

FILED

JUL 30 2015 JE

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

STATE BAR COURT OF CALIFORNIA

REVIEW DEPARTMENT

IN BANK

In the Matter of)	Case No. 14-C-00762
)	
DAVID GANEY KELLY,)	RECOMMENDATION OF
)	SUMMARY DISBARMENT
A Member of the State Bar, No. 268795.)	
_____)	

On July 1, 2015, the Office of the Chief Trial Counsel of the State Bar (OCTC) filed a Motion for Summary Disbarment based on David Ganey Kelly's felony conviction. Kelly did not respond. We grant the Motion and recommend that Kelly be summarily disbarred.

On February 10, 2014, Kelly pled no contest to violating Penal Code section 311.11, subdivision (a) (possession or control of child pornography). He was sentenced on March 10, 2014. On April 18, 2014, we placed Kelly on interim suspension, effective May 14, 2014. On July 1, 2015, OCTC submitted evidence that the conviction had become final and requested Kelly's summary disbarment.

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 both criteria for summary disbarment.

First, his offense is a felony. (Bus. & Prof. Code, § 6102, subd. (b); Penal Code, § 311.11, subd. (a).) Second, the crime of possession of child pornography necessarily involves moral turpitude. (*In re Grant* (2014) 58 Cal.4th 469, 480.) "The knowing possession of child



pornography is ‘a serious breach of the duties of respect and care that all adults owe to all children, and it show[s] such a flagrant disrespect for the law and for societal norms, that continuation of [*a convicted attorney's*] State Bar membership would be likely to undermine public confidence in and respect for the legal profession.’ [Citation].” (*Id.* at pp. 480-481.)

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 David Ganey Kelly, State Bar number 268795, 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.

PURCELL

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 July 30, 2015, I deposited a true copy of the following document(s):

RECOMMENDATION OF SUMMARY DISBARMENT FILED JULY 30, 2015

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

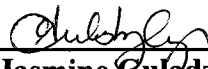
- [X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**DAVID G. KELLY
4197 STATE ST SPC 1
SANTA BARBARA, CA 93110**

- [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 July 30, 2015.



Jasmine Guladzhyan
Case Administrator
State Bar Court