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PUBLIC MATTER

FILED 

NOV 07 2005

STATE BAR COURT CLERK'S OFFICE
STATE BAR COURT OF CALIFORNIA SAN FRANCISCO
HEARING DEPARTMENT - SAN FRANCISCO

In the Matter of)
GLEND A KRAFT DOAN,)
Member No. 64027,)
A Member of the State Bar.)

Case No. 05-V-04081-PEM
DECISION AND RECOMMENDATION TO
SUPREME COURT

INTRODUCTION

The issue in this case is whether petitioner Glenda Kraft Doan has demonstrated, by a preponderance of the evidence, her rehabilitation, present fitness to practice, and present learning and ability in the general law, such that this court may recommend to the Supreme Court that petitioner's suspension from the practice of law be terminated. (Cf. Standard 1.4(c)(ii), Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct ("standard").)¹

¹In *Doan v. Commission on Judicial Performance* (1995) 11 Cal.4th 294, the Supreme Court cited by comparison to standard 1.4(c)(ii) stating, "our denial of Doan's motion [for permission to resume the practice of law] is without prejudice to the making of a new motion with proof of her rehabilitation, present fitness to practice, and present learning and ability in the general law. (Cf. Rules Proc. of State Bar, div. V, Standards for Atty. Sanctions for Prof. Misconduct, std. 1.4(c)(ii) [dealing with actual suspension from the practice of law for a period of two years or more].) (*Id.* at p. 341.) However, article VI, section 18, subdivision (e) of the California Constitution (formerly subdivision (d)) contemplates that the Supreme Court is ultimately to decide the issue of whether petitioner's suspension should be terminated. Therefore, since the Supreme Court did not expressly delegate its authority to the State Bar Court in this matter, the Clerk of the State Bar Court is directed to transmit the record of the proceedings in State Bar Court Case No. 05-V-04081 to the Supreme Court for further action as the Supreme Court deems appropriate in light of this court's recommendation.



1 California Constitution. Thus, since October 5, 1995, petitioner has been a member of the State
2 Bar of California but has not been entitled to practice law as a result of her suspension.

3 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

4 **A. Petitioner's Underlying Disciplinary Proceeding**

5 **1. Discipline Imposed in Supreme Court Case No. S043789**

6 On October 5, 1995, the Supreme Court issued an opinion removing petitioner from
7 office as a judge of the Municipal Court for the Kings Judicial District of Kings County,
8 California, Corcoran Division, as a result of wilful misconduct, conduct prejudicial to the
9 administration of justice, and persistent nonperformance of her judicial duties. As a result of her
10 removal from office, pursuant to former subdivision (d) of section 18 of article VI of the
11 California Constitution, petitioner was suspended from the practice of law unless and until
12 otherwise ordered by the Supreme Court. Although petitioner moved the Supreme Court for
13 permission to resume the practice of law, the Supreme Court denied her request, as it found
14 moral turpitude, dishonesty or corruption in the acts and omissions underlying petitioner's
15 removal from the bench. However, the Supreme Court stated, "our denial of [petitioner's]
16 motion is without prejudice to the making of a new motion with proof of her rehabilitation,
17 present fitness to practice, and present learning and ability in the general law. (Cf. Rules Proc. of
18 State Bar, div. V, Standards for Atty. Sanctions for Prof. Misconduct, std. 1.4(c)(ii) [dealing with
19 actual suspension from the practice of law for a period of two years or more].)" (*Doan v.*
20 *Commission on Judicial Performance, supra*, 11 Cal.4th at p. 341; Exhibit A.)

21 **2. Nature of the Underlying Conduct**

22 Petitioner's removal from office was based on findings made with respect to a seven
23 count amended notice of formal proceedings ("notice") filed against petitioner by the
24 Commission on Judicial Performance ("Commission") based on misconduct occurring from
25 1991-1993.

