

1 David Taylor Kaye, pro per  
2 P.O. Box 461473  
3 Escondido, CA 92046  
4 (760)708-7012  
5 davidkaye@sbcglobal.net

**FILED**

**APR 21 2016**

STATE BAR COURT  
CLERK'S OFFICE  
LOS ANGELES

6 David Taylor Kaye, pro per  
7  
8  
9

STATE BAR COURT

HEARING DEPARTMENT – LOS ANGELES

10  
11  
12  
13  
14 In the Matter of

15 David Taylor Kaye  
16 No. 11-C-10329

17  
18 Petitioner  
19

16-V-12602-DFM  
) Case No.: 11-C-10329  
)

) VERIFIED PETITION FOR  
) REINSTATEMENT FROM ACTUAL  
) SUSPENSION  
)

) [Standard 1.2(c)(I); State Bar Rule of Proc.  
) 5.400 et seq.  
)  
)

20  
21 Petitioner David Taylor Kaye files this verified petition for reinstatement from  
22 actual suspension as provided by Standard 1.2(c) (I)<sup>1</sup> and Rule of Procedure <sup>2</sup>  
23 5.400 et seq.  
24  
25

26  
27 <sup>1</sup> All references to “Standards” refers to the Standards for Attorney Sanctions for  
Professional Misconduct, Title IV, Rules of Procedure of the State Bar of California.

28 <sup>2</sup> All references to “Rules of Procedure” or “Rules” refer to Rules of Procedure of the State  
Bar of California.

1 **Underlying Facts and Discipline**

2 The parties filed a Stipulation of Facts, Conclusions of Law and Admissibility of  
3 Documents, which included an agreement to the aggravating and mitigating  
4 circumstances. Neither party presented any witnesses and Kaye did not testify.

5 The facts as determined by the Review Department were as follows:  
6

7  
8 1.1 In 2010, Kaye frequented a tanning salon in Southern California. After receiving a  
9 complaint from a patron, the salon manager reported to police that Kaye had  
10 secretly photographed a woman while she was tanning. The officers set up a  
11 “sting” operation to observe Kaye committing the crime.  
12

13 1.2 On April 19, 2010, two officers went to the salon. A female undercover officer  
14 remained in the reception room, planning to pose as a new customer. When Kaye  
15 arrived, the salon attendant directed him and the undercover officer to adjacent  
16 tanning rooms. The rooms were separated by a partition that did not fully extend  
17 to the ceiling. Shortly thereafter, Kaye raised himself over the partition and used  
18 his cell phone to secretly photograph the female officer, who was wearing a bikini.  
19 The second officer observed Kaye’s actions from a stepladder in a nearby tanning  
20 room.  
21

22  
23 1.3 Kaye was arrested as he left the salon. The arresting officer recovered a cell phone  
24 equipped with a camera lens from Kaye.  
25

26 1.4 On June 11, 2011, Kaye plead guilty to four misdemeanors: two counts of  
27 violating Penal Code section 647, subdivision (j)(3)(A) (secretly filing a person),  
28

1 and two counts of violating Penal Code section 647, subsection (j)(1) (peeking  
2 through a private area). He was sentenced to time served (nine days), three years  
3 of formal probation with a stayed sentence of 180 days, and payment of a fine.  
4

5 1.5 After his arrest, Kaye hired Dr. Franscesca Lehman, a psychologist, to assess his  
6 propensity to re-offend sexually. In addition, following his sentencing, the  
7 Superior Court ordered that Kaye also be evaluated by Dr. James Reavis, a  
8 psychologist for the criminal court's Probation Department, to determine Kaye's  
9 risk of re-offense.  
10

11 1.6 Dr. Lehmen conducted a sex-offender-specific psychological evaluation, which  
12 included interviews and psychological testing. Dr. Lehman reported that Kaye is  
13 43 years old, had no substance abuse issues, and worked as a private attorney  
14 specializing in family and criminal law. Kaye told Dr. Lehman that he decided to  
15 take the first surreptitious photograph after he observed an attractive, scantily clad  
16 woman entering the adjacent tanning booth. Upon hearing the woman disrobe, he  
17 realized that the partition separating the rooms did not reach the ceiling. When he  
18 did not get caught the first time, he decided to photograph other women. Kaye  
19 described his behavior as "opportunistic" rather than premeditated, and  
20 acknowledged that some type of sexual offense may have been committed. He  
21 characterized his offense as "the worst mistake [he] ever made." Dr. Lehman  
22 concluded that Kaye did not meet the criteria for having a sexual disorder such a  
23 voyeurism, and deemed him a "low risk" to re-offend.  
24  
25  
26  
27  
28

1 1.7 Dr. Reavis performed a post-conviction evaluation for the Probation Department  
2 to determine Kaye's risk of sexual re-offense, including whether community  
3 safety required any interventions. Dr. Reavis concluded that "Mr. Kaye appears to  
4 have engaged in hyper sexual behavior, albeit over a relatively short time period."  
5 He opined that "for an 8-week time period Mr. Kaye's behavior rose above a  
6 threshold at which a diagnosis of Voyeurism was met." Ultimately, Dr. Reavis  
7 determined that Kaye: (1) was a "low-moderate risk" for sexual re-offense; (2) did  
8 not have a sexual interest in children; and (3) did not receive pleasure from  
9 sadistic sexual activity. He concluded that no interventions were necessary to  
10 ensure the safety of the community.  
11  
12  
13

14 1.8 Based upon the Stipulation of Facts submitted at trial, the trial hearing judge  
15 issued a one year actual suspension. The Office of the Chief Trial Counsel sought  
16 review and ultimately the Review Department recommended a two year actual  
17 suspension which was effective on August 30, 2014.  
18

19 **1.9 Probation Conditions**  
20

21 The Review Department imposed several conditions of probation which include  
22 three years of probation, two years of actual suspension, quarterly reports, Rule  
23 9.2 compliance, meeting with the state bar, ethics school, passing the MPRE, and  
24 payment of a fine in the amount of \$16,852.00. Mr. Kaye has complied with these  
25 conditions of probation, in addition to all of the conditions of his criminal  
26 probation which has expired.  
27  
28

1                   **Applicable Standard**

2                   Standard 1.2(c)(i) requires Petitioner to prove his rehabilitation from the prior  
3                   misconduct, his present fitness to practice, and present learning and ability in the  
4                   law. Rule 5.404 specifies his burden of proof as a preponderance of the evidence.  
5

6                   **2                   Evidence Supporting Rehabilitation**

7  
8                   2.1           The misconduct occurred six years ago in 2010. There was never any aberrant  
9                   behavior prior to this misconduct in 2010, and there has been no misconduct in the  
10                  past six years. This was the first and only arrest for Mr. Kaye during his lifetime of  
11                  forty-eight years.

12  
13               2.2           Two psychological evaluations concluded that no interventions were necessary to  
14                  ensure the safety of the community and that re-offense was unlikely with a  
15                  conclusion of low risk.

16  
17               2.3           Mr. Kaye has complied with all conditions of his misdemeanor criminal probation  
18                  since his sentencing on August 11, 2011. A Petition for Dismissal of the  
19                  misdemeanor conviction was granted on October 15, 2014.

20  
21               Mr. Kaye has complied with all conditions attached to his State Bar disciplinary  
22                  probation with only the quarterly reports remaining.

23                   **3                   Evidence Supporting Present Fitness to Practice**

24  
25               3.1           Mr. Kaye is mentally and physical ready to re-establishing his legal practice after  
26                  the conclusion of the two year actual suspension as the suspension did not involve  
27                  alcohol or drug use. A total of eight letters attesting to his good character were  
28

1 previously filed. Mr. Kaye submitted to six polygraph examinations, eighteen  
2 home searches, and eighteen probation office appointments during his three year  
3 probation, demonstrating his candor and cooperation.  
4

5 **4 Evidence Supporting Current Learning and Ability in the Law**

6 4.1 Mr. Kaye has completed all 25 hours of his required Minimum Continuing Legal  
7 Education (MCLE) for his compliance period that ends on January 31, 2015. Mr.  
8 Kaye passed the MPRE at the first opportunity, on the first attempt, with a scaled  
9 score of 110 and successfully completed the state Bar Ethics School at the first  
10 opportunity on October 23, 2014.  
11

12  
13 April 19, 2016

By: David T. Kaye

14 David T. Kaye, pro per  
15

16 VERIFICATION

17 I am a party to this action, and I have read the foregoing Verified Petition for  
18 Reinstatement from Actual Suspension and know its contents. The matters stated  
19 in the Petition are true based upon my own knowledge, except as those matters  
20 stated on information and belief, and as to those matters I believe them to be true.  
21 I declare under penalty of perjury under the laws of the State of California that the  
22 foregoing is true and correct.  
23  
24

