

PUBLIC MATTER

FILED

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STATE BAR COURT
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STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT - LOS ANGELES

In the Matter of) Case No.: 13-PM-17127-DFM (S197097)
)
CRAIG EUGENE MUNSON,)
)
Member No. 143833,)
)
A Member of the State Bar.)
ORDER GRANTING MOTION TO
REVOKE PROBATION AND FOR
INVOLUNTARY INACTIVE
ENROLLMENT

Introduction¹

In this probation revocation proceeding, Respondent Craig Eugene Munson is charged with violating certain of the probation conditions previously imposed by the California Supreme Court. The Office of Probation of the State Bar of California (Office of Probation) seeks to revoke his probation, to impose upon Respondent the entire one-year period of suspension previously stayed, and to involuntarily enroll Respondent as an inactive member of the State Bar.

The court finds, by preponderance of the evidence, that Respondent has violated his probation conditions. As a result, the court recommends, among other things, that Respondent's probation be revoked, that the previously-ordered stay of suspension be lifted, and that Respondent be suspended from the practice of law for one year, execution of that period of suspension be stayed, and that he be placed on probation for two years on conditions, including that he be suspended from the practice of law for the first six months of probation. Finally, the

¹ Unless otherwise indicated, all references to rules refer to the State Bar Rules of Professional Conduct. Furthermore, all statutory references are to the Business and Professions Code, unless otherwise indicated.



court orders that Respondent be enrolled as an involuntary inactive member of the State Bar pursuant to section 6007, subdivision (d)(1).

Significant Procedural History

On November 18, 2013, the Office of Probation filed and properly served a motion to revoke probation on Respondent. Respondent filed a response to the motion on December 13, 2013, and requested a hearing in the matter. The hearing was held on February 19, 2014. The Office of Probation was represented by Supervising Attorney Terrie Goldade. Respondent acted as counsel for himself. The court took this matter under submission on February 19, 2014.

Findings of Fact and Conclusions of Law

Jurisdiction

Respondent was admitted to the practice of law in California on December 11, 1989, and has been a member of the State Bar of California at all times since that date.

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Section 6093, subdivision (b), provides that violation of a probation condition constitutes cause for revocation of any probation then pending and may constitute cause for discipline. Section 6093, subdivision (c), provides that the standard of proof is the preponderance of the evidence. Bad faith is not a requirement for a finding of culpability in a probation violation matter. Instead, a general purpose or willingness to commit an act or permit an omission is sufficient. (*In the Matter of Potack* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 525, 536.)

On December 13, 2011, in Supreme Court case No. S197097, the California Supreme Court ordered, among other things, that:

1. Respondent be suspended from the practice of law for one year, that execution of the suspension be stayed, that he be placed on probation for two years, with conditions of probation as recommended by the Hearing Department of the State Bar Court in its

order approving stipulation filed August 25, 2011 (State Bar Court cases Nos. 10-O-00128 etc.); and

2. Respondent comply, among other things, with the following probation conditions:
 - A. During the period of probation, Respondent was required to submit a written report to the Office of Probation on January 10, April 10, July 10 and October 10 of each year, or part thereof, during which the probation is in effect, stating under penalty of perjury that he has complied with provisions of the State Bar Act and Rules of Professional Conduct during said period (quarterly report); and
 - B. Respondent was required to pay the \$1,500 sanction referenced in State Bar case No. 10-O-07986 within the first 12 months of the effective date of the order. Respondent was also required to indicate on each quarterly probation report whether he made a payment during that reporting period and attach proof of payment as defined by the Office of Probation.

The Supreme Court order became effective on January 12, 2012, 30 days after it was entered. (Cal. Rules of Court, rule 9.18(a).) It was properly served on Respondent.²

On January 17, 2012, the Office of Probation wrote a letter to Respondent, reminding him of certain terms and conditions of his suspension and the probation imposed pursuant to the Supreme Court's order and enclosing, among other things, copies of the Supreme Court's order, the probation conditions portion of the stipulation entered into by Respondent, and instruction sheets and forms to use in submitting quarterly reports.

²Although no proof was offered that the Clerk of the Supreme Court served the Supreme Court's order upon Respondent, California Rules of Court, rule 8.532(a) requires clerks of reviewing courts to immediately transmit a copy of all decisions of those courts to the parties upon filing. It is presumed pursuant to Evidence Code section 664 that official duties have been regularly performed. (*In re Linda D.* (1970) 3 Cal.App.3d 567, 571.) Therefore, in the absence of evidence to the contrary, this court finds that the Clerk of the Supreme Court performed his duty and transmitted a copy of the Supreme Court's order to Respondent immediately after its filing.

Respondent met with probation deputy Eddie Esqueda by phone on February 11, 2012. The probation deputy reviewed with him all of his probation conditions and their deadlines.

