

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES

In the Matter of)	Case No.: 10-TR-09403-RAP
)	
)	ORDER DENYING REQUEST FOR
DEAN GREGORY CHANDLER,)	HEARING AND BRIEFING &
Member No. 163090,)	ORDER OF INVOLUNTARY
)	INACTIVE ENROLLMENT
)	(Bus. & Prof. Code, § 6007, subd. (b)(2).)
<u>A Member of the State Bar.</u>)	

This matter is before the court on the motion filed by the Office of the Chief Trial Counsel of the State Bar of California (hereafter State Bar) on October 20, 2010, to have Attorney **DEAN GREGORY CHANDLER** involuntarily enrolled as an inactive member of the State Bar of California under Business and Professions Code section 6007, subdivision (b)(2) (hereafter section 6007, subdivision (b)(2)).¹ (Rules Proc. of State Bar, rule 410 et seq.) Section 6007, subdivision (b)(2) *mandates* that an attorney be enrolled inactive if a superior court has assumed jurisdiction over the attorney’s law practice under Business and Professions Code section 6180.5 or section 6190.34.²

¹ Of course, an inactive member of the State Bar of California cannot lawfully practice law in this state. (Bus. & Prof. Code, § 6126, subd. (b).) Moreover, an attorney who has been enrolled inactive cannot lawfully represent others before any state agency or in any state administrative hearing even if laypersons are otherwise authorized to do so. (*Ibid.*; *Benninghoff v. Superior Court* (2006) 136 Cal.App.4th 61, 66-73.)

² Section 6007, subdivision (b)(2) incorrectly cites to (former) “section 6190.3.” Former section 6190.3 is now Business and Professions Code section 6190.34.

On December 7, 2010, the State Bar filed, in the State Bar Court, a copy of the “permanent order to assume jurisdiction over the law practice of Dean G. Chandler” that the San Diego County Superior Court filed on December 6, 2010, in its case number 37-2010-00102018-CU-PT-CTL. In the interest of justice, the court deems the State Bar's December 7, 2010 filing as supplementing its motion.³

This matter is also before the court on Attorney Chandler's request for a hearing and briefing schedule (hereafter request for hearing and briefing).⁴

Request for Hearing and Briefing

On about December 9, 2010, Attorney Chandler served a copy of the request for hearing and briefing on the State Bar, but did not file the request in the State Bar Court. On December 14, 2010, the State Bar filed a response opposing the request for hearing and briefing. Thereafter, Chandler finally filed the request for hearing and briefing on December 20, 2010.

In effect, in the request for hearing and briefing, Chandler impermissibly attempts to collaterally attack one or more orders of the San Diego County Superior Court in this State Bar Court proceeding.

Moreover, even though this court has the discretion to set the State Bar's motion for a hearing and to set a briefing schedule for that hearing (Rules Proc. of State Bar, rule 412(b); accord, Rules Proc. of State Bar, rule 105(d)), the *only* issue that Attorney Chandler may raise at

³ The superior court issued its December 6, 2010 permanent order after notice to Attorney Chandler and December 6, 2010 hearing. The superior court did not specify any exceptions in its December 6, 2010 permanent order. (See Rules Proc. of State Bar, rule 412(a).)

⁴ On November 1, 2010, under Code of Civil Procedure section 170.6, Attorney Chandler filed a peremptory challenge to disqualify the undersigned Judge of the State Bar Court from ruling on the State Bar's motion for inactive enrollment. State Bar Court Judges, however, cannot be disqualified under Code of Civil Procedure section 170.6. (Cf. Rules Proc. of State Bar, rule 106(c).) On November 29, 2010, Attorney Chandler withdrew the improper peremptory challenge.

the hearing is a claim that State Bar has not met its burden to establish that the superior court has assumed jurisdiction over his law practice. (Rules Proc. of State Bar, rule 412(b).) In the request for hearing and briefing, Attorney Chandler admits that the San Diego County Superior Court has issued an order assuming jurisdiction over his law practice. What is more, the copy of the superior court's December 6, 2010 permanent order establishes that the San Diego County Superior Court has issued an order assuming jurisdiction over Attorney Chandler's law practice under section 6190.34 of the Business and Professions Code. Thus, the request for hearing and briefing is not only an improper collateral attack on the superior court's orders, but is also moot.

The court orders that Attorney Chandler's December 20, 2010 request for a hearing and briefing schedule is DENIED.

Motion for Inactive Enrollment

It is motion, the State Bar contends that, in an *ex parte* order filed on October 18, 2010, in case number 37-2010-00102018-CU-PT-CTL, the San Diego County Superior Court assumed jurisdiction over Attorney Chandler's law practice under Business and Professions Code section 6190. However, the title of the superior court's October 18, 2010 order ("order to show cause and interim [i.e., temporary] orders assuming jurisdiction over the law practice of Dean G. Chandler") belies the State Bar's contention.

As noted *ante*, section 6007, subdivision (b)(2) *mandates* that an attorney be enrolled inactive if a superior court has assumed jurisdiction over the attorney's law practice under Business and Professions Code section 6180.5 or section 6190.34. An attorney must be provided with both notice and a hearing before a superior court assumes jurisdiction over the attorney's practice under sections 6180.5 or section 6190.34. (Bus. & Prof. Code, §§ 6180.4, 6180.5, 6190.3, 6190.34.)

It follows that *ex parte* orders and *interim* (i.e., temporary) orders – like the superior court’s October 18, 2010 *ex parte*, interim orders – are not orders assuming jurisdiction over an attorney’s law practice under Business and Professions Code section 6180.5 or section 6190.34 and cannot support an order of involuntary inactive enrollment under section 6007, subdivision (b)(2). Nonetheless, as noted *ante*, the superior court’s December 6, 2010 *permanent* order is an order of a superior court assuming jurisdiction over Attorney Chandler’s law practice under section 6190.34. Accordingly, the December 6, 2010 permanent order supports and compels Chandler’s inactive enrollment under section 6007, subdivision (b)(2). Accordingly, the court orders that the State Bar's October 20, 2010 motion for inactive enrollment is GRANTED.

Finally, in accordance with Business and Professions Code section 6007, subdivision (b)(2), the court orders that Attorney **DEAN GREGORY CHANDLER** be involuntarily enrolled as an inactive member of the State Bar of California effective three calendar days after the service of this order by mail (Rules Proc. of State Bar, rule 414).

Dated: January 3, 2011.

RICHARD A. PLATEL
Judge of the State Bar Court