25 Executed on April 19, 2016 at San Marcos, California.

26  
27 By: David T. Kaye

28 David T. Kaye, pro per

1 David Taylor Kaye, pro per  
2 P.O. Box 461473  
3 Escondido, CA 92046  
4 (760)708-7012  
5  davidkaye@sbcglobal.net

6 David Taylor Kaye, pro per

7  
8 STATE BAR COURT  
9 HEARING DEPARTMENT – LOS ANGELES  
10

11 **16-Y-12602-DFM**

12 In the Matter of

) Case No.: 11-C-10329  
)

13 David Taylor Kaye  
14 No. 11-C-10329

) DECLARATION OF DAVID TAYLOR  
) KAYE IN SUPPORT OF VERIFIED  
) PETITION FOR REINSTATEMENT FROM  
) ACTUAL SUSPENSION  
)

15  
16  
17 Petitioner

) [State Bar Rule of Proc. 5.401(B)  
)  
)

18  
19 I, David Taylor Kaye, declare as follows:

20 **Underlying Facts and Discipline**

- 21  
22 1. I cooperated with the State Bar during the disciplinary proceedings and the  
23 parties filed a Stipulation of Facts, Conclusions of Law and Admissibility of  
24 Documents, which included an agreement to the aggravating and mitigating  
25 circumstances. Neither party presented any witnesses or testimony at trial. The  
26 facts as determined by the Review Department were as follows:  
27  
28

- 1           2. In 2010, Kaye frequented a tanning salon in Southern California. After  
2           receiving a complaint from a patron, the salon manager reported to police that  
3           Kaye had secretly photographed a woman while she was tanning. The officers  
4           set up a “sting” operation to observe Kaye committing the crime.  
5
- 6           3. On April 19, 2010, two officers went to the salon. A female undercover officer  
7           remained in the reception room, planning to pose as a new customer. When  
8           Kaye arrived, the salon attendant directed him and the undercover officer to  
9           adjacent tanning rooms. The rooms were separated by a partition that did not  
10          fully extend to the ceiling. Shortly thereafter, Kaye raised himself over the  
11          partition and used his cell phone to secretly photograph the female officer, who  
12          was wearing a bikini. The second officer observed Kaye’s actions from a  
13          stepladder in a nearby tanning room.  
14
- 15          4. Kaye was arrested as he left the salon. The arresting officer recovered a cell  
16          phone equipped with a camera lens from Kaye.  
17
- 18          5. On June 11, 2011, Kaye plead guilty to four misdemeanors: two counts of  
19          violating Penal Code section 647, subdivision (j)(3)(A) (secretly filing a  
20          person), and two counts of violating Penal Code section 647, subsection (j)(1)  
21          (peeking through a private area). He was sentenced to time served (nine days),  
22          three years of formal probation with a stayed sentence of 180 days, and  
23          payment of a fine.  
24
- 25          6. After his arrest, Kaye hired Dr. Franscesca Lehman, a psychologist, to assess  
26  
27  
28

1 his propensity to re-offend sexually. In addition, following his sentencing, the  
2 Superior Court ordered that Kaye also be evaluated by Dr. James Reavis, a  
3 psychologist for the criminal court's Probation Department, to determine  
4 Kaye's risk of re-offense.  
5

6 7. Dr. Lehmen conducted a sex-offender-specific psychological evaluation, which  
7 included interviews and psychological testing. Dr. Lehman reported that Kaye  
8 is 43 years old, had no substance abuse issues, and worked as a private attorney  
9 specializing in family and criminal law. Kaye told Dr. Lehman that he decided  
10 to take the first surreptitious photograph after he observed an attractive,  
11 scantily clad woman entering the adjacent tanning booth. Upon hearing the  
12 woman disrobe, he realized that the partition separating the rooms did not  
13 reach the ceiling. When he did not get caught the first time, he decided to  
14 photograph other women. Kaye described his behavior as "opportunistic"  
15 rather than premeditated, and acknowledged that some type of sexual offense  
16 may have been committed. He characterized his offense as "the worst mistake  
17 [he] ever made." Dr. Lehman concluded that Kaye did not meet the criteria for  
18 having a sexual disorder such a voyeurism, and deemed him a "low risk" to re-  
19 offend.  
20  
21  
22  
23  
24

25 8. Dr. Reavis performed a post-conviction evaluation for the Probation  
26 Department to determine Kaye's risk of sexual re-offense, including whether  
27 community safety required any interventions. Dr. Reavis concluded that "Mr.  
28

1 Kaye appears to have engaged in hyper sexual behavior, albeit over a relatively  
2 short time period.” He opined that “for an 8-week time period Mr. Kaye’s  
3 behavior rose above a threshold at which a diagnosis of Voyeurism was met.”  
4 Ultimately, Dr. Reavis determined that Kaye: (1) was a “low-moderate risk”  
5 for sexual re-offense; (2) did not have a sexual interest in children; and (3) did  
6 not receive pleasure from sadistic sexual activity. He concluded that no  
7 interventions were necessary to ensure the safety of the community. Attached  
8 as Exhibit 1 and Exhibit 2 respectively are true and correct copies of the  
9 reports prepare Dr. Franscesca Lehman and Dr. James A. Reavis.  
10  
11  
12

- 13 9. Based upon the Stipulation of Facts submitted at trial, the trial hearing judge  
14 issued a one year actual suspension. The Office of the Chief Trial Counsel  
15 sought review and ultimately the Review Department recommended a two year  
16 actual suspension which was effective on August 30, 2014.  
17

18 **Probation Conditions**

- 19 10. The Review Department imposed several conditions of probation which  
20 include three years of probation, two years of actual suspension, quarterly  
21 reports, Rule 9.2 compliance, meeting with the state bar, ethics school, passing  
22 the MPRE, and payment of a fine in the amount of \$16,852.00. I have  
23 complied with these conditions of probation, in addition to all of the conditions  
24 of the criminal probation which has expired. Attached as Exhibit 3 is a true and  
25 correct conformed copy of my filed Rule 9.2 Compliance Declaration.  
26  
27  
28

1 Attached as Exhibit 4 is a true and correct copy of my State Bar fine payment  
2 confirmation in the amount of \$16,852.00.  
3

4 **Evidence Supporting Rehabilitation**

5 **11.** The misconduct occurred six years ago in 2010. There was never any aberrant  
6 behavior prior to this misconduct in 2010, and there has been no misconduct in  
7 the past six years. This was my first and only arrest during my lifetime in the  
8 past forty-eight years.  
9

10 **12.** Two psychological evaluations concluded that no interventions were  
11 necessary to ensure the safety of the community and that re-offense was  
12 unlikely with a conclusion of low risk.  
13

14 **13.** I complied with all conditions of the misdemeanor criminal probation after the  
15 sentencing on August 11, 2011. Attached as Exhibit 5 is true and correct copy  
16 of a receipt from the County of San Diego for the fine payment in the amount  
17 of \$934.00. A Petition for Dismissal of the misdemeanor conviction was  
18 granted on October 15, 2014. Attached as Exhibit 6 is a true and correct copy  
19 of the Order Granting Dismissal of the criminal misdemeanor charges.  
20  
21

22 **14.** I complied with all conditions of the State Bar disciplinary probation with only  
23 the quarterly reports remaining.  
24

25 **Evidence Supporting Present Fitness to Practice**

26 **15.** I am mentally and physical ready to re-establishing my legal practice after the  
27 conclusion of the two year actual suspension as my suspension did not involve  
28

1 alcohol or drug use. A total of eight letters attesting to my good character were  
2 previously filed. Attached as Exhibit 7 collectively are true and correct copies  
3 of the eight character letters previously submitted during the disciplinary  
4 proceedings. During my three year misdemeanor criminal probation I  
5 submitted to six polygraph examinations, eighteen home searches, and  
6 eighteen probation office appointments all of which demonstrated my candor  
7 and cooperation.  
8  
9

10 **Evidence Supporting Current Learning and Ability in the Law**

11  
12 16. I completed all 25 hours of the required Minimum Continuing Legal Education  
13 (MCLE) for the compliance period that ended on January 31, 2015. I passed  
14 the MPRE on November 01, 2014, on the first attempt, with a scaled score of  
15 110, and successfully completed the State Bar Ethics School at the first  
16 opportunity on October 23, 2014. Attached as Exhibit 8 is a true and correct  
17 copy of my MPRE test results. Attached as Exhibit 9 is a true and correct copy  
18 of my Ethics School completion certificate.  
19  
20

21 I declare under penalty of perjury under the law of the State of California that the  
22 foregoing is true and correct.  
23

24 April 19, 2016

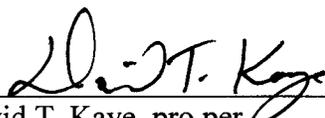
25 By:   
26 David T. Kaye, pro per  
27  
28

EXHIBIT 1

Francesca Lehman, Psy.D.  
Clinical and Forensic Psychologist  
3919 Fourth Ave., Suite B \* San Diego, CA 92103  
Phone: (619) 231-2668 Fax: (619) 231-4133

**CONFIDENTIAL PSYCHOLOGICAL EVALUATION**

---

**NAME:** David Taylor Kaye  
**DATE OF BIRTH/AGE:** September 14, 1967, 43 years old  
**ETHNICITY:** Caucasian  
**ATTORNEY:** Sean Leslie  
**LOCATION OF EVALUATION:** Private Office  
**DATE OF INTERVIEW:** April 22, 2011  
**DATE OF REPORT:** May 15, 2011

---

*This report contains CONFIDENTIAL AND SENSITIVE information subject to misinterpretation by untrained individuals. Nonconsensual disclosure is prohibited, and details of this report are not to be given verbatim to the client, family, or other non-mental health professionals without Court Order. Any individual who improperly releases this report assumes responsibility for any adverse consequences that may arise from such disclosure.*

**IDENTIFICATION:**

David Taylor Kaye is a 43-year-old, divorced Caucasian male. Mr. Kaye resides in San Diego, CA. He is the product of the union between Barbara Steingaszner and Ronald Kaye who divorced when Mr. Kaye was 8 years old. Mr. Kaye divorced his ex-wife about three years ago and has one ten year old son from his marriage.

