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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.: 11-C-10089  
)  
MATTHEW C. TYE, )  
) RECOMMENDATION OF SUMMARY  
) DISBARMENT  
A Member of the State Bar, No. 232873. )  
\_\_\_\_\_ )

On August 22, 2014, the State Bar's Office of the Chief Trial Counsel (OCTC) filed a motion for summary disbarment based on the felony conviction of Matthew C. Tye. Tye did not file a response. We grant the motion and recommend that Tye be summarily disbarred.

On December 13, 2013, Tye pleaded guilty to five felony counts of violating Penal Code section 288a, subdivision (b)(1) (oral copulation with a minor), and three felony counts of violating Penal Code section 261.5, subdivision (c) (unlawful sexual intercourse with a minor). As a result of his conviction, we issued an order placing Tye on interim suspension, effective March 21, 2014. On August 22, 2014, OCTC transmitted evidence that Tye'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 Tye's offenses meet the criteria for summary disbarment under Business and Professions Code section 6102, subdivision (c).

First, Tye was charged with and convicted of felony violations of Penal Code sections 288a, subdivision (b)(1), and 261.5, subdivision (c). Second, the crimes involve moral turpitude. “In the attorney discipline context, the term ‘moral turpitude’ includes ‘particular crimes that that are extremely repugnant to accepted moral standards such as . . . serious sexual offenses [Citation].’ [Citation.]” (*In re Lesansky* (2001) 25 Cal.4th 11, 17; see also *In re Grant* (2014) 58 Cal.4th 469, 476.)

In *In re Lesansky, supra*, 25 Cal.4th 11, the Supreme Court determined that an attempt to commit a lewd or lascivious act on a child necessarily involves moral turpitude. The court stated: “one who admits ‘that he intended to arouse, appeal to, or gratify sexual desire with a child . . . necessarily admits that he intended to harm the child.’ [Citation] . . . We conclude that such conduct is ‘extremely repugnant to accepted moral standards’ and necessarily involves moral turpitude for purposes of attorney discipline. [Citations.]” (*Id.* at p. 17.) Similarly, in *In re Grant, supra*, 58 Cal.4th 469, 476-477, the Supreme Court found that the knowing possession and control of pornographic materials depicting actual persons, who are actually under 18 and engaged in actual or simulated sex acts, is a crime involving moral turpitude. The court found that such crime meets the “*Lesansky* formulation” of “extremely repugnant” conduct for purposes of finding moral turpitude. (*Id.* at p. 477.)

Penal Code section 288a, subdivision (b)(1) provides that “any person who participates in an act of oral copulation with another person who is under 18 years of age shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.” Penal Code section 261.5, subdivision (c) states: “[a]ny person who engages in an act of unlawful sexual intercourse with a minor who is more than three years younger than the perpetrator” is guilty of a misdemeanor or a felony. “Through the enactment of sections 261.5 and 288a and multiple other penal statutes, the Legislature has evidenced a long-standing and


consistent history of specifically protecting minors from sexual exploitation and predation.”

(*Angie M. v. Superior Court* (1995) 37 Cal.App.4th 1217, 1225.)

Tye’s violations of Penal Code sections 288a, subdivision (b)(1) and 261.5, subdivision (c) are serious sexual offenses that meet the “*Lesansky* formulation” of conduct that is “extremely repugnant to accepted moral standards.” In fact, since an element of these crimes involve the performance of a sexual act on the minor, they are more grievous than the attempted lewd acts in *Lesansky* and possession of child pornography in *Grant*. Therefore, we find these violations necessarily involve moral turpitude for purposes of attorney discipline.

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 Matthew C. Tye, State Bar number 232873, 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.

  
\_\_\_\_\_  
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 26, 2014, I deposited a true copy of the following document(s):

RECOMMENDATION OF SUMMARY DISBARMENT FILED SEPTEMBER 26, 2014

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

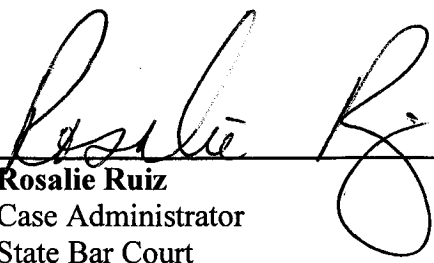
- [X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

MATTHEW C. TYE  
15642 SAND CANYON AVE  
UNIT 51233  
IRVINE, CA 92619

- [X] 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 26, 2014.

  
\_\_\_\_\_  
**Rosalie Ruiz**  
Case Administrator  
State Bar Court