26 Petitioner was found culpable of wilful misconduct for: (1) engaging in improper ex
27 parte contacts (count one); (2) her personal involvement in a case as an advocate for a man in
28 custody (count one); (3) contacting an arresting officer regarding an own-recognition release

1 (count one); (4) questioning officers as to whether they believed a man was guilty (count one);
2 (5) failing to disqualify herself or disclose her pertinent relationships and her activities despite
3 recognizing her need to do so (count one); (6) manipulating a bail review hearing through
4 intentional misstatements and omissions of material fact in order to get a desired result (count
5 one); (7) failing to disqualify herself or to disclose her relationship with a defendant's aunt (who
6 was petitioner's friend) or her discussions with her friend about the defendant's matter (count
7 one); (8) using the authority of her judicial office to attempt to influence the outcome of a pretrial
8 conference by exerting pressure on a Deputy District Attorney to reduce the criminal charge
9 against a friend's nephew for the corrupt purpose of ingratiating herself with this friend, who had
10 loaned petitioner money, in order to advance the relationship with this friend (count one); and (9)
11 requesting of two of her friends that they not cooperate with agents of the Commission during the
12 Commission's preliminary investigation of petitioner (count seven).

13 Petitioner was also found to have committed conduct prejudicial to the administration of
14 justice by: (1) failing to disqualify herself or, at least, to disclose her relationship with a
15 defendant's aunt (who was petitioner's friend) or her discussions with her friend about the case,
16 which resulted in the appearance of impropriety (count one); (2) giving assurances to her friend,
17 with an implication of influence and inside information, as to the outcome of a criminal
18 prosecution against the friend (count one); (3) apparently intending to mislead her friend in order
19 to continue to obtain food and money from the friend (count one); (4) failing to disclose loans
20 from three of her friends on her Statement of Economic Interests for two or three years, as she
21 was required to do by statute (count two); (5) obtaining a loan from a member of the court staff
22 who was under petitioner's practical supervision (count three); (6) obtaining a loan from a police
23 lieutenant who routinely presented petitioner with complaints and warrant applications (count
24 three) in violation of the California Code of Judicial Conduct; (7) knowingly and intentionally
25 failing to list all creditors in her bankruptcy petition (count four); and (8) offering to provide
26 legal services on behalf of her friend's husband who had been convicted and imprisoned for a
27 serious federal felony offense (count six).

28 Furthermore, petitioner was found to have persistently failed to perform her duties in a

1 diligent fashion by being habitually tardy in commencing court sessions, despite complaints and
2 advisements (count five).

3 In addition, it was noted that petitioner had been disciplined on three prior occasions by
4 the Commission. In 1989, petitioner was publicly reprovved by the Commission for not
5 complying with former rule 5-101 of the Rules of Professional Conduct of the State Bar of
6 California relating to avoiding adverse interests to a client for receiving money from a client
7 which was not given for legal services; failing to inform petitioner's law firm of the payment
8 from the client; and failing to disclose the payment in her annual Statement of Economic
9 Interests. In 1990, petitioner was privately reprovved by the Commission for prevailing on a
10 member of the court staff to lend her money on at least two occasions. Also in 1990, petitioner
11 was publicly reprovved by the Commission for seeking to obtain the release of a relative of an
12 acquaintance who had been arrested, after being approached by the acquaintance to do so.
13 Petitioner also made a false statement to the Commission.

14 **B. Petitioner's Rehabilitation and Present Fitness to Practice Law**

15 **1. Recognition of Wrongdoing/Remorse**

16 Petitioner has suffered the consequences of her wrongdoing. Overnight, petitioner went
17 from being a judge in her beloved community, to being an ordinary citizen, unable to not only
18 adjudicate the law, but to practice the law that she loves so much. She has suffered shame, guilt,
19 disgrace and the loss of self-esteem as a result of her misconduct.

20 Petitioner has acknowledged her wrongdoing and is extremely regretful and remorseful
21 for her past misconduct. Petitioner fully understands the significance and gravity of her
22 misconduct and has accepted responsibility for her actions.