**REASON FOR REFERRAL:**

Mr. Kaye was referred for a psychological evaluation and risk assessment at the request of his attorney, Sean Leslie. Mr. Kaye has been accused of surreptitiously taking pictures of women in a tanning salon where he was also a patron. Given these circumstances, Mr. Leslie requested a sex-offender-specific psychological evaluation and an assessment of Mr. Kaye's propensity to reoffend sexually. It is important to note that since Mr. Kaye has not been convicted of a sexual offense, a determination of his risk level for committing a sexual reoffense is provisional and only applicable if Mr. Kaye is in fact convicted of committing an initial sexual offense.

**SOURCES OF DATA:**

Mr. Kaye was interviewed and tested on April 22, 2011 at a private office in San Diego, CA. He was evaluated over a period of approximately five hours. In addition, published empirical research findings and pertinent documents were considered in forming diagnoses, opinions, and recommendations.

DAVID T. KAYE  
DOB: 9/14/67

PAGE: 2  
COURT#: CD231954

**TESTS ADMINISTERED:**

**Millon Clinical Multiaxial Inventory - III (MCMI-III):** an assessment of personality with an emphasis on clinical content

**Static-99R:** an actuarial risk assessment tool for use with adult male sexual offenders

**STABLE 2007:** a "dynamic" risk instrument for use with adult male sexual offenders that addresses risk factors which can change over time and can change as a consequence of interventions

**Multi- Sex Inventory (MSI-II):** a self-report measure of sexual interest, behavioral concerns, and clinical presentation

**DOCUMENTS REVIEWED:**

- Escondido Police Department Investigator's Follow-up Report (Interview), dated 4/3/10
- Superior Court of California, County of San Diego, Central Division, Charge Summary (pages 1-3 of 6)

**PERSONAL AND FAMILY HISTORY:**

**Developmental History:** David Kaye was born and raised in San Diego, CA. After his parents' divorce, Mr. Kaye was primarily raised by his father, but maintained regular visitation with his mother. His mother is remarried and lives in Alexandria Virginia. Mr. Kaye has a good relationship with his mother and sees her several times a year. Mr. Kaye described his father, who currently resides in a nursing home, as his main source of emotional support. Mr. Kaye sees his father two or three times per week. He reported that he has one brother, Ronald Kaye, Jr., with whom he has a distant relationship. Mr. Kaye denied a history of abuse (physical, sexual, psychological) and stated that he met all of his developmental milestones as expected.

Mr. Kaye married his ex-wife approximately thirteen years ago and was married for approximately nine years before getting divorced. He and his ex-wife have a 10-year-old son together. After the divorce, Mr. Kaye was initially the primary care-giver for his son. Now, Mr. Kaye sees his son for visitation on weekends and holidays. During the course of his marriage, Mr. Kaye also actively participated in raising his step-daughter, from the time she was six years old until she was age 21 years old. He maintains an amicable and supportive relationship with his ex-wife and former step-daughter.

**Academic History:** Mr. Kaye graduated from Carlsbad High School. He reported no history of learning disorders or delays or any type of academic problems. He then attended and graduated from the University of California, San Diego and went on to graduate from Thomas Jefferson Law School in San Diego, CA.

**Occupational History:** Mr. Kaye worked for one year as a District Attorney in Fresno, California after graduation from law school. He then transitioned into a private practice, specializing in family and criminal law, where he remained for about sixteen years. He reported that he voluntarily closed his law practice after 16 years of practice, in January of 2011 due to the press coverage he received as a result of the charges against him. He also reported that in order to practice law again in the future, he will need to reapply to the State Bar of California, which he

DAVID T. KAYE  
DOB: 9/14/67

PAGE: 3  
COURT#: CD231954

intends to do once the current charges have been resolved. Since closing his office, Mr. Kaye has been supporting himself with savings that he accrued during his years of practice as an attorney.

**Social History:** In terms of current social functioning, Mr. Kaye reported that he is presently in a committed romantic relationship with a 42-year woman. He described the relationship as mutually supportive and strong. Mr. Kaye reported that he and his partner have been in a relationship for over a year. His partner has an adult daughter who lives independently. Mr. Kaye identified his father and his girlfriend as his main sources of social support.

**Psycho-sexual History:** Mr. Kaye identified himself as heterosexual. He reported that he first became sexually active as a teenager (exact age unspecified) with a same-age female partner. He estimated that he has had approximately 25-30 sexual partners in his life, which he considered to be an average number of sexual partners. However, this is above average for heterosexual American males. In terms of committed, long term relationships, Mr. Kaye reported a history of approximately four relationships, including his current relationship. The longest relationship he has maintained was with his ex-wife, to whom he was married for approximately nine years. Mr. Kaye denied ever paying for sexual activity or being paid to perform any sexual acts. He indicated that he is now in a committed, exclusive sexual relationship with a 42-year-old female. Mr. Kaye indicated that he is sexually active 3-4 times per week and masturbates approximately once per week. He acknowledged use of computer based pornography for sexual stimulation approximately once per week during masturbation. Mr. Kaye indicated that he prefers to view same race (Caucasian) adult women engaged in consensual sexual activity with similar aged males. He also indicated that his sexual interest consists of well-developed, middle aged women with large breasts and a mid-sized body type. He denied sexual interest in pre-pubescent, underdeveloped, or young girls. He denied sexual stimulation to images of voyeurism, exhibitionism, domination, bondage, or non-consensual sexual activity. In fact, he denied experiencing any type of deviant sexual interest. Based on the available evidence, he does not meet criteria for a paraphilia or sexual disorder.

**Substance Abuse History:** With respect to alcohol use, Mr. Kaye indicated that he "rarely" consumes alcohol, save for "special occasions" such as holidays or parties. He further noted that when he does drink alcohol, he drinks in moderation. He denied having an alcohol problem and denied that alcohol ingestion played any role in the alleged instant offenses. With respect to drug use, Mr. Kaye denied use, experimentation, or ingestion of illegal drugs or prescription medications.

**Legal History:** Mr. Kaye reported no history of legal problems or contacts with law enforcement prior to the instant offense.

With respect to the pending charges of sexual misconduct, Mr. Kaye reported that he first had the notion to take a surreptitious photograph when he observed an attractive, scantily clad woman enter the tanning booth next to his. He indicated that he could hear the woman in the adjacent tanning booth disrobing and realized that the partition separating the rooms did not reach all the way to the ceiling. Mr. Kaye stated that he discovered that, while he could not see over the partition, he could reach over the partition with his hand which allowed him to take a photograph of the woman in the adjacent tanning booth. Mr. Kaye described his behavior as "opportunistic," rather than planned or premeditated. He described the actual image as "not very graphic." After engaging in this behavior once without being detected, Mr. Kaye indicated that only then did it occur to him to engage in the exact same behavior again. He reported repeating this behavior approximately seven times (within about a two months period) before being arrested by law enforcement, who, after receiving a report, utilized a young female decoy to detect Mr. Kaye's behavior while in progress. Mr. Kaye firmly denied accessing images of underage, youthful, or

DAVID T. KAYE  
DOB: 9/14/67

PAGE: 4  
COURT#: CD231954

underdeveloped girls or adolescents on his computer. He denied ever using search criteria that sought youthful girls or responding to "pop-up" ads prompting him do so.

