

FILED
NOV 05 2014
STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

STATE BAR COURT OF CALIFORNIA
REVIEW DEPARTMENT
IN BANK*

In the Matter of) Case No. 14-Q-03323
JOHN EDWARD MORAN,) RECOMMENDATION ON
A Member of the State Bar, No. 94179.) RESIGNATION

On May 29, 2014, John Edward Moran, filed his resignation with disciplinary charges pending. The only discipline proceeding currently pending against Moran is the probation imposed by a 2014 Supreme Court order. Under California Rules of Court, rule 9.21(a), “[a] member of the State Bar against whom disciplinary charges are pending may tender a written resignation from membership in the State Bar and relinquishment of the right to practice law.”¹ Rule 5.420 of the Rules of Procedure of the State Bar provides: “Charges are pending when the member is the subject of an investigation by the Office of Investigations or a discipline proceeding under these rules, or when the member is the subject of a criminal charge or investigation, or has been convicted of a felony or misdemeanor.” We find that under these rules, disciplinary charges are *pending* while Moran continues to be on *probation* for a prior discipline.

* Judge Richard A. Honn did not participate.

¹ All further rule references are to this source unless otherwise noted.

In light of the grounds set forth in rule 9.21(d), we recommend Moran's resignation be accepted because (1) he had no prior record of discipline in 32 years of practice until the misconduct that caused the 2014 Supreme Court order; (2) his misconduct was limited to a single matter that did not involve clients or the practice of law; (3) he owes no restitution; (4) he cooperated in this proceeding by complying with rule 9.20 and tendering an authorization for public disclosure of pending complaints, investigations and proceedings; and (5) he is 66 years old and willing to forfeit his license. We see no harm to the public under the circumstances presented here. We conclude that the acceptance of Moran's resignation would be consistent with the need to protect the public, the courts, and the legal profession.

I. BACKGROUND

A. 2014 Discipline

Moran was admitted to practice law in California on December 16, 1980, and had no prior record of discipline before his misconduct in 2012. On April 2, 2012, he reported to the State Bar that he was in compliance with minimum continuing legal education (MCLE) requirements when he knew that he was not in compliance. In a Stipulation Re Facts, Conclusions of Law and Disposition and Order Approving, Moran stipulated to the following facts: (1) in order to remain as an active member of the State Bar, he was required to complete 25 hours of MCLE during the compliance period of February 1, 2009, through January 31, 2012; (2) he reported compliance with MCLE requirements on April 2, 2012, although he had not completed all of his MCLE during the compliance period; (3) when he reported to the State Bar that he was in compliance with the MCLE requirements, he knew that he had not actually completed the required MCLE; (4) after being contacted about an audit of his MCLE compliance, he completed the required hours. Moran stipulated that he violated Business and Professions Code section 6106 by reporting to the State Bar that he was in compliance with

minimum continuing legal education (MCLE) requirements when he knew that he was not in compliance. On April 29, 2014, the Supreme Court ordered Moran suspended for one year, execution stayed, and placed on probation for one year, subject to conditions including 30 days actual suspension. (Supreme Court case no. S216715, State Bar Court case no. 13-O-10762.)

B. The Office of the Chief Trial Counsel (OCTC) Recommendation

On July 28, 2014, OCTC filed a report recommending that the resignation be accepted because Moran entered into a stipulation in his 2014 discipline that accurately describes his misconduct and therefore provides the public with adequate notice; has not actively practiced law and has no clients since 2007; does not intend to be reinstated or continue with the practice of law, and the prior discipline did not involve harm to the public. OCTC also states that Moran is 66 years old, is fully retired, and has no intention of practicing law in the future. The only matter pending is the probation related to the prior discipline. There is no Client Security Fund claim pending against Moran. Moran has signed an Authorization for Public Disclosure Concerning Pending Complaints, Investigations and Proceedings.

