

FILED

AUG 10 2012

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

STATE BAR COURT OF CALIFORNIA

REVIEW DEPARTMENT

IN BANK

In the Matter of)	Case No. 12-Q-12966
)	
DAVID ROBERT ENDRES,)	RECOMMENDATION ON
)	RESIGNATION
A Member of the State Bar, No. 123564.)	
_____)	

On April 20, 2012, David Robert Endres filed a resignation with charges pending. In light of the grounds set forth in California Rules of Court, rule 9.21(d),¹ we recommend Endres's resignation be accepted. Endres is currently on probation as a result of a prior discipline case, but no other unresolved discipline matters or investigations are pending against him. He has complied with the existing probation conditions, complied with rule 9.20, and has cooperated in this resignation matter. Under these circumstances, we conclude that the acceptance of his resignation would be consistent with the need to protect the public, the courts, and the legal profession.

I. BACKGROUND

A. Endres's Prior Disciplinary Record

Endres was admitted to practice law in California on June 17, 1986, and has one prior disciplinary record. On December 13, 2011, the Supreme Court ordered Endres suspended for two years, execution stayed, and placed him on probation for two years, subject to conditions

¹ Unless otherwise noted, all further references to rule(s) are to this source.

including six months actual suspension. His misconduct involved a violation of rule 1-300(A) of the Rules of Professional Conduct for aiding his non-attorney staff in the unauthorized practice of law, and a violation of Business and Professions Code section 6068, subdivision (d), for misleading judicial officers. The misconduct was mitigated by Endres's lack of prior discipline, cooperation with the Office of the Chief Trial Counsel (State Bar), and voluntarily changing his office procedures to include attorney oversight over non-attorney staff and attorney management of case files.²

B. State Bar Recommendation on Resignation

In June 2012, the State Bar filed its Report and Recommendation and recommends the Supreme Court accept Endres's resignation. (Rules Proc. of State Bar, rule 5.427(C).) Endres did not file a response.

II. CONSIDERATION OF THE GROUNDS SET FORTH IN RULE 9.21(d)

We have considered Endres's resignation in light of the grounds set forth in rule 9.21(d).

Below is a summary of the relevant information as to each ground.

1. Whether the preservation of testimony is complete

The State Bar reports that preservation of testimony is complete. Endres's misconduct in the prior discipline case is detailed in the parties' Stipulation Re Facts, Conclusions of Law and Disposition, which is a public document that is posted on the State Bar's website, and otherwise available upon request. No other disciplinary matters or investigations are pending against him.

² We take judicial notice of the State Bar Court records regarding Endres's prior discipline and direct the Clerk to include copies of the records in this resignation proceeding. (Evid. Code, § 452, subd. (d).) In the future, the State Bar is advised to properly attach by declaration, copies of all documents referenced in its report that are not part of the resignation proceeding. The record must be complete for this court, and ultimately the Supreme Court, to reach a decision on a respondent's resignation.

2. Whether Endres committed the unauthorized practice of law (UPL) after he submitted his resignation

The State Bar reports that Endres has not practiced law since his transfer to inactive status on April 20, 2012.

3. Whether Endres performed the acts specified by rule 9.20(a)-(b)

The State Bar reports that Endres has complied with the requirements specified in rule 9.20. Endres filed an affidavit of compliance with rule 9.20, declaring that he has no clients, no papers or other property, and no unearned fees to return to his clients.

4. Whether Endres provided proof of compliance with rule 9.20(c)

Endres filed his affidavit of compliance with rule 9.20 on April 20, 2012.

5. Whether the Supreme Court has filed a disbarment order

The Supreme Court has not filed a disbarment order.

6. Whether the State Bar Court has filed a decision recommending disbarment

The State Bar Court has not filed a decision recommending Endres's disbarment.

7. Whether Endres previously resigned or has been disbarred and reinstated to the practice of law

Endres has not previously resigned or been disbarred.

8. Whether Endres and the State Bar have entered into a stipulation as to the facts and conclusions of law regarding the pending disciplinary matter

Although no new disciplinary matters or investigations are pending against him, Endres entered into a stipulation with the State Bar. He stipulated that the Supreme Court filed a prior order disciplining him in the underlying matter, that he is on probation, and he is in current compliance with all of his probation conditions.

9. Whether the acceptance of Endres's resignation will reasonably be inconsistent with the need to protect the public

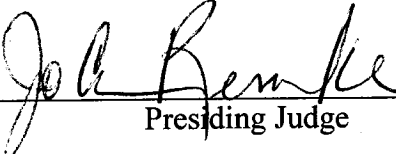
We find that permitting Endres to resign would be consistent with the need to protect the public, the courts and the legal profession. As for a record of his misconduct, the Supreme Court's discipline order in his prior matter is final, and thus, he is not avoiding the imposition of discipline. The stipulation of facts, conclusions of law and disposition that the hearing department approved and the Supreme Court accepted, provides a complete account of Endres's misconduct and is available to the public and any licensing agency or other jurisdiction. No other unresolved discipline matters or investigations are pending against him.

Although Endres is currently on probation as a result of his prior discipline case, he has complied with all of the probation conditions to date. As for the remaining standard conditions of discipline (e.g., quarterly reports, Ethics School and Multistate Professional Responsibility Examination), these are designed to serve the critical function of rehabilitating attorneys in order to assure that they are fit to practice and no longer a danger to the public. (*In the Matter of Rose* (Review Dept. 1993) 3 Cal. State Bar Ct. Rptr. 646.) In this case, however, Endres no longer practices law and is prepared to forfeit his license. It is unnecessary to require the State Bar Office of Probation to monitor Endres – who no longer wishes to be an attorney – in order to establish his rehabilitation for purposes of bar membership. Such use of limited resources would be inconsistent with the goal of public protection.

Finally, Endres has cooperated in this resignation matter by entering into a stipulation with the State Bar, has complied with rule 9.20 and filed his affidavit of compliance with the rule. Under these circumstances, we do not believe that public confidence in the discipline system would be undermined by accepting Endres's resignation.

III. RECOMMENDATION

We recommend that the Supreme Court accept the resignation of David Robert Endres, State Bar number 123564. We further recommend that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, and that such costs be enforceable both as provided in 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 August 10, 2012, I deposited a true copy of the following document(s):

ORDER FILED AUGUST 10, 2012

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

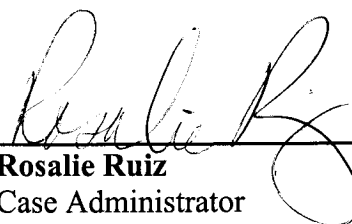
[X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

DAVID R. ENDRES
PO BOX 74343
DAVIS, CA 95617

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

ESTHER J. ROGERS, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on August 10, 2012.



Rosalie Ruiz
Case Administrator
State Bar Court