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**STATE BAR COURT OF CALIFORNIA**

**REVIEW DEPARTMENT**

**IN BANK**

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In the Matter of	)	Case No.: 09-C-11059
	)	
DAVID KIERNAN REPLOGLE,	)	RECOMMENDATION OF SUMMARY
	)	DISBARMENT
A Member of the State Bar, No. 77875.	)	
_____	)	



On August 15, 2014, the State Bar's Office of the Chief Trial Counsel (OCTC) filed a request for summary disbarment based on the felony conviction of David Kiernan Replogle. Replogle did not file a response.<sup>1</sup> We grant the motion and recommend that Replogle be summarily disbarred.

On January 4, 2011, a jury convicted Replogle of violating Penal Code<sup>2</sup> sections 187 (first degree murder);<sup>3</sup> 182 (conspiracy);<sup>4</sup> 459 (two counts of first degree burglary); 459 (second

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<sup>1</sup> On August 25, 2014, Replogle filed a notice of pending related proceeding and intent to file motion to abate. On August 29, 2014, OCTC filed an opposition to motion to abate. On September 2, 2014, Replogle filed a motion to abate and request for judicial notice. OCTC filed its opposition on September 11, 2014. We denied Replogle's motion to abate and request for judicial notice on September 16, 2014.

<sup>2</sup> All further references to section are to the Penal Code unless otherwise noted.

<sup>3</sup> A jury also found that pursuant to section 190.2, subdivision (a)(1), the murder involved "special circumstances" as it was intentional and carried out for financial gain.

<sup>4</sup> Replogle was found to have conspired to commit the following crimes: (a) murder in the first degree (§ 187), identity theft (§ 530.5, subd. (a)), procuring and offering a false or forged instrument (§ 115), forgery (§ 470, subd. (a)) and grand theft (§ 487).

degree burglary); 487, subdivision (a) (grand theft); 530.5, subdivision (a) (identity theft); 115 (procure or offer a false or forged instrument); and 496, subdivision (a) (receiving stolen property). As a result of his conviction, we issued an order placing Replogle on interim suspension, effective April 15, 2011. On August 15, 2014, OCTC transmitted evidence that Replogle's conviction is final.

After the judgment of conviction becomes final, "the Supreme Court shall summarily disbar the attorney if the offense is a felony . . . and an element of the offense is the specific intent to deceive, defraud, steal, or make or suborn a false statement, or involved moral turpitude." (Bus. & Prof. Code, § 6102, subd. (c).) The record of conviction establishes that Replogle's offense meets the criteria for summary disbarment under Business and Professions Code section 6102, subdivision (c).

First, Replogle was charged with and convicted of felonies. (Pen. Code, §§ 115, 182, 187, 459, 487, subd. (a), 496, subd. (a), 530.5, subd. (a).) Second, the crimes involve moral turpitude. (*In re Kirschke* (1976) 16 Cal.3d 902 [first degree murder is a crime of moral turpitude]; *In re Cohen* (1974) 11 Cal.3d 935, 937 [conspiracy to commit grand theft and forgery involve moral turpitude]; *In re Hurwitz* (1976) 17 Cal.3d 562 [acts in the nature of burglary involve moral turpitude]; *In re Basinger* (1988) 45 Cal.3d 1348 [grand theft necessarily involves moral turpitude]; *In re Plotner* (1971) 5 Cal.3d 714 [receiving stolen property is a crime of moral turpitude]; *In re Rivas* (1989) 49 Cal.3d 794 [offering false documents involves moral turpitude]; *People v. Hagedorn* (2005) 127 Cal.App.4th 734 [Pen. Code, § 530.5, subd. (a) contemplates misleading person]; *Cutler v. State Bar* (1969) 71 Cal.2d 241 [attorney's practice of deceit involves moral turpitude].)

When an attorney's conviction meets the requirements of Business and Professions Code section 6102, subdivision (c), "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.)

Disbarment is mandatory. (*Id.* at p. 9.)

We therefore recommend that David Keirnan Replogle, State Bar number 77875, be disbarred from the practice of law in this state. We also recommend that he be ordered to comply with California Rules of Court, rule 9.20 and to perform the acts specified in subdivisions (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 the costs be awarded to the State Bar in accordance with section 6086.10 of the Business and Professions Code and that such costs be enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

**PURCELL**

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Presiding Judge

## CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc.; § 1013a(4)]

I am a Case Administrator of the State Bar Court. 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 September 22, 2014, I deposited a true copy of the following document(s):

RECOMMENDATION OF SUMMARY DISBARMENT FILED SEPTEMBER 22, 2014

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

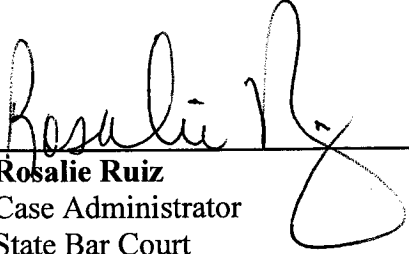
- [X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

DAVID K. REPLOGLE  
THE REPLOGLE LAW FIRM AO+PC  
8220 TANFORAN CT  
NEWARK, CA 94560

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

ALLEN BLUMENTHAL, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on September 22, 2014.

  
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**Rosalie Ruiz**  
Case Administrator  
State Bar Court