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

We have considered Moran's resignation under the grounds set forth in rule 9.21(d). We summarize below the relevant information for each ground:

1. Whether the preservation of testimony is complete.

OCTC reports that preservation of necessary testimony is unnecessary since Moran has entered into a stipulation to facts and conclusions of law that resolves all disciplinary matters.

2. Whether after transfer to inactive status, Moran has practiced law or has advertised or held himself out as entitled to practice law.

OCTC reports it has no information to suggest that Moran has advertised or held himself out as entitled to practice law after being placed inactive on October 9, 2012.

3. Whether Moran performed the acts specified in rule 9.20(a)-(b).

Moran filed a rule 9.20 declaration stating that he had no clients, no client papers or other property to return, no unearned fees, and no pending client matters. OCTC states that it “has not received information from clients, courts, or opposing counsel that would give rise to an investigation on this issue.”

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

Moran’s rule 9.20 compliance declaration was submitted on May 29, 2014, along with his resignation.

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 Moran’s disbarment.

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

Moran has not previously resigned or been disbarred in California.

8. Whether Moran entered a stipulation with OCTC as to facts and conclusions of law regarding pending disciplinary matters.

In January 2014, the parties filed a Stipulation Re Facts, Conclusions of Law and Disposition and Order Approving in the 2014 disciplinary matter. (Supreme Court case no. S216715, State Bar Court case no. 13-O-10762.)

9. Whether accepting Moran’s resignation will reasonably be inconsistent with the need to protect the public, the courts, or the legal profession.

We recommend accepting Moran’s resignation. Moran cooperated with OCTC by

entering into a stipulation regarding the facts, conclusions of law and disposition as to the 2014 disciplinary matter, submitting a rule 9.20 compliance declaration, and tendering an authorization for public disclosure of pending complaints, investigations and proceedings. The stipulation provides a complete account of his misconduct and is available to the public and any licensing agency or other jurisdiction.

We recognize that Moran's offense is serious. He committed an act of moral turpitude by misrepresenting his compliance with MCLE requirements. (Rules Proc. of State Bar, tit. IV, Stds. For Atty. Sanctions for Prof. Misconduct, std. 2.7 [disbarment or suspension for acts of moral turpitude, dishonesty and fraud].) However, Moran had 32 years of discipline-free practice and his misconduct did not involve clients or the practice of law. (See *Boehme v. State Bar* (1988) 47 Cal.3d 448, 454 [disbarment found too harsh for single instance of misappropriation of client funds by an attorney with 22 years of discipline-free practice].)

Further, Moran is 66 years old and is prepared to relinquish his license. He would be at least 71 years old before he is eligible to seek reinstatement. (Rules Proc. State Bar, rule 5.442(B) [earliest reinstatement petition after resignation with charges pending is five years after filing date of resignation].) No other unresolved discipline matters or investigations are pending against him and there are no outstanding issues concerning clients, restitution or unearned fees. Under these circumstances, we do not believe that public confidence in the discipline system will be undermined by accepting Moran's resignation. Permitting him to resign would be consistent with the need to protect the public, the courts and the legal profession.

III. RECOMMENDATION

We recommend that the Supreme Court accept the resignation of John Edward Moran, State Bar number 94179. We further recommend that costs be awarded to the State Bar in

accordance with Business and Professions Code section 6068.10, and that such costs be enforceable both as provided in section 6140.7 and as a money judgment.

Catherine D. Pucell

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 November 5, 2014, I deposited a true copy of the following document(s):

RECOMMENDATION ON RESIGNATION FILED NOVEMBER 5, 2014

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

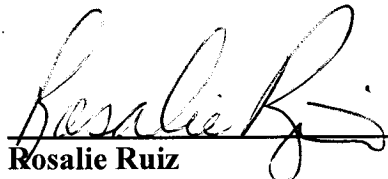
[X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

JOHN E. MORAN
2777 LIMESTONE DR
THOUSAND OAKS, CA 91362 - 5788

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

R. KEVIN BUCHER, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on November 5, 2014.



Rosalie Ruiz
Case Administrator
State Bar Court