

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – SAN FRANCISCO

In the Matter of	)	Case No.: 15-PM-12172-LMA
	)	
<b>WILLIAM BLACKFORD LOOK, JR.,</b>	)	<b>ORDER DENYING MOTION TO</b>
	)	<b>REVOKE PROBATION</b>
<b>Member No. 66631</b>	)	
	)	
<u>A Member of the State Bar.</u>	)	

**Introduction**

On April 30, 2015, the Office of Probation of the State Bar of California (Office of Probation) filed a motion to revoke the probation of respondent William Blackford Look, Jr. (motion to revoke). In this motion, the Office of Probation requested, among other things, that upon revocation of respondent’s probation he be required to serve his full stayed suspension of two years.

On May 11, 2015, respondent filed a response in opposition to the motion to revoke. In his response, respondent requested that the court order sanctions against the Office of Probation due to the fact that the motion to revoke was “frivolous and brought in bad faith with a demand for inflated sanctions that clearly are not justified....” Neither party properly requested a hearing in this matter.<sup>1</sup> And it was determined that a hearing would not materially contribute to this court’s consideration of the motion to revoke.

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<sup>1</sup> The Office of Probation used boilerplate language in its motion to revoke, stating, “the Office of Probation requests a hearing be held unless the Court, based upon this motion and any response, determines that imposition of the discipline as requested above is warranted.” In

On May 13, 2015, the Office of Probation filed a request that the court take judicial notice of respondent's prior record of discipline (request for judicial notice). Respondent subsequently filed an opposition to the request for judicial notice. Good cause having been shown, the request for judicial notice is hereby granted.

On May 18, 2015, this court issued an order submitting the motion for decision. After reviewing the motion to revoke, this court concludes that the Office of Probation has not demonstrated by a preponderance of the evidence that respondent has violated any condition of his probation. Respondent has been an active participant in his probation and has adequately complied with all relevant requirements. The Office of Probation's contentions are trivial and over-particular; and no probation violations have been established by the evidence before the court. No good cause having been shown, the motion to revoke respondent's probation is denied.

### **Findings of Fact**

On April 30, 2015, the California Supreme Court filed an order, S218353, accepting the State Bar Court Review Department's discipline recommendation in case no. 11-O-17894, in which respondent was found culpable of disobeying two court orders. The discipline included a two-year stayed suspension, two years' probation, and an actual suspension of one year. This order was properly served on respondent and became effective on August 8, 2014.<sup>2</sup>

On August 4, 2014, the Office of Probation sent respondent a reminder letter regarding the probation conditions at his membership records address. On September 9, 2014, the Office

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probation revocation matters, a hearing will be provided when timely requested by any party or if the court deems it necessary. (Rules Proc. of State Bar, rule 5.314(E).) Conditional requests for hearings based on pre-judging the merits prior to submittal are improper and will not be considered.

<sup>2</sup> In the absence of evidence to the contrary, the court finds that the Clerk of the Supreme Court performed his or her duty by transmitting a copy of the Supreme Court's order to respondent immediately after its filing. (Rule 8.532(a), Cal. Rules of Court; Evid. C. §664; *In Re Linda D.* (1970) 3 Cal.App.3d 567, 571.)

of Probation conducted a meeting with respondent to review the terms and conditions of his probation. One of the requirements of respondent's probation was that he provide written quarterly reports as follows:

He must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, he must state whether he has complied with the State Bar Act, the Rules of Professional Conduct, and all of the conditions of probation during the preceding calendar quarter....

On October 9, 2014, the Office of Probation received respondent's first quarterly report, due October 10, 2014.<sup>3</sup> Respondent used the Office of Probation's prepared quarterly report form. In this form, respondent checked the box indicating:

During the reporting period above or portion thereof, I have complied with all provisions of the State Bar Act, Rules of Professional Conduct, and all conditions of probation except:

Following the word "except," respondent wrote "See Attached." Along with the quarterly report, respondent included an attachment stating:

This disciplinary action is still not final and review in the related Ninth Circuit Court of Appeals, Case No. 12-17764 and a petition for certiorari before the United State Supreme Court on direct appeal from this case are pending. Because of what may become unnecessary expense and effort Respondent is deferring scheduling the Ethics Class and MSPRE (both of which he previously completed and which cover no material relevant to this case, which is based on issues of federal pre-trial procedure the application of which cannot be definitely decided by a state court—including the State Bar Court), or any other affirmative requirement. Given that Respondent continues to regard as an oppressive prosecution pursued in disregard of the pending federal cases and Respondent's civil rights under the 5<sup>th</sup> and 14<sup>th</sup> Amendments, it is unfair to insist on premature compliance with the terms of probation given time for compliance is ample after 2014. Pending the outcome of the federal cases which are likely to impact this dispute Respondent has deferred scheduling classes or the MSPRE. There was no change in my contact information.