23 Petitioner acknowledges that, at the time of her misconduct, she failed to appreciate her
24 judicial responsibilities and the seriousness of the appearance of impropriety to others. Petitioner
25 did not think before acting and thus failed to exercise self-discipline. Petitioner has now
26 remodeled herself. Petitioner has revised her decision-making process. She now consciously
27 and deliberately considers the consequences of a choice before she acts. She has internalized a
28 program of self-discipline so as to avoid future unethical conduct, and she has committed herself

1 to self-improvement. Petitioner is dedicated to making conscious responsible choices. She has
2 learned valuable lessons from her mistakes and is confident that they will not be repeated. She
3 continues to atone for her misconduct.

4 As Petitioner stated in her declaration attached to her petition:

5 . . . I have identified and alleviated the causes that led to my
6 misconduct. Specifically, I have addressed the conflict that I had
7 between my desire to be a "good person" and the constraints and
8 restraints placed on me as a lawyer and as a judge in appearing to
9 be disinterested, detached, and impartial in the performance of my
10 professional duties. I have worked very hard to understand my
11 loyalties to my family, friends, associates and colleagues and the
12 conflict these loyalties pose to the performance of my professional
13 duties. I now have insight into how, when, and where to draw the
14 line. Furthermore, I have revised my method of making decisions
15 to include a preventive process; I now deliberately and
conscientiously consider all of the consequences of pending
choices prior to making a selection. I am committed to engaging
in, and to exhibiting, ethical conduct in both my personal and
professional life at all times. I have also taken steps to prevent a
re-occurrence. For example, I now continually reflect on my
personal and professional ethics and behavior to insure that they
are above reproach and in accordance with the highest expectations
and demands of an attorney. . . . It is an established habit that I now
think before acting or speaking and that all decisions are examined
and made within an ethical framework.

16 In addition, at the time of her misconduct, petitioner was experiencing serious financial
17 and domestic difficulties and turmoil as a result of a failing family business. As a result of these
18 pressures, petitioner was not emotionally able at the time to devote the proper attention to her
19 professional duties. However, the business has been defunct since October 1993. As a result,
20 this extenuating circumstance, which contributed to petitioner's misconduct, has been resolved.

21 Petitioner has worked hard to redeem herself and is confident that her misconduct will not
22 recur.

23 **2. Employment and Education**

24 Petitioner has been successfully and continuously employed for many years. Most
25 notable has been her work at the California State Prison at Corcoran ("CSP-Corcoran") for which
26 she has been commended by her superiors.

1 Petitioner was first employed by CSP-Corcoran in February 2000 as a reading teacher.²
2 From August 2000-January 2001, she held the position of Library Technical Assistant with the
3 prison's Developmentally Disabled Program ("DDP"). From January 2001-August 2001,
4 petitioner supervised one of the prison libraries. From August 2001 to the present, she has been
5 a Disability Placement Program Instructor, Hospital Librarian, and a supervisor of one of the
6 prison law libraries. In addition, from January 2005 to the present, she has been a re-entry
7 instructor.

8 While working at CSP-Corcoran, petitioner developed and implemented the Inmate
9 Assistance Program. Petitioner now presently administers this program which provides inmate
10 assistance to disabled inmates. Petitioner developed the job description and training materials for
11 the Inmate Assistance Program Workers ("IAPW"). Petitioner certifies and trains the IAPWs.
12 Petitioner also developed the Disability Placement Program Inmate Information Booklet used in
13 the orientation of new prisoners and the curriculum used to prepare certain inmates for parole.
14 She has also developed and implemented the Unlocking Power ("UP") program which allows
15 prison inmates to obtain their Associate of Arts degrees. Petitioner is also developing an early
16 release program for inmates.

17 In addition to her work at CSP-Corcoran, petitioner has been an adjunct professor at
18 National University in the education and legal departments from January 2000 to the present.

19 In 2003, petitioner obtained a Clear Professional Multiple Subject Teaching Credential
20 from California State University, Bakersfield. She has also secured a CLAD credential.

21 **3. Community Service and Volunteer Efforts**

22 Petitioner has engaged in extensive community service. Since 1988, she has served on
23 the Citizens Advisory Committee for CSP-Corcoran as the Victim Services Representative. She
24 has also served on the Western Association of Schools and Colleges Accrediting Commission.
25 At the request of the Corcoran Police Department and school officials, she has participated in
26

27 ²Prior to February 2000, petitioner worked as a substitute teacher, a bilingual third grade
28 teacher, a reading teacher, a merit badge counselor, an advisor to a youth program, and a
bilingual third grade team teacher.