The court finds that Respondent did not comply with the conditions of probation, as ordered by the Supreme Court in S197097, as follows:

- (1) As detailed below, Respondent has failed to file five quarterly reports on a timely basis; and
- (2) Respondent failed to pay the \$1,500 sanctions within a year of the effective date of the Supreme Court's order.

Respondent was timely in filing his first quarterly report, due on April 10, 2012 (and filed April 5, 2012), but failed to file timely the reports due on July 10, 2012 (filed August 14, 2012), January 10, 2013 (filed January 12, 2013), April 10, 2013, July 10, 2013, and October 10, 2013. The latter three reports had not been filed at all at the time of the filing of the instant motion to revoke Respondent's probation. Instead, Respondent sought to file them on the morning of the hearing of the motion on February 19, 2014.

With regard to the obligation to pay the \$1,500 sanctions prior to January 12, 2013, Respondent did not pay those sanctions by the required deadline. Instead, the sanctions were paid late on February 25, 2013, and proof of such payment was provided to the Office of Probation on February 26, 2013.

As a result, the revocation of Respondent's probation in California Supreme Court order No. S197097 is warranted.

Aggravation³

Prior Discipline

Respondent has been disciplined on two prior occasions, one discipline resulting in actual suspension.

³ All references to standards (Std.) are to the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct.

As previously noted, in 2011 the California Supreme Court ordered Respondent suspended for one year, stayed, and placed on probation for two years in State Bar cases Nos. 10-O-00128, etc. Respondent's stipulated culpability in those cases involved violations of rules 3-110(A) [two counts] and 4-100(A) and sections 6068, subdivision (m), and 6103

In 2008, the California Supreme Court ordered Respondent suspended for one year, stayed, and placed on probation for one year, with conditions of probation including 30 days of actual suspension in State Bar case Nos. 07-O-12345, etc. Respondent's stipulated culpability in those cases involved violations of rules 4-100(A).

This history of prior disciplines is an aggravating circumstance. (Std. 1.8(b).⁴)

Multiple Acts/Pattern of Misconduct⁵

Respondent committed multiple acts of wrongdoing. This is an aggravating factor. (Std. 1.5(b).)

Indifference Toward Rectification/Atonement

An attorney's continued failure to comply with his probation conditions after being notified of that noncompliance is properly considered a substantial aggravating circumstance. It demonstrates indifference toward rectification of or atonement for the consequences of one's misconduct. (*In the Matter of Tiernan* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 523, 530.)

Mitigation

Late Compliance

As noted above, Respondent eventually complied with the probation conditions that he violated. He explained that his tardiness in compliance resulted from the financial problems that he was encountering during that time and the distraction caused by the time he spent dealing with

⁴ Previously standard 1.7(b).

⁵ Previously standard 1.2(b)(ii).

a sick family member. While these explanations are not a defense to the revocation, they are a factor in mitigation.

Discussion

Section 6093 authorizes the revocation of probation for a violation of a probation condition, and standard 1.8 requires that the court recommend a greater discipline in this matter than that imposed in the preceding disciplinary proceedings, but any actual suspension cannot exceed the period of stayed suspension imposed in the underlying proceeding. (Rules Proc. of State Bar, rule 5.312.) The extent of the discipline to recommend is dependent, in part, on the seriousness of the probation violations and Respondent's recognition of his misconduct and his efforts to comply with the conditions. (*In the Matter of Potack* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 525, 540.)

The Office of Probation requested that Respondent be actually suspended for the full amount of the one-year stayed suspension. Given Respondent's conduct during the course of the probation, including his belated efforts to comply, his explanations for non-compliance, and his genuine expressions at trial of remorse, this court concludes that actual suspension of six months is sufficient to achieve the purposes of the probation and prior discipline. (*In the Matter of Taggart* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302.) Accordingly, discipline is recommended as set forth more fully below.

Recommendations

Actual Suspension

It is recommended that the probation of Respondent **Craig Eugene Munson**, Member No. 143833, imposed in Supreme Court case No. 197097 (State Bar Court case Nos. 10-O-00128, etc.) be revoked; that the previous stay of execution of the suspension be

lifted; and that Respondent be actually suspended from the practice of law for the first six months of probation.

Probation

It is recommended that Respondent be placed on probation for two years, with the following conditions:

1. Respondent must comply with the provisions of the State Bar Act, the Rules of Professional Conduct, and all the conditions of this probation.
2. Respondent must maintain, with the State Bar's Membership Records Office *and* the State Bar's Office of Probation, his current office address and telephone number or, if no office is maintained, an address to be used for State Bar purposes. (Bus. & Prof. Code, § 6002.1, subd. (a).) Respondent must also maintain, with the State Bar's Membership Records Office and the State Bar's Office of Probation, his current home address and telephone number. (See Bus. & Prof. Code, § 6002.1, subd. (a)(5).) Respondent's home address and telephone number will not be made available to the general public. (Bus. & Prof. Code, § 6002.1, subd. (d).) Respondent must notify the Membership Records Office and the Office of Probation of any change in any of this information no later than 10 days after the change.
3. Within thirty (30) days after the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation and must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
4. Respondent must report, in writing, to the State Bar's Office of Probation no later than January 10, April 10, July 10 and October 10 of each year or part thereof in which

