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STATE BAR COURT
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STATE BAR COURT OF CALIFORNIA

REVIEW DEPARTMENT

IN BANK

In the Matter of)	Case No.: 09-C-16872
)	
ERIC FRANCIS FAGAN,)	
)	RECOMMENDATION OF SUMMARY
A Member of the State Bar, No. 87071.)	DISBARMENT
)	

On August 20, 2015, the Office of the Chief Trial Counsel of the State Bar (OCTC) filed a motion for summary disbarment based on Eric Francis Fagan's felony convictions. Fagan did not respond. We grant the motion and recommend that Fagan be summarily disbarred.

On December 21, 2012, a jury convicted Fagan of violating Penal Code sections 187, subdivision (a) (first degree murder) and 664/187, subdivision (a) (attempted murder). As a result of his conviction, we issued an order placing Fagan on interim suspension, effective March 25, 2013. On August 20, 2015, OCTC transmitted evidence that Fagan's convictions were affirmed on appeal on October 15, 2014, and are therefore 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 Fagan's offenses meet the criteria for summary disbarment under Business and Professions Code section 6102, subdivision (c).



First, Fagan was charged with and convicted of felonies. (Bus. & Prof. Code, § 6102, subd. (b); Pen. Code, §§ 17, 187, 190, 664.) Second, the crimes involve moral turpitude. First degree murder constitutes moral turpitude per se. (*In re Strick* (1983) 34 Cal.3d 891, 902; *In re Kirschke* (1976) 16 Cal.3d 902.) Fagan's attempted murder conviction also necessarily involves moral turpitude. Attempt crimes consist of a specific intent to commit the crime and a direct but ineffectual act done toward its commission. (Pen. Code, § 21a.) The moral turpitude classification of an attempt crime depends upon the object offense. (*In re Lesansky* (2001) 25 Cal.4th 11, 17.) Because the object offense for Fagan's attempt crime was first degree murder, which includes the element of a premeditated intent to kill, it 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 Eric Francis Fagan, State Bar number 87071, 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 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

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 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 September 16, 2015, I deposited a true copy of the following document(s):

RECOMMENDATION OF SUMMARY DISBARMENT FILED SEPTEMBER 16, 2015

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

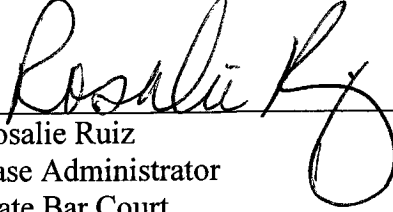
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

ERIC FRANCIS FAGAN
2220 OTAY LAKES RD # 502-84
CHULA VISTA, CA 91915 - 1004

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

Charles A. Murray, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on September 16, 2015.



Rosalie Ruiz
Case Administrator
State Bar Court