1 mock judiciary proceedings such as bail hearings, arraignments, preliminary hearings, trials and
2 sentencings to educate students on the consequences of drug abuse. For the past 14 years,
3 petitioner has also been an advisor to the Corcoran Youth and Government YMCA program.
4 She is also an Eagle Boy Scout Merit Badge Counselor and an instructor of American
5 government. She also assists high school seniors with their college applications and helps
6 research and find sources of funding. Petitioner also writes references for college and post-
7 graduate employment.

8 **4. Good Character Evidence**

9 Petitioner submitted numerous letters from individuals who support petitioner in her
10 efforts to be relieved of her actual suspension.³ Several of these letters indicated that they had
11 known petitioner for several years. Many of the letters were from individuals who have observed
12 petitioner's work at CSP-Corcoran. Several of these letters noted petitioner's strong work ethic,
13 her professionalism, and her compassion. Petitioner was described in such letters as being "a
14 trustworthy employee of the highest integrity,"⁴ having "ethics . . . above reproach,"⁵
15 exemplifying "the highest level of integrity and morality in her present assignment,"⁶ having
16 "learned from her mistakes,"⁷ having "expressed remorse and regret for her mistakes on
17

18 ³Although petitioner also submitted many letters which were written on her behalf prior
19 to her removal from the bench, these letters were not considered by the court in making its
20 recommendation in this matter. It is petitioner's *present* learning and ability in the general law,
21 her *present* fitness to practice law and her rehabilitation which are the issues currently before the
22 court.

22 ⁴Exhibit 2, letter dated July 26, 2004, from D. Stockman, Associate Warden of Health
23 Services at CSP-Corcoran who directly supervises petitioner.

24 ⁵Exhibit 3, letter dated March 31, 2005, from Gary F. Goddard, Ph.D., Supervisor of
25 Correctional Education Programs, CSP-Corcoran.

26 ⁶Exhibit 5, letter dated February 17, 2004, from Lawrence Schryer, Supervisor Academic
27 Instruction, CSP-Corcoran.

28 ⁷Exhibit 7, letter dated March 7, 2005, from G. K. Crawford, Supervisor Vocational
Education, CSP-Corcoran; Exhibit 8, letter dated March 17, 2005, from Rudy R. Campos,
teacher, CSP-Corcoran; Exhibit 16, letter dated March 17, 2005, from J.M. Ruzicka, retired

1 numerous occasions” and as being “scrupulously honest,”⁸ and having “ethics . . . of the highest
2 caliber both personally and professionally.”⁹ In her March 2005, performance evaluation,
3 petitioner’s supervisor also noted that petitioner’s “integrity is beyond reproach.”¹⁰

4 In particular, petitioner’s sister, JoAnn Kraft Brown, who also works at CSP-Corcoran
5 wrote, “I can personally attest to her intense private self-recriminations, her shame and
6 embarrassment, her struggle to survive the severe consequences of her mistakes, and her ultimate
7 successful rehabilitation, repentance, and reformation. . . . I painfully witnessed her courageous
8 growth and change.”¹¹

9 Furthermore, attorney Marianne Gilbert, who has known petitioner since 1989, wrote in a
10 letter dated July 13, 2005, “In our discussions, [petitioner] presents as remorseful for her actions
11 and embarrassed about the conduct and subsequent rulings. It is obvious that she has suffered
12 and grown from this experience. . . . [¶] Because of her attitude, her abilities, her perseverance,
13 her honesty, and the passage of a significant period of time to reflect on her experiences on the
14 bench, I strongly recommend her application to be reinstated to the practice of law.”¹²

15 The State Bar does not contest that petitioner is rehabilitated and presently fit to practice
16 law. Therefore, based on the above, the court finds that petitioner has demonstrated, by a
17 preponderance of the evidence, that she is rehabilitated and presently fit to practice law.

