

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES

In the Matter of)	Case No.: 12-O-10776-RAH
)	
JASON ROBERT WALSH,)	DECISION AND ORDER OF
)	INVOLUNTARY INACTIVE
Member No. 158471,)	ENROLLMENT
)	
<u>A Member of the State Bar.</u>)	

Respondent Jason Robert Walsh (respondent) was charged with failing to comply with probation conditions imposed pursuant to a Supreme Court order. He failed to participate either in person or through counsel, and his default was entered. The Office of the Chief Trial Counsel (State Bar) filed a petition for disbarment under rule 5.85 of the Rules of Procedure of the State Bar.¹

Rule 5.85 provides the procedure to follow when an attorney fails to participate in a disciplinary proceeding after receiving adequate notice and opportunity. The rule provides that if an attorney's default is entered for failing to respond to the notice of disciplinary charges (NDC), and the attorney fails to have the default set aside or vacated within 180 days, the State Bar will file a petition requesting the court to recommend the attorney's disbarment.²

¹ Unless otherwise indicated, all references to rules are to this source.

² If the court determines that any due process requirements are not satisfied, including adequate notice to the attorney, it must deny the petition for disbarment and take other appropriate action to ensure that the matter is promptly resolved. (Rule 5.85(E)(2).)

In the instant case, the court concludes that the requirements of rule 5.85 have been satisfied, and therefore, grants the petition and recommends that respondent be disbarred from the practice of law.

FINDINGS AND CONCLUSIONS

Respondent was admitted to practice law in this state on June 8, 1992, and has been a member since then.

Procedural Requirements Have Been Satisfied

On April 19, 2012, the State Bar filed and properly served the NDC in this matter on respondent by certified mail, return receipt requested, at his membership records address. The NDC notified respondent that his failure to participate in the proceeding would result in a disbarment recommendation. (Rule 5.41.) The return receipt was returned to the State Bar bearing what appears to be respondent's signature.

Thereafter, the State Bar attempted to reach respondent by (1) telephoning his official membership records telephone number; (2) sending an email to respondent, including the NDC and notice of an in person status conference, to the email addresses respondent listed as part of his official State Bar membership records;³ (3) telephoning two different telephone numbers which appeared as telephone numbers used by relatives or those associated with respondent in the person locator report produced from a website search engine.

Respondent failed to file a response to the NDC. On June 4, 2012, the State Bar filed and properly served a motion for entry of default on respondent by certified mail, return receipt requested, at his membership records address. The motion complied with all the requirements for a default, including a supporting declaration of reasonable diligence by the State Bar deputy trial counsel declaring the additional steps taken to provide notice to respondent. (Rule 5.80.)

³ Effective February 1, 2010, all attorneys are required to maintain a current email address to facilitate communications with the State Bar. (Cal. Rules of Court, rule 9.7(a)(2).)

The motion also notified respondent that if he did not timely move to set aside his default, the court would recommend his disbarment. Respondent did not file a response to the motion, and his default was entered on June 21, 2012. The order entering the default was served on respondent at his membership records address by certified mail, return receipt requested. The return receipt was returned to the State Bar Court bearing what may be respondent's signature. The court also ordered respondent's involuntary inactive enrollment as a member of the State Bar under Business and Professions Code section 6007, subdivision (e), effective three days after service of the order, and he has remained inactively enrolled since that time.

Respondent also did not seek to have his default set aside or vacated. (Rule 5.83(C)(1) [attorney has 180 days to file motion to set aside default].) On January 25, 2013, the State Bar filed and properly served the petition for disbarment on respondent by certified mail, return receipt requested, at respondent's membership records address. As required by rule 5.85(A), the State Bar reported in the petition that: (1) it has had no contact with respondent since on or about February 13, 2012;⁴ (2) there are no other disciplinary investigations pending against respondent; (3) respondent has a record of three prior impositions of discipline; and (4) the Client Security Fund has paid on one claim arising from respondent's prior misconduct. Respondent did not respond to the petition for disbarment or move to set aside or vacate the default. The case was submitted for decision on February 20, 2013.