Respondent is on probation (reporting dates).⁶ However, if Respondent's probation begins less than 30 days before a reporting date, Respondent may submit the first report no later than the second reporting date after the beginning of his probation. In each report, Respondent must state that it covers the preceding calendar quarter or applicable portion thereof and certify by affidavit or under penalty of perjury under the laws of the State of California as follows:

(a) in the first report, whether Respondent has complied with all the provisions of the State Bar Act, the Rules of Professional Conduct, and all other conditions of probation since the beginning of probation; and

(b) in each subsequent report, whether Respondent has complied with all the provisions of the State Bar Act, the Rules of Professional Conduct, and all other conditions of probation during that period.

During the last 20 days of this probation, Respondent must submit a final report covering any period of probation remaining after and not covered by the last quarterly report required under this probation condition. In this final report, Respondent must certify to the matters set forth in subparagraph (b) of this probation condition by affidavit or under penalty of perjury under the laws of the State of California.

5. Subject to the proper or good faith assertion of any applicable privilege, Respondent must fully, promptly, and truthfully answer any inquiries of the State Bar's Office of Probation that are directed to Respondent, whether orally or in writing, relating to whether Respondent is complying or has complied with the conditions of this probation.
6. Within one year after the effective date of the Supreme Court order in this matter, Respondent must attend and satisfactorily complete the State Bar's Ethics School and

⁶ To comply with this requirement, the required report, duly completed, signed and dated, must be received by the Office of Probation on or before the reporting deadline.

provide satisfactory proof of such completion to the State Bar's Office of Probation. This condition of probation is separate and apart from Respondent's California Minimum Continuing Legal Education (MCLE) requirements; accordingly, Respondent is ordered not to claim any MCLE credit for attending and completing this course. (Rules Proc. of State Bar, rule 3201.)⁷

7. Respondent's probation will commence on the effective date of the Supreme Court order imposing discipline in this matter.

Rule 9.20

It is also recommended that the Supreme Court order Respondent to comply with rule 9.20(a) of the California Rules of Court within 30 calendar days after the effective date of the Supreme Court order in the present proceeding and to file the affidavit provided for in rule 9.20(c) within 40 calendar days after the effective date of the order showing Respondent's compliance with said order.⁸

Multistate Professional Responsibility Examination

It is further recommended that Respondent be ordered to take and pass the Multistate Professional Responsibility Examination within one year after the effective date of the Supreme Court order imposing discipline in this matter, or during the period of his suspension, whichever is longer, and provide satisfactory proof of such passage to the State Bar's Office of Probation in Los Angeles within the same period. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) Failure to do so may result in an automatic suspension. (Cal. Rules of Court, rule 9.10(b).)⁹

⁷ Respondent last completed the Ethics School on February 2, 2011.

⁸ Respondent is required to file a rule 9.20(c) affidavit even if he has no clients. (*Bercovich v. State Bar* (1990) 50 Cal.3d 116, 130.)

⁹ Respondent last passed the MPRE on November 6, 2010.

Costs


It is recommended that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

Order of Involuntary Inactive Enrollment

Section 6007, subdivision (d)(1), provides for an attorney's involuntary inactive enrollment for violating probation if: (A) the attorney is under a suspension order any portion of which has been stayed during a period of probation, (B) the court finds that probation has been violated, and (C) the court recommends that the attorney receive an actual suspension due to the probation violation or other disciplinary matter. The requirements of section 6007, subdivision (d)(1) have been met.

Craig Eugene Munson, Member No. 143833, is ordered to be involuntarily enrolled inactive under section 6007, subdivision (d)(1).¹⁰ This inactive enrollment order will be effective three calendar days after the date upon which this order is served.

Dated: March 12, 2014


DONALD F. MILES
Judge of the State Bar Court

¹⁰The court recommends that any period of involuntary inactive enrollment be credited against the period of actual suspension ordered. (Bus. & Prof. Code, § 6007, subd. (d)(3).)

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 of California. 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 March 12, 2014, I deposited a true copy of the following document(s):

ORDER GRANTING MOTION TO REVOKE PROBATION AND FOR
INVOLUNTARY INACTIVE ENROLLMENT

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

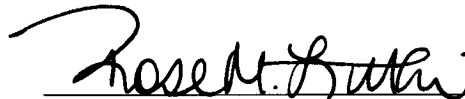
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

CRAIG E. MUNSON
321 N ATLANTIC BLVD
ALHAMBRA, CA 91801

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

TERRIE GOLDADE, Office of Probation, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on March 12, 2014.



Rose M. Luthi
Case Administrator
State Bar Court