**Psychological History:** Mr. Kaye has reportedly never been hospitalized for a psychiatric condition. He denied a history of outpatient or residential treatment services. Mr. Kaye denied that he has taken or is taking any psychotropic medications. He denied a history of auditory or visual hallucinations and further denied problems with mood, suicidal ideation, or acute rage. Mr. Kaye endorsed a history of transient stress and anxiety, including losing ten pounds in bodyweight, related to the charges and incarceration surrounding the instant offense. He noted that these symptoms ameliorated approximately 3 months after his release from incarceration. However, Mr. Kaye noted that he still has not been able to return to exercising at the gym, which was a source of stress relief for him prior to the alleged instant offense.

**Medical History:** Mr. Kaye is reportedly in good physical health at the present time. He reported no history of serious injury, head injury, major illnesses, or chronic conditions. Mr. Kaye denied having drug allergies or tattoos.

#### MENTAL STATUS EXAMINATION:

Mr. Kaye was interviewed at a private office in San Diego, CA and was aware of the nature and purpose of the evaluation. He understood the limits of confidentiality in a forensic assessment and agreed to participate in the evaluation.

Mr. Kaye presents as a healthy male who appears his stated age of 43 years old. He was adequately groomed and wore clean, seasonally appropriate attire. Mr. Kaye did not evidence any problems with vision, hearing, or ambulation. He responded candidly to questions and was generally cooperative with the evaluation procedure. He did not need to be redirected during the interview or test administration.

Mr. Kaye was alert and oriented in all spheres, with no evidence of cognitive or organic impairment. There was no evidence of neurological impairment or cognitive deficits. Mood appeared euthymic and affect was limited in range and at times incongruent with context. For example, Mr. Kaye did not exhibit a noticeable change in affect when describing the events surrounding his arrest or the subsequent closing of his 16-year law practice. Insight and judgment were within expectations. He denied any suicidal ideation (past or present) and further denied any feelings of acute rage or homicidal ideation. The content of his thoughts was linear, coherent, and relevant to the present evaluation. Speech was normal in rate as well as in rhythm and pitch. Eye contact was normal. Intelligence is estimated in the average to above average range based on fund of knowledge and education level. There was no evidence of thought disorder or delusional thinking. Mr. Kaye denied experiencing any hallucinations or distortions of reality at the time of the evaluation. Recent and remote memory appeared intact. No problems with impulse control were noted. No problems with attention, focus, or concentration were observed in the five hour assessment period.

#### TEST RESULTS:

Mr. Kaye's responses to the Millon Clinical Multiaxial Inventory-III (MCMI-III) suggest that he understood the task and put forth adequate effort in completing this self-report measure. Thus, the test is considered valid and interpretable. However, Mr. Kaye's approach to the test suggests that he attempted to present himself in a positive light, along with a reluctance to admit problems or shortcomings. It may be important to him to be seen by others as composed, sociable and conventional in his behavior. Nevertheless, his responses suggest that he does not exhibit any

DAVID T. KAYE  
DOB: 9/14/67

PAGE: 5  
COURT#: CD231954

major personality disturbances. In fact, Mr. Kaye presents as a fairly average male who is probably experiencing situational, transient stress.

The remaining tests pertain to assessment of sexual reoffense risk and are generally administered as a way of estimating sexual reoffense once it has been established that an individual has committed an index or initial sexual offense. Given that Mr. Kaye has not been found guilty of a sexual offense, the following test results are presented with the caveat that they are only applicable following a sexual offense conviction.

The STATIC-99R is the "State Authorized Risk Assessment Tool for Sex Offenders" [SARATSO] currently in use in California for determining "static" risk level. The STATIC-99R allows a sexual offender to be classified, based upon his score, as belonging to large group of sex offenders with similar scores. The general sexual recidivism rate for that group has been determined by the researchers who developed the STATIC-99R. An actuarial approach operates under the assumption that the risk of recidivism for that individual approximates that for the group of which he is a member. Actuarial risk assessment does not allow for an absolute statement about the risk of any particular individual in the group. A "static" risk instrument looks at risk factors which are "historical" and therefore which, for the most part, do not change over time. (For example, the offender's age will change as may the total number of offenses he has committed, should he reoffend.) The STATIC-99R is scored by assigning a score for each of ten items according to carefully constructed scoring rules, some of which are straightforward and some of which can be complex and difficult to apply correctly. The associated "Risk Level" categories and their labels have been created by the developers of the STATIC-99R. Although there is excellent support in the research for including considerations based upon scores from "dynamic" risk instruments as reported below, the research is clear that efforts to "adjust" the STATIC-99R risk categories based on other factors that are not part of the STATIC-99R have ordinarily led to decreased rather than increased accuracy in the prediction of risk. The actual STATIC-99R score for Mr. Kaye is "1," placing him in the "Low Risk" category for sexual reoffense.

The STABLE 2007 is a "dynamic" risk instrument, so called because it looks at risk factors which are relatively "stable" but which can change over time and can change as a consequence of interventions, such as sex offender treatment. The STABLE 2007 is scored on thirteen different dimensions or factors and the scores can range from 0 to 26. The developers have created nominal categories ("Low, Moderate, and High") to describe risk level. Because they are "dynamic," the factors identified using the STABLE 2007 are seen as optimal treatment targets. The rules for identifying and scoring these factors are more fluid, and more dependable scores are achieved as the individual becomes better known to the evaluator over time. The actual STABLE 2007 score for Mr. Kaye is "1," placing him in the "low risk" category. This evaluation is based on his presentation of the following risk factor: deviant sexual preference, based on the number of alleged victims (he reported seven victims plus one decoy).

The MSI-II (Multiphasic Sex Inventory II) is a measure of sexual interest but also addresses a wide range of sexual, behavioral and clinical concerns. The client's responses are compared to a nationally standardized sample of nearly 2,000 sex offenders and 250 normal male subjects in the United States and Canada. An evaluation of the reliability and validity measures embedded in this self-report test indicate that Mr. Kaye produced a reliable and valid profile. However, because he responded in the "false" direction to over 85% of the items, indicating a defensive or guarded response style, there was limited information available for interpretive purposes. During the evaluation, Mr. Kaye admitted to secretly taking pictures of adult female strangers. However, the results from the Voyeurism Scale of the MSI-II reflect that he does not indicate that he has ever had thoughts about engaging in peeping or that he ever engaged in peeping. He denied ever

DAVID T. KAYE  
DOB: 9/14/67

PAGE: 6  
COURT#: CD231954

having sought or obtained child pornography. He does acknowledge that some type of sexual offense may have been committed. He was found to use some justifications for this behavior including describing the offense as: "the worst mistake I ever made" and "I am sorry and full of regrets."

#### DSM-IV DIAGNOSTIC IMPRESSIONS:

Axis I:	309.24 V62.2	Adjustment Disorder with Anxiety Occupational Problem
Axis II:		No Diagnosis
Axis III:		No Diagnosis
Axis IV:		Problems Associated with Contact with Legal System
Axis V:		GAF: 70 (current)

#### FINDINGS AND OPINIONS:

Based on a thorough review of the documents provided by Mr. Kaye's attorney, the results of psychological testing, information obtained through Mr. Kaye and direct observation, the following clinical picture emerges. Mr. Kaye presents with a diagnosis of Adjustment Disorder with Anxiety and an Occupational Problem. Based on Mr. Kaye's alleged sexual offense history and the results of testing, his overall risk level in terms of his propensity to reoffend sexually (if an index sexual offense is definitively established) is considered to be low.

The diagnosis of Adjustment Disorder with Anxiety is based on Mr. Kaye's reported history of experiencing transient stress and anxiety, including a ten pound loss of weight, related to the charges and incarceration surrounding the instant offense. The results of the MCMI-III further suggest the presence of clinically distressing transient anxiety. Mr. Kaye noted that these symptoms ameliorated approximately 3 months following his release from incarceration. However, he noted that he still has not been able to return to exercising at the gym, which had been a source of stress relief for him in the past. It appears that Mr. Kaye's adjustment disorder is following the expected course for this diagnosis, which specifies that symptoms are expected to remit within six months of termination of the stressor. Given that the stressor of legal problems will persist until these charges resolve, residual symptoms associated with the Adjustment Disorder would be expected to persist in some form. However, once the associated stressor is resolved, Mr. Kaye would be expected to return to his former level of healthy psychological functioning.

The diagnosis of Occupational Problem is appropriate when clinical problems are present surrounding one's job or career. In Mr. Kaye's case, he has had to stop practicing law and close his law practice due to the charges related to the instant offense. He reported that he initially made this decision because there was a media presence at the doorway to his practice once the charges were made public. In addition, he reported that in order to resume his former practice, he would need to reapply to the State Bar of California. At this time, Mr. Kaye has no source of financial income and is supporting himself through savings. Mr. Kaye reported no alternative career choice and is intending to resume his former law practice. These factors have contributed to the aforementioned Adjustment Disorder and are therefore worthy of clinical attention. As such, a diagnosis of Occupational Problem is appropriate.