On October 10, 2014, respondent's probation deputy, Terese Laubscher (Laubscher) called him and left a voicemail message advising: (1) his quarterly report was unclear whether

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<sup>3</sup> The Office of Probation is located in Los Angeles. Respondent's membership records address is in Monterey.

he was reporting whether he was compliant; (2) his attachment was not a declaration signed and dated under penalty of perjury (as requested in the Office of Probation's quarterly report form); and (3) his proof of completion of Ethics School and the MPRE were not due that quarter.

Laubscher advised respondent to resubmit his October 10, 2014 quarterly report.

On October 14, 2014, the Office of Probation received a new quarterly report from respondent. In this quarterly report, respondent provided the same attachment, but included a declaration under penalty of perjury. Respondent also included a letter with his revised quarterly report. In this letter, respondent stated that he had filed previous probation reports in a similar fashion, without verified attachments.<sup>4</sup> Respondent concluded this letter stating, "... the attachment read as intended means I have not satisfied all terms of probation to date but have not violated any terms of probation during the quarter."

Approximately two months later, Laubscher sent respondent a letter stating, "This letter is to advise you that the Office of Probation has not received a compliant October 2014 quarterly report." In this letter, Laubscher stated that respondent's two October quarterly reports "could not be filed" because they were ambiguous regarding the noncompliant reports. That same day, Laubscher also left respondent a voicemail, stating the same.<sup>5</sup>

On December 17, 2014, the Office of Probation received a third October 2014 quarterly report from respondent. This quarterly report was similar to the previous two, except respondent modified his attachment. Similar to the other quarterly reports, respondent noted that he had

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<sup>4</sup> In an apparent effort to antagonize or insult Laubscher, respondent addressed his correspondence to her, but repeatedly began each letter stating "Dear Person."

<sup>5</sup> It is unclear why Laubscher waited two months before informing respondent that his quarterly report received October 14, 2014 was not filed.

deferred scheduling Ethics School, the MPRE, or “any other affirmative probation requirement that [was] not due at [that] time.”<sup>6</sup>

On December 23, 2014, Laubscher sent respondent yet another letter stating that the third October 2014 quarterly report was not filed because respondent did not specify a violation in his attachment. In this letter, Laubscher told respondent to submit a fourth October 2014 quarterly report “immediately.”

On January 2, 2015, the Office of Probation received a letter from respondent. In this letter, respondent stated that his three prior October 2014 quarterly reports were adequate and he would not be submitting a fourth October 2014 quarterly report.

On January 12, 2015, the Office of Probation received respondent’s January 2015 quarterly report.<sup>7</sup> This report was filled out similar to respondent’s October 2014 quarterly reports. It contained an attached declaration similar to respondent’s third October 2014 quarterly report.

On January 16, 2015, Laubscher sent respondent a letter stating that she would not file the January 10, 2015 quarterly report for the same reasons addressed above. Laubscher also stated that the January 2015 quarterly report was late and did not contain an original signature.<sup>8</sup> Laubscher noted that the matter was “subject to an immediate noncompliance referral.”

On April 9, 2015, respondent sent his April 2015 quarterly report to the Office of Probation from Carmel Valley, California, by priority two-day mail. On April 11, 2015, the

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<sup>6</sup> Respondent also noted he had inadvertently remained on service lists in two matters, but there is no indication that this constituted a statutory, rule, or probation violation.

<sup>7</sup> The court takes judicial notice of the fact that January 10th was a Saturday.

<sup>8</sup> The Office of Probation did not raise either of these issues in its motion to revoke, so the court will not address them further.

Office of Probation received respondent's April 2015 quarterly report.<sup>9</sup> In this quarterly report respondent checked the box stating that he was in full compliance with his probation. No attachment was required or included.

