

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES

In the Matter of)	Case No. 07-N-10225-RAH
)	
GORDON RANDOLPH WRIGHT,)	
)	
Member No. 78644,)	DECISION AND ORDER OF
)	INVOLUNTARY INACTIVE
<u>A Member of the State Bar.</u>)	ENROLLMENT

I. Introduction

In this default disciplinary matter, respondent **Gordon Randolph Wright** (hereafter “respondent”) is found culpable, by clear and convincing evidence, of failing to comply with California Rules of Court, rule 955,¹ as ordered by the California Supreme Court on June 9, 2006, in Case No. S134630.

In view of respondent’s misconduct and the evidence in aggravation, the court recommends that respondent be disbarred from the practice of law.

II. Pertinent Procedural History

This proceeding was initiated by the Office of the Chief Trial Counsel of the State Bar of California (hereafter “State Bar”). The Notice of Disciplinary Charges (hereafter “NDC”) was filed and properly served via certified mail, return receipt requested, on respondent at his official membership records address on August 29, 2007. The mailing was returned as undeliverable.

Efforts to contact or locate respondent, both by telephone and through various internet searches, were unsuccessful. The State Bar also attempted to locate respondent through one of his former employers. Respondent’s former employer, however, did not have a forwarding address or telephone number for respondent. As of November 2, 2007, the State Bar had not had any contact

¹Effective January 1, 2007, rule 955 was renumbered and is now rule 9.20. However, as respondent was ordered to specifically comply with rule 955 prior to the effective date of this renumbering, the decision will refer to the rule as rule 955.

with respondent.

On motion of the State Bar, respondent's default was entered on December 5, 2007. A copy of the order of entry of default was properly served on respondent on December 5, 2007, by certified mail, return receipt requested, addressed to respondent at his official membership records address. The copy of said order was returned as undeliverable. Respondent was enrolled as an inactive member under Business and Professions Code section 6007, subdivision (e)² on December 8, 2007.

Respondent never filed a response to the NDC.³ (Rules of Proc. of State Bar, rule 103.)

Respondent did not participate in the disciplinary proceedings. The court took this matter under submission on December 20, 2007, following the filing of the State Bar's brief on culpability and discipline.

III. Findings of Fact and Conclusions of Law

All factual allegations of the NDC are deemed admitted upon entry of respondent's default unless otherwise ordered by the court based on contrary evidence. (Rules Proc. of State Bar, rule 200(d)(1)(A).) Additionally, pursuant to Evidence Code section 452, subdivision (a), the court takes judicial notice of Rule 955 of the California Rules of Court.

A. Jurisdiction

Respondent was admitted to the practice of law in California on December 21, 1977, and has been a member of the State Bar since that time.

B. Violation of California Rules of Court, Rule 955

On June 9, 2006, the California Supreme Court filed an order in case number S134630, State Bar Court Case Number 06-PM-10554 (hereafter "the June 9, 2006 order").

The June 9, 2006 order placed respondent on actual suspension from the practice of law for six months and required that he comply with California Rules of Court, rule 955 (hereafter "rule 955"), by performing the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days,

²All references to section(s) are to the Business and Professions Code, unless otherwise indicated.

³Pursuant to Evidence Code section 452, subdivision (d), the court takes judicial notice of its court records.

respectively, after the effective date of the order.

Notice of the June 9, 2006 order was duly and properly served on respondent in the manner prescribed by rule 29.4, subdivision (a), of the California Rules of Court⁴ at respondent's address as maintained by the State Bar in accordance with section 6002.1. The June 9, 2006 order became effective on July 9, 2006, and at all times thereafter remained in full force and effect.

Respondent was thereby ordered to comply with subdivision (a) of rule 955 no later than August 8, 2006, and he was ordered to comply with subdivision (c) of rule 955 no later than August 18, 2006.

Rule 955, subdivision (c) mandates that respondent file with the Clerk of the State Bar Court an affidavit showing that he has fully complied with those provisions of the order entered pursuant to this rule.

On June 16, 2006, a probation deputy of the Office of Probation of the State Bar of California (hereafter "the probation deputy") wrote to respondent regarding the June 9, 2006 order. The probation deputy's letter was placed in a sealed envelope correctly addressed to respondent at his State Bar of California official membership records address. The letter was promptly mailed by first class mail, postage prepaid, by depositing it for collection by the United States Postal Service in the ordinary course of business. On June 22, 2006, the probation deputy's letter was returned marked, "returned to sender undeliverable as addressed."

The probation deputy's letter specifically informed respondent that the affidavit he was required to file by subdivision (c) of rule 955 had to be filed with the Review Department of the State Bar Court no later than August 18, 2006. Enclosed with the probation deputy's letter were, among other things, a copy of the June 9, 2006 order and a form affidavit (hereafter "the 955 affidavit") for respondent to use to comply with subdivision (c) of rule 955.