Respondent has three prior records of discipline.⁵ On October 16, 2007, the State Bar Court filed an order imposing a public reproof on respondent as a result of his 2007 conviction for driving under the influence of alcohol in violation of Vehicle Code section 23152,

⁴ Accordingly, the State Bar has had no contact with respondent since his default was entered on June 21, 2012;

⁵ The court takes judicial notice of the pertinent State Bar Court records regarding this prior discipline, admits them into evidence and directs the Clerk to include copies in the record of this case.

subdivision (a). In this matter, respondent was involved in an injury accident with another vehicle. Respondent was charged with an enhancement pursuant to Vehicle Code section 23578, as his blood alcohol content was in excess of .15%. Respondent stipulated in this matter that the facts and circumstances surrounding his conviction do not involve moral turpitude but do involve other misconduct warranting discipline.⁶

Pursuant to a Supreme Court order filed on March 4, 2010, respondent was suspended for two years, the execution of which was stayed, subject to certain conditions, including that respondent be suspended for a minimum of one year and that he remain suspended until the court grants a motion to terminate his suspension. Respondent's default was entered in this matter for his failure to appear at trial. The court found respondent culpable of failing to comply with conditions attached to his earlier reproof.

Pursuant to a Supreme Court order filed on July 14, 2011, respondent was suspended for three years, the execution of which was stayed, and he was placed on probation for three years subject to conditions, including that he be suspended for a minimum of the first two years of probation and that he remained suspended until he provides proof of his rehabilitation, fitness to practice and learning and ability in the general law. Respondent stipulated that he willfully violated a law of this state by being convicted of violating Penal Code section 12280, subdivision (b) (possession of assault weapon), Health and Safety Code section 11377, subdivision (a) (possession of a controlled substance-methamphetamine), Health and Safety Code section 11357, subdivision (b) (possession of marijuana, not more than 28.5 grams), and Health and Safety Code section 11550, subdivision (a) (under the influence of a controlled substance). Respondent also stipulated that his conviction of the above offenses constitutes conviction of a crime

⁶ A stipulation was entered into by the parties in this matter in 2008 to modify the stipulation, and on October 31, 2008, the parties' joint stipulation and order modifying the parties' stipulation was filed.

involving other misconduct warranting discipline. Respondent also stipulated to failing to promptly refund any part of a fee paid in advance that had not been earned.

The Admitted Factual Allegations Warrant the Imposition of Discipline

Upon entry of respondent's default, the factual allegations in the NDC are deemed admitted and no further proof is required to establish the truth of such facts. (Rule 5.82.) As set forth below in greater detail, the factual allegations in the NDC support the conclusion that respondent is culpable as charged, except as otherwise noted, and therefore violated a statute, rule or court order that would warrant the imposition of discipline. (Rule 5.85(E)(1)(d).)

Case Number 12-O-10776 (Probation Matter)

Respondent willfully violated Business and Professions Code section 6068, subdivision (k) (duty to comply with probation conditions) by failing to comply with probation conditions imposed by the Supreme Court in its July 14, 2011 Order.⁷

Disbarment is Recommended

Based on the above, the court concludes that the requirements of rule 5.85(E) have been satisfied, and respondent's disbarment is recommended. In particular:

- (1) the NDC was properly served on respondent under rule 5.25;
- (2) reasonable diligence was used to notify respondent of the proceedings prior to the entry of his default, as (1) the NDC was served on respondent at his membership records address by certified mail, return receipt requested; and (2) the State Bar attempted to reach respondent by email and by telephoning his official membership records telephone number and two other numbers appearing as telephone numbers used by relatives or those associated with respondent;
- (3) the default was properly entered under rule 5.80; and

⁷ The court finds respondent culpable as charged, except that the court does not find respondent culpable of failing to submit laboratory screening reports to the Office of Probation, as the laboratory, rather than respondent, was to provide the monthly screening reports to the Office of Probation.

(4) the factual allegations in the NDC deemed admitted by the entry of the default support a finding that respondent violated a statute, rule or court order that would warrant the imposition of discipline.

Despite adequate notice and opportunity, respondent failed to participate in this disciplinary proceeding. As set forth in the Rules of Procedure of the State Bar, the court recommends disbarment.

RECOMMENDATION

Disbarment

The court recommends that respondent Jason Robert Walsh be disbarred from the practice of law in the State of California and that his name be stricken from the roll of attorneys.

California Rules of Court, Rule 9.20

The court also recommends that respondent be ordered to comply with the requirements of 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 order in this proceeding.

Costs

The court further recommends that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, such costs being enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

In accordance with Business and Professions Code section 6007, subdivision (c)(4), the court orders that Jason Robert Walsh, State Bar number 158471, be involuntarily enrolled as an

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inactive member of the State Bar of California, effective three calendar days after the service of this decision and order. (Rule 5.111(D).)

Dated: May _____, 2013

RICHARD A. HONN
Judge of the State Bar Court