Exhibit B 00006

DAVID T. KAYE  
DOB: 9/14/67

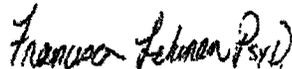
PAGE: 7  
COURT#: CD231954

In terms of sexual reoffense risk, a number of factors are considered. First, based on the available evidence, Mr. Kaye does not meet the diagnostic criteria for a paraphilia or sexual disorder, such as Voyeurism. The DSM-IV-TR specifies that in order to warrant a diagnosis of Voyeurism, recurrent, sexually arousing fantasies, urges or behaviors of observing an unsuspecting individual who is naked, in the process of disrobing or engaging in sexual activity, must occur over a period of at least six months. Mr. Kaye's behaviors reportedly occurred over a period of approximately two months (March and April, 2010). He denied prior voyeuristic fantasies or previous associated behaviors for which he was not detected. In fact, he reported that he had been patronizing this same tanning salon for several years without engaging in this behavior or considering doing so. Mr. Kaye reported that he first engaged in the behavior of taking surreptitious photographs of women in the tanning booth in March of 2010. He reported no fantasies or urges to engage in voyeuristic behavior since being sanctioned for the behavior. He denied fantasizing about repeating this behavior or sexually reminiscing about previous incidents of voyeurism. This is a fairly typical pattern for behavior that is not compulsive and which began as opportunistic and was initially reinforced by lack of negative consequences. At this point Mr. Kaye reported that he cannot even bring himself to enter a tanning salon. Based on this pattern of behaviors and fantasies, Mr. Kaye does not meet the criteria for a diagnosis of Voyeurism.

It is also important to address the concern of attraction to underage girls, as there is some indication that he is being accused of accessing child pornography on his computer. Mr. Kaye acknowledged accessing sexually explicit images on his computer for the purpose of sexual stimulation. However, he denied ever searching for or viewing images of youthful, underage, or underdeveloped girls or adolescents. Rather, Mr. Kaye reported a preference for images of well-developed adult women (i.e., big breasts and a medium, well developed body-type) engaged in consensual sexual behavior with adult males. He noted that pornography websites can induce "pop-ups" which are not the result of the users explicit search criteria. There was no indication from the evaluation or testing that Mr. Kaye has an emotional identification with children or adolescents or a sexual attraction to that group. Thus, this is not considered a risk factor in this case.

As previously noted, risk assessment for sexual reoffense is provided provisionally, based on the fact that at the time of the evaluation Mr. Kaye had not been found guilty of any sexual misconduct. However, he acknowledged some sexually inappropriate behaviors and provided a summary of charges, thus providing the examiner with enough information to perform a risk evaluation. Based on his testing and interview, Mr. Kaye does not present with a paraphilia, a sexual disorder, or sexually compulsive behavior. The results of both static and dynamic testing indicate that he falls within the "low risk" category in terms of sexual reoffense risk level. Therefore, based on a clinical interview with Mr. Kaye, a record review, the results of psychological testing and findings from current literature, Mr. Kaye's overall risk level in terms of his propensity to reoffend sexually (should he be found guilty of an initial sexual offense) is determined to be in the low range.

Respectfully Submitted,



Francesca Lehman, Psy.D.  
Clinical and Forensic Psychologist  
CA License #: PSY 23542

Exhibit B 00007

EXHIBIT 2

From:

08/28/2011 06:52

#059 P.009/009

# INTRAPSYCHIC



## Short-Term Risk Appraisal for Department of Probation<sup>1</sup>

**Defendant Name:** Kaye, David T.  
**Date of Birth:** 9/14/67  
**Date(s) of Offense:** 4/19/10  
**Conviction Charge(s):** PC647(1)(3)(A): Secretly Filming a Person (2 counts)  
 PC647(1)(3)(1): Peeking Through Hole or Opening Into Private Area (2 counts)

**Dismissed Charges:** Possess Matter Depicting Person Under 18 in Sexual Conduct  
 Having Concealed Firearm in Vehicle  
 Secretly Filming a Person (2 counts)  
 Peeking Through Private Area (2 counts)  
 Destroying or Concealing Documentary Evidence

**Reason for Referral:** Necessity of Treatment

**Risk Appraisal Methods:**  
 Review of Presentence Investigation Report  
 Examination of Criminal History  
 Examination of Substance Abuse History  
 Static-99R  
 Structured Risk Assessment: Forensic Version  
 Psychopathy Checklist-Revised (PCL-R)

**Appraised Level of Risk (Low, Low-Moderate, Moderate, Moderate-High, High):** Low-Moderate

**Are Offense-specific Interventions Necessary to Promote Community Safety:** No

<sup>1</sup> This report has been created for Department of Probation as an evaluation of, only, this defendant's risk to commit a new sexual crime. It cannot be considered a complete 'psychosexual evaluation.' It is also possible, because I did not conduct a clinical interview in this case, that the findings herein may lack salient data. The use of an actuarial instrument found to 'moderately' predict sexual recidivism, the use of dynamic risk factors predictive of sexual recidivism, and the use of a measure of psychopathy, suggest in the aggregate that findings generated from a 'longer form' psychosexual evaluation, with specific regard to risk, would likely be roughly similar to the findings of this report.

2 The report borrows from the following: (Thomson, D. (2010 December 5). Notes for Interpreting SRA-FV Need Assessment. Manuscript provided as part of the SRA-FV training package. Areas under the ROC curve' of approximately .75. In rough terms, such a test would provide a 75% chance that a randomly chosen sociologist would evidence a higher score on the instrument than a randomly chosen non-sociologist. In a May 2011 psychological evaluation completed on the defendant, Francese Lehman, Psy.D., provided a Statc-99R score on Mr. Kaye of '1'. I am unable to compare her item scores to mine, because she did not provide them.

3	Index non-sexual violence, any conviction?	0
2	Intimacy (no two year relationship)?	0
1	Age at Release? (Score range is -3 to 1)	-1

Risk Factor Yes = 1, No = 0  
Scores

As indicated below Mr. Kaye received a total score of '2' on the Statc-99R.

the subject's age, and his known sexual and nonsexual criminal histories. risk of sexual offenders, is the Statc-99R, which comprises ten variables and encompasses three domains: used instrument to day, one which has been shown to have 'moderate' accuracy in ranking the relative In appraising a once-charged or convicted adult male's risk to commit a new sexual crime, the most widely To evaluate Mr. Kaye's risk of sexual reoffense, two kinds of long-term risk indicators, comprising static and dynamic variables, have been examined using structured assessment methods. Together, they allow a baseline evaluation of the defendant's risk to commit a new sexual crime. These assessments are referred to respectively as Static Risk Assessment and Need Assessment.

**Risk Appraisal**

[During probation interview] The defendant seemed adamant that he abandoned any interest in [voyeurism]. However, the number of victims he acquired between 03/02/10 and all 4/19/10... is concerning. The defendant seemed to become increasingly criminal, and his interests expanded quickly. Since the defendant does not currently understand his own behavior, it seems he is at some risk for reoffending.

[The defendant] used his cell phone camera to take pictures of the women in various stages of undress at [The Turning Station without permission. One of the women depicted was a 15-year-old female. The defendant also accessed numerous pornographic websites depicting staged child pornography and sites related to various forms of voyeurism. He also remotely accessed his cell phone to delete images after his arrest, and possessed a loaded weapon not registered to him in his vehicle when searched.

**Instant Offense**

The instant offense in this case concerns Mr. David Kaye's behavior in the early part of the year 2010, with eight younger adolescent or adult females (according to his report during a May 2011 psychological evaluation completed on the defendant by Francese Lehman, Psy.D.), when he was 42 years of age, involved in a romantic relationship with an adult female partner, and free of the influence of intervening substance, by his report. The author of the presentence investigation report indicated, with regard to the instant offense:

From:

08/28/2012 06:53

#059 P.005/009

4	Prior non-sexual violence, any convictions?	0
5	Prior sex offenses? (Score range is 0-3)	0
6	Prior sentencing dates (excluding index)?	0
7	Convictions for non-contact sex offenses?	1
8	Any unrelated victims?	1
9	Any stranger victims?	1
10	Any male victims?	0
TOTAL SCORE -		2 (low-moderate risk)

The median (i.e. 'middle') score on the Static-99R, across samples, is '2.' The score in this case thus indicates that the subject in question is 'as risky' as the average subject evaluated by the instrument (Helmus, 2009<sup>5</sup>). The absolute (i.e. actual) sexual recidivism rate to be expected for groups of sexual offenders is also associated with variables not included on the Static-99R (Helmus, 2009; Thornton et al, 2010<sup>6</sup>). A new instrument—the Structured Risk Assessment: Forensic Version (SRA: FV)—scores from which enable an examiner to choose a specific Static-99 'normative comparison group by which to compare a subject's individual score, encapsulates these, which have been termed 'long-term vulnerabilities.' The normative samples are as follows:

*Routine Norms:* 'Intended for sexual offenders who have not been subject to any special selection process, and for whom there is no evidence of unusually high levels of risk factors.'

