Kelley's second DUI conviction and the practice of law in two ways.

1 First, Kelley's second DUI conviction occurred while she was still on criminal probation from her  
2 first offense and, therefore, evidenced a disregard for the conditions of her probation, the law and  
3 the safety of the public. (*In re Kelley, supra*, 52 Cal.3d at p. 495.)

4 Second, and more importantly, the Supreme Court found that the circumstances surrounding  
5 Kelley's two DUI convictions indicated a continuing problem with alcohol abuse. As for its finding  
6 on the nexus issue, the Supreme Court stated:

7 "Petitioner's behavior evidences both a lack of respect for the legal  
8 system and an alcohol abuse problem. Both problems, if not checked,  
9 may spill over into petitioner's professional practice and adversely  
10 affect her representation of clients and her practice of law." (*In re  
11 Kelley, supra*, 52 Cal.3d at p. 496.)

12 The Supreme Court found that the facts and circumstances surrounding Kelley's conviction  
13 involved other misconduct warranting discipline and that the imposition of a public reproof was  
14 appropriate. (*In re Kelley, supra*, 52 Cal.3d at p. 498.)

15 In *In the Matter of Anderson* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 208, the attorney  
16 received a 60-day actual suspension for more severe misconduct (two DUI convictions referrals with  
17 three prior DUI convictions) and aggravating circumstances (including two prior reprovals, prior  
18 service as a deputy district attorney prosecuting DUIs and aggressive and uncooperative behavior  
19 at the time of his arrests). The attorney participated in the disciplinary proceedings and presented  
20 mitigating evidence, including maintenance of sobriety, regular psychiatric counseling for major  
21 depression and alcoholism, and "impressive" good character evidence. (*In the Matter of Anderson,*  
22 *supra*, 2 Cal. State Bar Ct. Rptr. at p. 213.)

23 In this Court's view, Respondent's misconduct in the current case is substantially similar to  
24 the misconduct in *Kelley* and less serious than the misconduct in *Anderson*. In *Kelley*, the attorney  
25 had two prior DUI convictions approximately two years apart but had no other misconduct. In the  
26 current proceeding, Respondent has two prior DUI convictions, the most recent of which was only  
27 about two and one-half years prior to the current conviction. In addition, he also has a misdemeanor  
28 conviction for violation Penal Code section 270, as a result of his failure to pay child support,

1 although that conviction is remote in time.

2 Respondent, like *Kelley*, was on criminal probation at the time of the offense on January 11,  
3 2003, that resulted in his convictions for violation of Vehicle Code section 23152, subdivisions (a)  
4 and (b). Thus, as in *Kelley*, Respondent's conduct evidences a disregard for the conditions of his  
5 probation, the law and the safety of the public. Additionally, Respondent clearly has a long-standing  
6 substance abuse problem with alcohol since he has suffered alcohol-related driving convictions in  
7 1979, 2000 and 2003.

8 In light of the foregoing, the Court finds a clear nexus between Respondent's misconduct and  
9 the practice of law. Moreover, Respondent has specifically acknowledged that the facts and  
10 circumstances surrounding his conviction involved other misconduct warranting discipline. This  
11 Court concludes that discipline similar to that imposed upon the attorney in *Kelley*, i.e., a public  
12 reproof, is appropriate.

### 13 DISCIPLINE

14 **IT IS ORDERED** that Respondent **CHRISTIAN MICHAEL DILLON** is hereby publicly  
15 reproofed and, for a period of three (3) years from the effective date of this Order, must comply with  
16 the following conditions:

- 17 1. Respondent must comply with the provisions of the State Bar Act and of the Rules of  
18 Professional Conduct;
- 19 2. Within 10 calendar days of any change in the information required to be maintained on the  
20 State Bar's membership records pursuant to Business and Professions Code section 6002.1,  
21 subdivision (a), including his office address and telephone number, Respondent must report  
22 such change in writing to the Membership Records Office of the State Bar and to the State  
23 Bar's Office of Probation;
- 24 3. Respondent must submit written quarterly reports to the State Bar's Office of Probation no  
25 later than each January 10, April 10, July 10 and October 10 of the period during which these  
26 conditions are in effect. Under penalty of perjury, Respondent must state whether he has  
27

1 complied with the State Bar Act, the Rules of Professional Conduct and all conditions  
2 attached to this public reproof during the preceding calendar quarter. If the first report will  
3 cover a period of less than 30 days, that report must be submitted on the reporting date for  
4 the next calendar quarter and must cover the extended period. In addition to all quarterly  
5 reports, Respondent must submit a final report, containing the same information required by  
6 the quarterly reports. The final report must be submitted no earlier than 20 days before the  
7 last day of the period during which these conditions apply and no later than the last day of  
8 that period;

9 4. SUBSTANCE ABUSE CONDITIONS

10 The following conditions are derived from recommendations of a medical professional  
11 certified by the American Society of Addiction Medicine, after evaluation of the Respondent.

12 A) Abstinence.

13 Respondent must abstain from the use of any alcoholic beverages, and must not use or  
14 possess any narcotics, dangerous or controlled drugs, marijuana, or associated paraphernalia,  
15 except as validly prescribed by a licenced medical provider.

16 Reporting of Abstinence to Office of Probation. With each quarterly report or final report  
17 required as a condition of this reproof, Respondent must provide to the Office of Probation  
18 a declaration under penalty of perjury regarding his compliance with this Abstinence  
19 condition.