18 **C. Petitioner’s Present Learning and Ability in the General Law**

19 Petitioner took and passed the August 14, 1998, Multistate Professional Responsibility
20 Examination. She has also recently reviewed the entire PMBR Multi-State curriculum.

21 _____
22 Senior Clerk, Corcoran Justice Court.

23 ⁸Exhibit 8, letter dated March 17, 2005, from Rudy R. Campos, teacher, CSP-Corcoran.

24 ⁹Exhibit 15, letter dated March 11, 2005, from Denise S. Squire.

25 ¹⁰Exhibit W, petitioner’s March 2005 performance evaluation.

26 ¹¹Exhibit 9.

27 ¹²Exhibit 18.

1 Petitioner reviews the advance sheets, annotated law reports, weekly journals, Legal
2 News, Supreme Court Today and BNA Law Week Case Alerts. She also regularly reads
3 California Lawyer. She has also read hornbooks.

4 Petitioner formed a corporation for herself, her husband, her husband's partner and the
5 partner's wife and secured a patent for the corporation. She is also studying educational law.

6 In her work at CSP-Corcoran, petitioner reviewed the statutory regulations and court
7 cases relating to correctional law libraries. Petitioner has been very involved in the operation of
8 the law libraries at CSP-Corcoran and has taught legal research to inmates. As a supervising
9 librarian, petitioner is responsible for the law library collection. Her duties include ordering,
10 receiving and distributing legal materials in accordance with California Department of
11 Corrections guidelines and policies and applicable laws and mandates.

12 Petitioner's present assignment as the Disability Placement Program Instructor at the
13 prison requires knowledge of the 1990 Americans with Disabilities Act ("ADA") and the
14 interpretation and implementation of the court ordered Armstrong Remedial Plan at the prison
15 which concerns parole hearings and the ADA. Petitioner is considered to be the resident ADA
16 expert at the prison. Her duties include writing memorandum and Operational Procedures
17 explaining the ADA regulations and amendments and explaining the Armstrong Remedial Plan.

18 In her position as the Secured Housing, Administrative Segregation and Hospital Re-entry
19 Teacher, petitioner is required to have a knowledge of social security law, landlord tenant law,
20 labor law, probation law, family law, the Vehicle Code and the Health and Safety Code.

21 In her work as a Library Technical Assistant for the developmentally disabled inmates at
22 CSP-Corcoran, petitioner, among other duties, assisted inmates in their access to and use of the
23 law library reference materials, assisted developmental disabled inmates in accessing mandated
24 legal materials, and ensured developmentally disabled inmates understood, to the best of their
25 ability, how to gain access to the court.

26 Petitioner also participates in mock judiciary proceedings at the request of the Corcoran
27 Police Department and school officials. The mock proceedings include bail hearings,
28 arraignments, preliminary hearings, trials and sentencings.

1 adduced that bears on whether the cause or causes of such misconduct have been eliminated.”
2 (*In the Matter of Murphy, supra*, 3 Cal. State Bar Ct. Rptr. at p. 581.)

3 Regarding the issue of whether petitioner has sufficiently demonstrated, by a
4 preponderance of the evidence, her rehabilitation and present fitness to practice law, the court
5 first considers petitioner’s prior misconduct. As set forth in detail above, over a period from
6 1991-1993, petitioner, in her role as a judicial officer, committed wilful misconduct, conduct
7 prejudicial to the administration of justice, and persistently failed to perform her duties in a
8 diligent fashion, even after being previously disciplined on three occasions by the Commission
9 for some of the same type of misconduct.

10 During the period of her misconduct, petitioner failed to appreciate her judicial
11 responsibilities and the seriousness of the appearance of impropriety to others. She did not
12 consider the consequences of her acts before taking action. In addition, at the time of her
13 misconduct, petitioner was experiencing serious financial and domestic difficulties and turmoil
14 as a result of a failing family business. As a result of these pressures, petitioner was not
15 emotionally able at the time to devote the proper attention to her professional duties.