*Non-Routine Norms:* 'Intended for offenders who have been subject' to a selection process associated with 'unusual levels of external risk factors.'

*Treatment Need Norms:* 'Intended for offenders who have been subject to a selection process as a result of the perceived existence of risk factors 'typically seen as implying a need for sexual offender treatment.' An examiner might also choose to use these norms in cases in which an 'unusual level of treatment need' is present.

*High Risk/Need Norms:* 'Intended for offenders who have been subject to a selection process as a result of the existence of perceived risk factors that are 'sufficiently marked as to require exceptional measures to manage them. This involves a higher degree of selection than the Treatment Need Norms. These norms might also be used in cases in which external risk factors are believed to be present at a level 'comparable to those in High Risk/Need samples.'

<sup>5</sup> Helmus, L. (2009). *Re-norming Static-99 recidivism estimates: Exploring base rate variability across sex offender samples.* Unpublished master's thesis, Carleton University, Ottawa, Ontario, Canada.

<sup>6</sup> Mann, R; Hanson, RK; and Thornton, D. (2010). Assessing Risk for Sexual Recidivism: Some Proposals on the Nature of Psychologically Meaningful Risk Factors. *Sexual Abuse: A Journal of Research and Treatment*, 22, 191-217

From:

09/28/2011 06:53

#059 P.008/008

**Need Assessment<sup>7</sup>**

To determine from which normative sample to compare Mr. Kaye's score on the Statco-99R, a 'need assessment,' utilizing the Structured Risk Assessment-Forensic Version (SRA:FV), comprising variables from domains associated with an offender's Sexual Interests, Relational Style, and ability for Self-Management, was used in this case. The defendant's total score, of .63, falls into the low end of a Routine category, according to the manual provided by the author of the instrument<sup>8</sup>. Specific items scores in this case are below:

**SRA: FV 1.3 Coding Form**

DOMAIN		FACTOR SCORES		DOMAIN SCORES
<b>Sexual Interests SID</b>				
Sexual Preference for Children SID1		0		
Sexualized Violence SID2		0		
Sexual Preoccupation SID3				
Narrow	1			
Broad	1			
Narrow + Broad =		2		
		2*1 =	.5	
<b>Sexual Interests Domain TOTAL Score</b>		1.5	+ 3 =	.5
<b>Relational Style RSD</b>				
LEIRA		0		
Emotional Congruence with Children		0		
Callousness PCL-R facet 2		0		
6 __ + 7 __ + 8 __ + 18 __ = 0 / 4 =				
<b>Grievance Thinking</b>				
Internal Grievance Thinking	0			
Poorly-Managed Anger	0			
IGT + PMA =		0		
		0/2 = 0		

<sup>7</sup> So called because the assessment is instructive in evaluating which variables an offender 'needs' in treatment to reduce his risk. Each individual factor on the SRA:FV has been shown to individually predict sexual recidivism (Mann, R; Hanson, R.K; and Thornton, D. (2010). Assessing Risk for Sexual Recidivism: Some Proposals on the Nature of Psychologically Meaningful Risk Factors. *Sexual Abuse: A Journal of Research and Treatment*, 22, 191-217). Evaluations utilizing the SRA:FV framework have been shown to provide incremental predictive validity [added accuracy] when used in conjunction with Statco-99 (Knight, R.A. & Thornton, D. (2007). Evaluating and improving risk assessment schemes for sexual recidivism: a long-term follow up of convicted sexual offenders. Final Report. US Department of Justice, Award Number 2003-WG-BX-1002.

<sup>8</sup> Thornton, D. (2010 December 5<sup>th</sup>). Notes for Interpreting SRA-FV Need Assessment. Manuscript provided as part of the SRA-FV training package. This examiner attended this training.

From:

09/28/2011 16:53

#068 P.007/008

Relational Interests Domain TOTAL Score	0	+ 4 =	0
<b>Self-Management SMD</b>			
Lifestyle Impulsivity SMD1: PCL-R 3 ___ +9 ___ +13 ___ +14 ___ +15 ___ = <u>2</u> / 5 =	4		
Resistance to Rules & Supervision SMD2: PCL-R 10 ___ +12 ___ +18 ___ +19 ___ +20 ___ = <u>0</u> / 5 =	0		
Dysfunctional Coping SMD3	0		
<b>Self-Management Domain TOTAL Score</b>	<b>4</b>	<b>+ 3 =</b>	<b>.13</b>
* minus omitted (X) items (0-6) =	<b>TOTAL NEED SCORE</b>		<b>.63</b>

Broadly, a description of the defendant's functioning across the domains above is as follows:

**Sexual Interests Domain:** There are no actual, 'hands-on' victims in this case. The defendant was, however, found to be in possession of child pornography at the time of a search of his home. From the presentence report:

*The forensic examination of the computers ...revealed more than 200 pornographic images of suspected child pornography, with children who appeared to be under the age of 18 involved in explicit sexual activity with other children and adults. Some of the recovered graphics appear to be teenage couples engaged in sex with the caption, "College Teen secretly filmed fucking!"*

*[Other files found on the defendant's computer: There were also files related to spy/hidden cameras of voyeurism, including women and restaurants, bedrooms, tanning booths, dressing rooms at various stages of undress. The Internet history search files showed significant use under the following pathways: smexy tanning voyeur, shower voyeur, busty voyeur, spy/video, public undressing, secret toilet, women changing clothes, peeping.]*

For his part, Mr. Kaye, according to the previous psychological evaluation, "firmly denied accessing images of underage, youthful, or underdeveloped girls or adolescents on his computer. He denied ever using search criteria that sought beautiful girls, or responding to pop-up ads prompting him to do so." It is perhaps noteworthy that the charge of child pornography possession was dismissed with the defendant's guilty plea. As well, the name of the film identified in the presentence investigation report—college teen—suggests that the content depicts, at least in this series, pubescent, as opposed to prepubescent, females. In light of all of this, I will assume for the purposes of this evaluation that the defendant's viewing of child pornography, such as it was, depicted pubescent targets, and as such is not indicative of sexual interest in children.

With regard to the issue of sexual interest in violence: The instant offense does not appear to indicate that Mr. Kaye suffers from an interest in coercive sex; neither does he appear to receive pleasure from sadistic sexual activity. With regard to the issue of sexual preoccupations: the defendant's use of pornography in the instant offense, characterized by what appears to have been an intense interest in voyeuristic sexual themes, in combination with his actual behavior, appears to me to meet partial criteria (i.e. a score of '1' on the item) for "narrow" sexual preoccupations. With regard finally to the issue of "broad" sexual preoccupations: Mr. Kaye appears to have engaged in "hypersexual" behavior, albeit over a relatively short time period. To wit: he offended against multiple stranger females; he appears to have used pornography on a "high-frequency" basis; and although it remains speculative, it appears to be safe to assume that both the

From:

08/28/2011 08:53

#059 P.008/009

frequency of his masturbation and the number of his orgasms per week increased massively during the time of his offending. He again scores a "1" on this item.

Finally, with regard to the issue of whether Mr. Kaye suffers from chronic interest in themes associated with watching unsuspecting persons as they undress or engage in sexual activity—the paraphilic disorder of Voyeurism. Over at least a two-month period of time, the defendant exhibited voyeuristic behavior, by "peeping" on unsuspecting adolescent and adult females as they were in various states of undress, and by viewing and storing images on his computer associated with what appear to clearly be voyeuristic themes. We can also infer from his behavior the existence of both voyeuristic urges and voyeuristic fantasy, although for his part the defendant denied these during both psychological evaluations of him. Thus, although the time period specified is less than the requisite 6 months necessary for clinical diagnosis, it seems clear that for an 8-week time period Mr. Kaye's behavior rose above a threshold at which a diagnosis of Voyeurism was met. The defendant reported during the previous evaluation an onset of voyeuristic urges upon noticing that "an attractive, scantily clad woman enter[ed] the tanning booth next to his." Subsequent to this, he reported to the investigating probation officer that he "found himself interested in voyeuristic pornography, and began looking at various images on his computer. He accessed voyeur sites, and admitted [that] he did not understand why he became interested in [such themes]."

Mr. Kaye did not report voyeuristic urges, fantasy, or behavior previous to "stumbling upon" (my words) an opportunity at the tanning salon. He additionally has denied the existence of ongoing urges, fantasy, or behavior of a voyeuristic nature. If we are left to consider only the defendant's statements regarding his behavior, we are left to conclude that the onset and cessation of his interest in voyeurism was exactly concomitant with the time period of the instant offense. I will not diagnose the defendant with the paraphilic disorder of Voyeurism in this evaluation; I believe, however, that there may be more to the story regarding Mr. Kaye's interest in such themes. If in fact he does suffer from paraphilia, it is reasonable to assume that at some point during his term of probation he might evidence this kind of interest (polygraph examination results will prove helpful here). If this proves to be the case, I would be pleased to revise the recommendations contained in this report.

