

Filed August 4, 2006

**REVIEW DEPARTMENT OF THE STATE BAR COURT
IN BANK**

In the Matter of)	06-C-10513
)	
MICHAEL AUSTIN,)	RECOMMENDATION OF
No. 143023,)	SUMMARY DISBARMENT
)	
<u>A Member of the State Bar.</u>)	

The State Bar's request for a recommendation of summary disbarment, filed on June 14, 2006, is granted. On June 19, 2006, we filed an order to show cause directing respondent Michael Austin to show why we should not recommend his summary disbarment to the Supreme Court. Respondent did not file a response.

In January 2006, respondent pled guilty to violating Penal Code section 187, murder in the second degree. As a result of respondent's conviction, we placed him on interim suspension effective April 22, 2006, and he has remained on interim suspension since that time.

The criteria for summary disbarment are set forth in Business and Professions Code section 6102, subdivision (c) (hereafter § 6102(c)). To satisfy section 6102(c), the conviction must be final, a felony, and either contain as an element the "specific intent to deceive, defraud, steal, or make or suborn a false statement," or involve moral turpitude. The record establishes that the conviction is final and that respondent was convicted of a felony. (See Bus. & Prof. Code, § 6102, subs. (a) and (b).)

Respondent's conviction is conclusive evidence that he is guilty of his offense (Bus. & Prof. Code, § 6101, subd. (a)) and that he committed all of the acts necessary to constitute the offenses (*In re Duggan* (1976) 17 Cal.3d 416, 423). The Supreme Court has held that murder is a crime involving moral turpitude. (*In re Kirschke* (1976) 16 Cal.3d 902; see also *In re Fahey* (1973) 8 Cal.3d 842, 849.) Therefore, respondent's conviction meets the requirements of section 6102(c).

Once an attorney's conviction satisfies section 6102(c), the State Bar Court must

recommend summary disbarment, and “the attorney is not entitled to a State Bar Court hearing to determine whether lesser discipline is called for.” (*In re Paguirigan* (2001) 25 Cal.4th 1, 7.)

We therefore recommend that respondent Michael Austin, State Bar number 143023, be summarily disbarred from the practice of law in this state. We also recommend that respondent be ordered to comply with rule 955 of the California Rules of Court and to perform the acts specified in paragraphs (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court’s order. Finally, we recommend that costs be awarded to the State Bar in accordance with section 6086.10 of the Business and Professions Code and enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

Presiding Judge