16 However, since her removal from the bench and her subsequent suspension from the
17 practice of law, petitioner has learned from her mistakes. A substantial period of time has
18 elapsed since petitioner’s misconduct occurred. Petitioner now fully understands the significance
19 and gravity of her misconduct and has accepted responsibility for her actions. Petitioner has
20 acknowledged her wrongdoing and is extremely regretful and remorseful for her past misconduct.
21 Petitioner now consciously and deliberately considers the consequences of a choice before she
22 acts. She has internalized a program of self-discipline so as to avoid future unethical conduct,
23 and she has committed herself to self-improvement. She has also worked very hard to
24 understand and address the conflict between her loyalty to her friends, family, associates and
25 colleagues and the performance of her professional duties. Petitioner is committed to engaging
26 in, and to exhibiting, ethical conduct at all times in both her professional and personal life.
27 In addition, the family business which caused petitioner serious financial and domestic
28 difficulties and turmoil, and which contributed to her misconduct, has been defunct for well over

1 ten years. Thus, based on petitioner's self-awareness and efforts at self-improvement, as well as
2 the elimination of the financial and domestic strife which existed in petitioner's life at the time of
3 her misconduct, the court finds that petitioner's misconduct is unlikely to recur.

4 Furthermore, since her removal from the bench and her suspension, petitioner has had an
5 excellent employment record, has been involved in extensive community service and volunteer
6 work, and several individuals have attested to her good character and support her efforts to
7 terminate her actual suspension.

8 As noted earlier, the State Bar does not contest petitioner's rehabilitation and present
9 fitness to practice law. Accordingly, based upon the evidence and the findings of fact set forth
10 above, the court concludes that petitioner has demonstrated, by a preponderance of the evidence,
11 that she is rehabilitated and presently fit to practice law.

12 The State Bar also does not contest that petitioner has demonstrated present learning and
13 ability in the general law. Thus, based upon the evidence presented in this proceeding and the
14 findings of fact set forth above, the court finds that petitioner has proven, by a preponderance of
15 the evidence, that she possesses sufficient present learning and ability in the general law to be
16 relieved from her actual suspension.

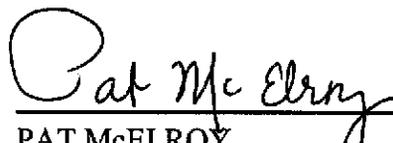
17 CONCLUSION

18 Based on the foregoing, the court finds that petitioner has established by a preponderance
19 of the evidence her rehabilitation, present fitness to practice, and present learning and ability in
20 the general law. Accordingly, the court recommends to the Supreme Court that petitioner's
21 suspension from the practice of law be terminated. The Clerk of the State Bar Court is directed
22 to transmit the record of the proceedings in State Bar Court Case No. 05-V-04081 to the
23 Supreme Court for further action as the Supreme Court deems appropriate in light of this court's
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recommendation.¹³

Dated: November 7, 2005


PAT McELROY
Judge of the State Bar Court

¹³In a similar situation, by order filed on August 25, 2004, in *In re Michael Eugene Platt on Discipline*, Supreme Court matter S124232 (State Bar Court Case No. 03-V-03141), the Supreme Court adopted the recommendation of the State Bar Court to terminate Platt's suspension which resulted from his removal from judicial office.

CERTIFICATE OF SERVICE

[Rule 630(b), Rules Proc. of State Bar; Code Civ. Proc., §§ 1011, 1013]

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. Following standard court practices, in the City and County of , I served a true copy of the following document(s):

DECISION AND RECOMMENDATION TO SUPREME COURT

as follows:

- [X]** By **OVERNIGHT MAIL** by enclosing the documents in a sealed envelope or package designated by an overnight delivery carrier and placing the envelope or package for collection and delivery with delivery fees paid or provided for, addressed as follows:

**GLEND A KRAFT DOAN
2218 ORANGE AVE
CORCORAN CA 93121**

- [X]** By **PERSONAL SERVICE** by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:

**DONALD STEEDMAN
STATE BAR OF CALIFORNIA
OFFICE OF THE CHIEF TRIAL COUNSEL
180 HOWARD STREET
SAN FRANCISCO, CA 94105**

I hereby certify that the foregoing is true and correct. Executed at , California, on **November 7, 2005**.



Laurretta Cramer
Case Administrator
State Bar Court