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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. 12-C-10777
)	
SIERRA DAVID STERKIN,)	ORDER
)	
A Member of the State Bar, No. 234356.)	
_____)	

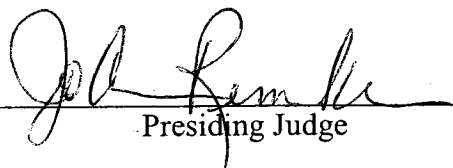
On February 27, 2012, the Office of the Chief Trial Counsel of the State Bar (State Bar) filed a transmittal of respondent Sierra David Sterkin's criminal record for a felony violation of Penal Code section 69 (obstructing or resisting executive officers in performance of their duties). The State Bar contends the crime inherently involves moral turpitude and subjects Sterkin to summary disbarment. On March 12, 2012, Sterkin filed an answer, denying that his conviction involved moral turpitude or other misconduct warranting discipline.

Penal Code section 69 is a divisible statute and "sets forth two separate ways in which an offense can be committed. The first is attempting by threats or violence to deter or prevent an officer from performing a duty imposed by law; the second is resisting by force or violence an officer in the performance of his or her duty. [Citation.]" (*In re Manual G.* (1997) 16 Cal.4th 805, 814.) Looking to the least adjudicated elements of the offense (*In the Matter of Oheb* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920, 927-928), the government must prove the defendant willfully and unlawfully used a threat of violence to try to deter an executive officer from performing the officer's lawful duty, and when the defendant acted, he intended to deter the



officer. (CALCRIM No. 2651 (Summer 2011).) We find that the essential elements of the crime do not inherently involve moral turpitude but may involve moral turpitude or other misconduct warranting discipline based on the facts and circumstances surrounding the conviction.

Based on Sterkin's felony conviction, it is ordered pursuant to Business and Professions Code section 6102 that he be suspended from the practice of law effective April 27, 2012, pending final disposition of this proceeding. (Cal. Rules of Court, rule 9.10(a).) It is further ordered that Sterkin comply with California Rules of Court, rule 9.20, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of this suspension. As we have not yet received evidence that the conviction is final, we will take no action at this time pending the submission of evidence of finality of the conviction or Sterkin's waiver of finality pursuant to rule 5.344(B) of the Rules of Procedure of the State Bar.



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 April 4, 2012, I deposited a true copy of the following document(s):

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

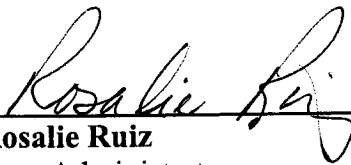
- [X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**SIERRA D. STERKIN
DAVE STERKIN, ATTORNEY AT LAW
PO BOX 1964
PLACERVILLE, CA 95667**

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

DONALD R. STEEDMAN, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on April 4, 2012.



Rosalie Ruiz
Case Administrator
State Bar Court