**Relational Style Domain:** The presentence investigation report indicates that Mr. Kaye was divorced from a woman in 2007, and that the union produced a 10-year-old male child. He was involved in a relationship with an adult female at the time of the instant offense. He characterized this woman as "supportive" of him throughout the criminal proceedings. The fact that he was engaging in offense behavior during the time of his relationship is curious, and perhaps bears further examination. It does not appear to me that the defendant over the course of his lifetime has suffered from an absence of emotionally intimate relationships with adults, however. Similarly, Mr. Kaye does not seem to have spent time "grooming" children, nor does he appear to have found the company of children more psychologically comfortable than the company of adults.

Although a certain amount of callousness was present at the time of his offending behavior, we do not have evidence in this case to indicate that the defendant has struggled with the issue of empathy (the converse of callousness) chronically. He similarly does not appear to have either struggled with the controls on his anger, or harbored hostile interpretations regarding the motives of other people.

**Self-Management Domain:** There is no evidence in this case to indicate that the defendant suffers from a Substance-Related Disorder. The instant offense marks the first involvement Mr. Kaye has had with the criminal justice system in his adult life; he has no demonstrated pattern of resistance to rules or authority generally. He does appear to have been impulsive (or to have evidenced impulsive decision-making) in the instant offense, which is to say that over the course of a two-month time period, the defendant both took advantage of opportunities to offend (in a sensation-seeking, impulsive manner), and, after he had established a pattern of behavior, premeditated his actions. Finally, although we might assume that some underlying psychological tension was associated with his actions in the instant offense, given that his behavior appears to have been such an aberration, there is no other evidence to indicate that Mr. Kaye, who worked as an attorney for a 16 year time period, has chronically engaged in what is termed "dysfunctional coping" by the need assessment.

09/28/2011 06:54

#059 P.008/009

From:

*Consideration of SRA:FV Score*

Mr. Kaye's score of .63 on the Forensic Version of the Structured Risk Assessment indicates that the best normative "fit" for him is to compare his risk to the risk posed by Static-99R offenders falling in the Routine sample normative group. Those offenders scoring similarly to Mr. Kaye's on the Static-99R (i.e. "2"), whose "need" scores also indicated the use of Routine norms, reoffended at rates between 5.0 and 7.4 percent, over five years.

*Summary*

Mr. David Kaye committed sexual crimes by taking photographs of stranger adolescent and adult females in various states of undress at a San Diego-area tanning salon. He admits to his behavior in the instant offense, though denies paraphilic interest either previous to or after his criminal behavior. Moving quickly to the central question to be answered by this evaluation—whether to ensure community safety the defendant is in need of offense-specific interventions—my answer is NO. I will, however, add the caveat that should further information determine that the defendant suffers either from sexual interest in voyeuristic themes or in female children, the recommendations herein would then be subject to revision.

Thank you for allowing me to evaluate this gentleman. Should you desire further information, please do not hesitate to contact me.

Sincerely,

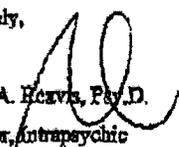
  
James A. Hervey, Psy.D.  
Director, Intrapsychic  
Director of Forensic Services, Relationship Training Institute

EXHIBIT 3

**FILED**

State Bar Court

Counsel for Respondent:	Case Number(s): <u>11-C-10329(521871)</u>	For Court's Use Only: <b>SEP 05 2014</b>
In the Matter of <u>David T. Kaye</u> A Member of the State Bar of California	RULE 9.20 COMPLIANCE DECLARATION	STATE BAR COURT CLERK'S OFFICE LOS ANGELES

I, David T. Kaye, State Bar member number 171160, have been ordered to comply with the provisions of subdivisions (a) and (c) of rule 9.20, California Rules of Court, as part of a suspension ordered by the State Bar Court or Supreme Court, or an order of disbarment or an order accepting my resignation by the Supreme Court.

[Answer each question by checking one box per question. If neither option is correct, attach a declaration under penalty of perjury explaining your situation.]

Within 30 days of the effective date of the order of suspension/disbarment/acceptance of resignation ("effective date"): (See rule 9.18(a), California Rules of Court):

- I notified all clients and co-counsel, in matters that were pending on the date upon which the order to comply with rule 9.20 was filed by certified or registered mail, return receipt requested, of my consequent disqualification to act as an attorney after the effective date of the order of suspension/disbarment, and in those cases where I had no co-counsel, I urged the clients to seek legal advice elsewhere, calling attention to any urgency in seeking another attorney.  
 As of the date upon which the order to comply with rule 9.20 was filed, I had no clients.
- I delivered to all clients any papers or other property to which the clients were entitled, or notified clients and co-counsel, if any, of a suitable time and place where the papers or other property could be obtained, and called attention to any urgency for obtaining the papers or other property.  
 As of the date upon which the order to comply with rule 9.20 was filed, I had no papers or other property to which clients were entitled.
- I refunded fees paid, any part of which had not been earned.  
 As of the date upon which the order to comply with rule 9.20 was filed, I had earned all fees paid to me.
- I notified all opposing counsel or adverse parties not represented by counsel in matters that were pending on the date upon which the order to comply with rule 9.20 was filed by certified or registered mail, return receipt requested, of my disqualification to act as an attorney after the effective date of my suspension, disbarment, or the Supreme Court's acceptance of my resignation, and filed a copy of my notice to opposing counsel/adverse parties with the court, agency or tribunal before which litigation was pending for inclusion in its files.  
 As of the date upon which the order to comply with rule 9.20 was filed, I did not represent any clients in pending matters.
- In the future, communications may be directed to me at the following address: P.O. Box 461473  
Escondido, CA 92046

[If this is not your current State Bar membership address, this declaration will change your membership address. See Bus. & Prof. Code §6002.1(b)]

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at San Marcos, California, on September 02, 2014.

Wilful failure to comply with the provisions of rule 9.20 may result in revocation of probation; suspension; disbarment; denial of reinstatement; or, contempt or conviction.

David T. Kaye  
[Signature]

David T. Kaye  
(Print Name)

EXHIBIT 4

AT&T Mail News Sports Finance Weather Entertainment Health Screen U-verse att.com More En Español

Search Mail Search Web Home David



Compose

Navigation icons: back, forward, delete, move, spam, more

Navigation icons: up, down, close

- Inbox (2)
- Drafts
- Sent
- Spam (4)
- Trash (4)
- > Folders
- > Recent

### Payment Confirmation for Online Payment Confirmation

**The State Bar of California**

Today at 9:17 AM

To Me

\*\*\* PLEASE DO NOT RESPOND TO THIS EMAIL \*\*\*

Thank you for your payment.

This email is to confirm your payment submitted on Sep-15-2014 for Online Payment Confirmation.

Confirmation Number: BARBAR000484455  
 Payment Amount: \$16,852.00  
 Scheduled Payment Date: Sep-15-2014  
 Amount Due: \$16,852.00

Account Nickname: N/A  
 Credit Card Number: \*1280  
 Credit Card Type: MC  
 Payer Name: David Kaye  
 Approval Code: 65850P

Merchant: State Bar of CA  
 Website: www.calbar.ca.gov

If you have questions about this payment or need assistance, please send an email to [billing@calbar.ca.gov](mailto:billing@calbar.ca.gov), or call Customer Service at 1-888-800-3400.

Thank you for using the State Bar of California electronic payment system.

**Reply, Reply All or Forward | More**

Click to reply all

Send **T** **B** **I** **A**

by MADONN PHOTOGRAPHY on flickr

EXHIBIT 5



COUNTY OF SAN DIEGO, CALIFORNIA  
**MISCELLANEOUS RECEIPT**

**R 470787**

Received From KAYE, DAVID

For Case: SD 231954

\$ 934

(IF BY CHECK, DRAFT OR OTHER ORDER, SUBJECT TO THE SAME BEING HONORED AND PAID)

Project \_\_\_\_\_ Task \_\_\_\_\_ Award \_\_\_\_\_ EXP \_\_\_\_\_ ORG \_\_\_\_\_

- Cash
- Check No. 209 \$ 934
- Money Order No.
- Draft No.
- County Warrant No.