### **Conclusions of Law**

#### **Respondent's October 2014 & January 2015 Quarterly Reports**

Clearly, respondent and his probation officer were arguing over semantics. Respondent was reporting that he had not yet completed Ethics School and the MPRE, but the Office of Probation was steadfastly retorting that neither of those probation terms were due and therefore neither constituted a violation. The court disagrees with the Office of Probation's assertion that respondent's October 2014 and January 2015 quarterly reports were so ambiguous that they could not be accepted.

In his October 2014 and January 2015 quarterly reports, respondent declared that he had complied with all provisions of the State Bar Act, Rules of Professional Conduct, and all conditions of probation *except* as provided in his attachment. In his attachments, the only probation conditions respondent affirmatively stated he was not in compliance with were the requirements that he complete Ethics School and the MPRE. As noted by the Office of Probation, neither of these items actually constituted a probation violation because they were not yet due.

Undoubtedly, respondent's language regarding not scheduling "any other affirmative requirement" was unartfully drafted. That being said, this court does not find that his attachment language was so ambiguous that it rises to the level of a probation violation, especially

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<sup>9</sup> This quarterly report is stamped April 13, 2015. The United States Postal Service tracking information provided by the Office of Probation indicates that it was actually delivered on April 11, 2015. The court takes judicial notice of the fact that April 11<sup>th</sup> was a Saturday.

considering respondent's amendments to his quarterly reports and communication with the Office of Probation.

Clearly, the issues with the October 2014 and January 2015 quarterly reports could have been avoided with better communication between the parties. Both parties maintained intransigent positions, and it did not help matters that the Office of Probation waited two months before suddenly informing respondent that his second October 2014 quarterly report had been rejected.

It has not been established by a preponderance of the evidence that respondent's October 2014 and January 2015 quarterly reports constitute a violation of a condition of respondent's probation. While the parties disagreed over semantics, respondent has been responsive and active in his quarterly reporting requirement. Considering respondent's April 2015 quarterly report, it appears he now understands how the Office of Probation would like him to address terms of probation that are not overdue.

#### Respondent's April 2015 Quarterly Report

The underlying Review Department decision included the recommendation that respondent must "submit" quarterly reports to the Office of Probation. It was subsequently ordered by the Supreme Court that respondent comply with this recommendation. The term "submit," however, was not defined and is somewhat ambiguous. The question becomes whether the quarterly report was submitted once respondent placed it in the mail. Certainly, respondent no longer had the ability to retract the quarterly report after mailing.

If the Review Department intended that the Office of Probation "receive" or "file" the quarterly reports no later than the 10<sup>th</sup> day of each of the relevant months, then such definitive and restrictive language should have been employed. When language in penal law is reasonably susceptible to two constructions, ordinarily the construction that is more favorable to the

offender will be adopted. (*In re Tartar* (1959) 52 Cal.2d 250, 256.) “The defendant is entitled to the benefit of every doubt, whether it arise out of a question of fact, or as to the true interpretation of words or the construction of language used in a statute.” (*Id.* at p. 257.) Likewise, in State Bar Court proceedings, any reasonable doubts must be resolved in the respondent’s favor. (*In the Matter of Gadda* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416, 438; *Young v. State Bar* (1990) 50 Cal.3d 1204, 1216.)

The term “submit” implies an action on respondent’s part. Giving respondent the benefit of the doubt, this court concludes that he submitted the April 2015 quarterly report on the day he mailed it, April 9, 2015. Accordingly, it has not been established by a preponderance of the evidence that the Office of Probation’s receipt of respondent’s April 2015 quarterly report on April 11, 2015, constitutes a violation of a condition of respondent’s probation.<sup>10</sup>

**Order of Denial**

No good cause having been shown, the Office of Probation’s motion to revoke respondent’s probation is denied.<sup>11</sup>

**IT IS SO ORDERED.**

Dated: June \_\_\_\_\_, 2015

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LUCY ARMENDARIZ  
Judge of the State Bar Court

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<sup>10</sup> The court also notes that if respondent lived in Southern California, his quarterly report quite possibly would have been received one day earlier, on April 10, 2015. Northern California practitioners should not be held to a more stringent standard than Southern California practitioners simply because the Office of Probation is located in Los Angeles.

<sup>11</sup> This court does not have authority to order sanctions as requested by respondent. Accordingly, respondent’s request for sanctions is denied.