Respondent failed to comply with rule 955 on or prior to the August 18, 2006 deadline. Respondent did not file the 955 affidavit with the Review Department of the State Bar Court by

⁴Effective January 1, 2007, rule 29.4, subdivision (a) was renumbered as rule 8.532, subdivision (a), but the language of the rule did not change.

August 18, 2006, as required by the June 9, 2006 order.

Respondent was to have filed the rule 955 affidavit by August 18, 2006, but to date, he has not done so and has offered no explanation to this court for his noncompliance. Whether respondent is aware of the requirements of rule 955 or of his obligation to comply with those requirements is immaterial. “Willfulness” in the context of rule 955 does not require actual knowledge of the provision which is violated. The Supreme Court has disbarred attorneys whose failure to keep their official addresses current prevented them from learning that they had been ordered to comply with rule 955. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.)

Therefore, the State Bar has established by clear and convincing evidence that respondent willfully failed to comply with rule 955, as ordered by the Supreme Court in Case No. S134630.⁵

IV. Mitigating and Aggravating Circumstances

A. Mitigation

No mitigating evidence was offered or received, and none can be gleaned from the record. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(e).)⁶

B. Aggravation

Respondent’s prior record of discipline is an aggravating circumstance. (Std. 1.2(b)(i).) Respondent has a record of two prior impositions of discipline. In California Supreme Court Case No. S134630, State Bar Court Case No. 04-O-14209, effective September 22, 2005, respondent was suspended for six months, stayed, with a probationary period of one year. His misconduct, in this single-client matter, consisted of failing to perform legal services with competence, failing to respond to his client’s reasonable status inquiries, failing to take reasonable steps upon termination of employment to avoid reasonably foreseeable prejudice to his client, failing to promptly return his client’s papers, and failing to cooperate in a disciplinary investigation. In aggravation, respondent committed multiple acts of misconduct and caused significant harm to his client. In mitigation,

⁵Specifically, rule 955, subdivision (d) provides that a suspended attorney’s willful failure to comply with rule 955 constitutes a cause for disbarment or suspension and for revocation of any pending probation.

⁶All further references to standard(s) are to this source.

respondent had no prior record of discipline.

In the default matter underlying this rule 955 proceeding, California Supreme Court Case No. S134630, State Bar Court Case No. 06-PM-10554, effective July 9, 2006, respondent was actually suspended for six months. In this matter, the California Supreme Court ordered the revocation of respondent's previously ordered probation in Case No. S134630, State Bar Court Case No. 04-O-14209. The basis for revocation was respondent's willful failure to comply with multiple probationary terms. In aggravation, the court considered respondent's prior record of discipline, as well as the fact that his misconduct involved multiple acts of wrongdoing, caused significant harm to the administration of justice, and demonstrated indifference toward rectification of, or atonement for, the consequences of his misconduct. No mitigating circumstances were found.

V. Discussion

Respondent's willful failure to comply with rule 955, subdivision (c) is extremely serious misconduct for which disbarment is generally considered the appropriate sanction. (*Bercovich v. State Bar* (1990) 50 Cal.3d 116, 131.) Such failure undermines its prophylactic function in ensuring that all concerned parties learn about an attorney's suspension from the practice of law. (*Lydon v. State Bar* (1988) 45 Cal.3d 1181, 1187.)

Furthermore, standard 1.7(b) provides that if an attorney is found culpable of misconduct in any proceeding and the member has a record of two prior impositions of discipline, the degree of discipline to be imposed in the current proceeding must be disbarment, unless the most compelling mitigating circumstances clearly predominate. In this matter, respondent has a record of two prior impositions of discipline, and no mitigating circumstances were found.

Respondent has demonstrated an unwillingness to comply with the professional obligations and rules of court imposed on California attorneys although he has been given opportunities to do so. Therefore, respondent's disbarment is necessary to protect the public, the courts and the legal community, to maintain high professional standards and to preserve public confidence in the legal profession. It would undermine the integrity of the disciplinary system and damage public confidence in the legal profession if respondent were not disbarred for his willful disobedience of an order of the California Supreme Court.

VI. Recommended Discipline

The court recommends that respondent **Gordon Randolph Wright** be disbarred from the practice of law in the State of California and that his name be stricken from the roll of attorneys in this state.

It is also recommended that the Supreme Court order respondent to comply with California Rules of Court, rule 9.20, paragraphs (a) and (c), within 30 and 40 days, respectively, of the effective date of its order imposing discipline in this matter.⁷

VII. Costs

The court recommends that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in section 6140.7 and as a money judgment.

VIII. Order of Involuntary Inactive Enrollment

It is ordered that respondent be transferred to involuntary inactive enrollment status under section 6007, subdivision (c)(4), and rule 220(c) of the Rules of Procedure of the State Bar of California. The inactive enrollment will become effective three calendar days after this order is filed.

Dated: March ____, 2008

RICHARD A. HONN
Judge of the State Bar Court

⁷Respondent is required to file a rule 9.20(c) affidavit even if he has no clients to notify. (*Powers v. State Bar, supra*, 44 Cal.3d 337, 341.)