20 B) Testing

21 During the period of this reproof, Respondent must comply with all protocol and  
22 requirements of the Office of Probation for random testing of his physical condition  
23 (including but not limited to testing of specimens of his urine, blood, saliva, or sweat) for the  
24 presence of alcohol and/or drugs. Testing must be conducted in such a manner as may be  
25 specified by a licensed medical laboratory and/or the Office of Probation.

26 Respondent must cause the testing facility to provide to the Office of Probation a screening  
27

1 report containing an analysis of the Respondent's specimen within ten days of each specimen  
2 analysis performed, or to report within ten days to the Office of Probation each incident  
3 which is deemed to be a failure to submit to a test.

4 All costs related to this testing condition, including without limitation, the specimen  
5 collection and testing and the preparation and delivery of the lab analysis, must be paid by  
6 Respondent.

7 Reporting of Testing to Office of Probation. With each written quarterly report or final report  
8 required as a condition of this reapproval, Respondent must provide to the Office of Probation a  
9 declaration under penalty fo perjury regarding his compliance with this testing condition.

10 C) Abstinence-based Support Meetings

11 During the period of this reapproval Respondent must attend a minimum of two (2) meetings  
12 per week of any acceptable sobriety maintenance program. Respondent may choose one of  
13 any acceptable sobriety maintenance programs, including any self-help maintenance  
14 programs which include (i) a subculture to support recovery (meetings); and (ii) a process  
15 of personal development that does not have financial barriers. Appropriate 12-step groups  
16 are acceptable. Examples of acceptable programs include, without limitation, Alcoholics  
17 Anonymous (AA); Rational Recovery (RR); Self Management and Recovery Training  
18 (SMART); Secular Organization for Sobriety (SOS); Life Ring; the Other Bar; and Right On  
19 Programs.

20 Reporting of Abstinence-based Support Meeting Attendance to Office of Probation. With  
21 each written quarterly report or final report required as a condition of this reapproval,  
22 Respondent must provide to the Office of Probation satisfactory proof of attendance at the  
23 above-described meetings. Proof of attendance must include submission of a writing which  
24 clearly provides for each meeting attended – the date and time of the meeting, name of the  
25 meeting, location of the meeting – and must bear the signature of the secretary of the  
26 meeting verifying Respondent's attendance at the meeting.

1 D) Further Evaluation.

2 At least once each June and once each December during the period of this reprov,  
3 commencing in June 2005, Respondent must submit to a re-evaluation of his condition  
4 regarding alcohol and drugs by Dr. Joseph A. Pursch, M.D., or another medical professional  
5 certified by the American Society of Addiction Medicine("the medical professional".) Prior  
6 to the re-evaluation, Respondent must provide the medical professional with a copy of his  
7 Stipulation as to Facts and Conclusions of Law, as well as a copy of the evaluation of Dr.  
8 Joseph A. Pursch, M.D., who performed an evaluation of Respondent on December 1, 2004.  
9 All costs related to these further evaluations and reports prepared for the Office of Probation  
10 must be borne by Respondent.

11 Release and Waiver. Respondent must provide the medical professional with a release  
12 waiving rights of privacy and privilege to the extent it authorizes the medical professional  
13 to provide a written report directly to the Office of Probation containing the medical  
14 professional's DSM IV TR diagnosis of Respondent and treatment conditions the medical  
15 professional recommends.

16 Reporting of Further Evaluation to the Office of Probation. Respondent must notify the  
17 Office of Probation in writing on the next quarterly report or final report following each re-  
18 evaluation. This notification must include the name, address and telephone number of the  
19 medical professional providing the further evaluation, and the date on which the further  
20 evaluation took place.

21 5. Subject to the assertion of applicable privileges, Respondent must answer fully, promptly and  
22 truthfully, any inquiries of the Office of Probation that are directed to him personally or in  
23 writing, relating to whether Respondent is complying or has complied with the conditions  
24 attached to this public reprov;

25 6. Within one year of the effective date of the public reprov in this proceeding, Respondent  
26 must provide the Office of Probation with satisfactory proof of his attendance at a session  
27  
28

1 of State Bar Ethics School and of his passage of the test given at the end of that session;

2 7. The conditions attached to this public reproval must commence upon the date this Decision  
3 becomes final.

4 Costs are hereby awarded to the State Bar pursuant to Business and Professions Code section  
5 6086.10, and are payable in accordance with Business and Professions Code sections 6086.10,  
6 subdivision (a) and 6140.7.

7  
8  
9 Dated: April 29, 2005

  
\_\_\_\_\_  
RICHARD A. HONN  
Judge of the State Bar Court

**CERTIFICATE OF SERVICE**  
**[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]**

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on May 2, 2005, I deposited a true copy of the following document(s):

**AMENDED DECISION, filed May 2, 2005**

in a sealed envelope for collection and mailing on that date as follows:

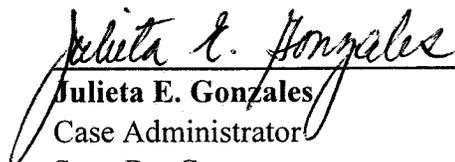
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**CHRISTIAN M DILLON ESQ**  
**30100 CROWN VALLEY PKWAY #18A**  
**LAGUNA NIGUEL CA 92677**

- by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

**Brooke A. Schafer, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **May 2, 2005**.

  
\_\_\_\_\_  
**Julieta E. Gonzales**  
Case Administrator  
State Bar Court