Department **REVENUE AND RECOVERY**

By [Signature]

Date 8-11-11

**AUDITOR'S COPY**

To be delivered to Auditor's when deposit permit is obtained.  
 AUD 200 (REV02/06)

EXHIBIT 6

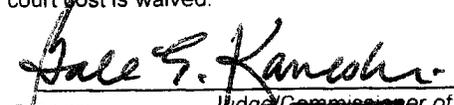
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO</b> <input checked="" type="checkbox"/> CENTRAL DIVISION, COUNTY COURTHOUSE, 220 W. BROADWAY, SAN DIEGO, CA 92101 <input type="checkbox"/> EAST COUNTY DIVISION, 250 E. MAIN ST., EL CAJON, CA 92020 <input type="checkbox"/> NORTH COUNTY DIVISION, 325 S. MELROSE DR., VISTA, CA 92081 <input type="checkbox"/> SOUTH COUNTY DIVISION, 500 3RD AVE., CHULA VISTA, CA 91910		<b>F</b> (COURT USE ONLY) <b>D</b> <b>Clerk of the Superior Court</b>  <b>OCT 15 2014</b>  <b>By: F. McCurley, Deputy</b>
<b>PLAINTIFF</b> <b>PEOPLE OF THE STATE OF CALIFORNIA</b>		
<b>DEFENDANT</b> <b>DAVID TAYLOR KAYE</b>	<b>SUPERIOR COURT CASE NUMBER</b> <b>SCD231954</b>	
<b>PETITION FOR DISMISSAL - ORDER GRANTING</b> <b>(FELONY/MISDEMEANOR - PC 1203.4 OR 1203.4a)</b>	<b>CITY/DISTRICT ATTORNEY NUMBER</b> <b>ACW97001</b>	

After reviewing the petition and records in this case, the court finds that the defendant is statutorily eligible for the relief requested.

**THE PETITION IS GRANTED. IT IS HEREBY ORDERED THAT:**

- Defendant's previously entered plea of guilty or nolo contendere is hereby withdrawn and a plea of not guilty entered; or, if defendant was convicted after a plea of not guilty, the verdict of guilty is hereby set aside. The accusation or information against the defendant is dismissed and the defendant is released from all penalties and disabilities resulting from the offense of which he or she had been convicted, except:
  - This order does not permit a person prohibited from holding public office as a result of the conviction to hold public office.
  - This order does not permit the defendant to own, possess, or have custody or control over any firearm nor does it prevent conviction of the defendant under Chapter 2 (commencing with § 29800) of Division 9 of Title 4 of Part 6 of the Penal Code.
  - This order does not affect any revocation or suspension of the defendant's privilege to drive a motor vehicle. The conviction in this case shall be considered a conviction for the purpose of revoking or suspending or otherwise limiting such privilege on the ground of two or more convictions (Veh. Code § 13555).
  - In any subsequent prosecution for any other offense, the conviction in this case may be pleaded and proved as a prior conviction and shall have the same effect as if this petition has not been granted.
  - The conviction in this case remains a part of the court file which can be viewed by the public.
  - This order does not release certain persons from the duty to provide specimens, samples, or print impressions required by the DNA and Forensic Identification Database and Data Bank Act. (See Pen. Code § 299(f).)
  - Relief granted pursuant to Pen. Code § 1203.4 does not relieve a defendant of the duty to register pursuant to Pen. Code 290 et. seq. (Pen. Code § 290.007) or exclude a defendant from the internet publication provisions of Megan's Law.
  - Relief granted pursuant to Pen. Code § 1203.4 does not relieve defendant of the obligation to disclose the conviction in response to any direct question contained in any questionnaire or application for public office, for licensure by any state or local agency, or for contracting with the California State Lottery Commission.
- Misdemeanor: The defendant pay a court cost of \$60.00 to the court, payable  forthwith  due PD 09/8/14. If not paid by the date due, the account will be referred to the court's contracted collection agency to pursue collection of the unpaid balance.
- Felony: The defendant pay a court cost of \$120.00. Defendant to report to the Department of Revenue and Recovery within two weeks of the date of this order to pay the court cost. Contact Revenue and Recovery for office locations. Central: (619) 515-6200 East County: (619) 441-4607 North County: (760) 806-6396 South County: (619) 691-4505
- Court finds the defendant does not have the ability to pay. The court cost is waived.

Date: 15 Oct. 2014

  
**GALE E. KANEKO**  
 Judge, Commissioner of the Superior Court

You may have the right to petition for a Certificate of Rehabilitation and Pardon pursuant to Pen. Code § 4852 et seq. An instruction packet (SDSC Form #PKT-016) may be obtained from the court or found at [www.sdcourt.ca.gov](http://www.sdcourt.ca.gov).



**CLERK'S CERTIFICATE**

The foregoing document, consisting of 1 pages, is a full, true, and correct copy of the  original  copy on file in this office.

Clerk of the Superior Court

Date: 11-3-14

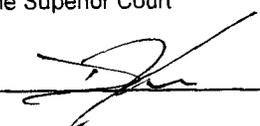
by  Deputy

EXHIBIT 7

1 David Cameron Carr, no. 124510  
2 Law Office of David Cameron Carr PLC  
3 530 B Street, Suite 1410  
4 San Diego, California 92101  
5 Tel: (619) 696-0526  
6 Fax: (619) 696-0523

7 Attorney for Respondent  
8 DAVID TAYLOR KAYE

9 STATE BAR COURT  
10 HEARING DEPARTMENT- LOS ANGELES

11 In the Matter of ) Case No(s): 11-C-10329 RAP  
12 David Taylor Kaye, )  
13 no. 171160 ) DECLARATION OF CARL SKAJA  
14 A Member of the State Bar )

15 I, Carl Skaja declare:

- 16 1. I am an attorney licensed to practice law in the State of California, State Bar no.  
17 185852. I make this declaration from my personal knowledge and I can  
18 competently testify to the facts stated here.
- 19 2. I am an attorney in private practice in Escondido, California have been actively  
20 practicing law in California doing real restate law, business law and civil litigation.
- 21 3. I have known David Kaye since 1996. I have referred him many clients over the  
22 years who need help with family law and criminal law issues. Mr. Kaye is an  
23 excellent attorney. I have always received positive feedback from my referrals and  
24 I know that Mr. Kaye has obtained positive results for my clients. He treated the  
25 clients very well and always handled himself in a professional and ethical manner.  
26 I would not hesitate to refer a client to him.
- 27 4. I am aware that Mr. Kaye was convicted after plea, of two misdemeanor counts of  
28 violating Penal Code section 647(j)(3)(a) (secretly filming a person) and two

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

misdemeanor counts of Penal Code section 647(j)(1) (peeking through a private area) based on his surreptitious photography of eight women at tanning salon in March and April 2010.

- 5. I have a good opinion of Mr. Kaye's character, despite the criminal conviction. I understand that the State Bar must investigate. I would like to go on record as supporting Ms. Kaye and I would respectfully request that he keep his bar license without restriction.
- 6. I strongly believe that David Kaye is not a threat to anyone and that he has the ethical, intellectual and moral capabilities of an effective attorney.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at Escordido, California on October 22, 2012.

By: Carl Skaja  
Carl Skaja

1 David Cameron Carr, no. 124510  
2 Law Office of David Cameron Carr PLC  
3 530 B Street, Suite 1410  
4 San Diego, California 92101  
5 Tel: (619) 696-0526  
6 Fax: (619) 696-0523

7 Attorney for Respondent  
8 DAVID TAYLOR KAYE

9 STATE BAR COURT  
10 HEARING DEPARTMENT- LOS ANGELES

11 In the Matter of ) Case No(s): 11-C-10329 RAP  
12 David Taylor Kaye, ) DECLARATION OF SEAN LESLIE  
13 no. 171160 )  
14 A Member of the State Bar )

15 I, Sean Leslie declare:

- 16 1. I am an attorney licensed to practice law in the State of California, State Bar no.  
17 149723. I make this declaration from my personal knowledge and I can  
18 competently testify to the facts stated here.
- 19 2. I have been an attorney since 1990 and I am AV rated by Martindale Hubbell. My  
20 practice since 1993 primarily involves representing those accused of crimes and  
21 those injured by the negligence of others. I have been a judge pro tempore with the  
22 San Diego County Superior Court and a Director of the North County Bar  
23 Association.
- 24 3. I have known David Kaye for approximately 17 years as a practicing attorney in  
25 North County San Diego. I have referred many clients to him for representation.  
26 The clients I have referred to him had positive remarks about the way he handled  
27 their cases. Similarly, Mr. Kaye has had hundreds of jury trials under his belt and  
28 is well regarded as a DUI attorney.

- 1 4. I am aware of the allegations in the criminal case and that Mr. Kaye was convicted  
2 after plea, of two misdemeanor counts of violating Penal Code section 647(j)(3)(a)  
3 (secretly filming a person) and two misdemeanor counts of Penal Code section  
4 647(j)(1) (peeking through a private area) based on his surreptitious photography of  
5 eight women at tanning salon in March and April 2010. I was his lawyer in that  
6 criminal case.
- 7 5. Despite the misdemeanor convictions, I have the utmost positive opinion of Mr.  
8 Kaye's character and reputation. In working with him through the years, I have  
9 found him honest and straightforward. despite the criminal conviction.

10  
11 I declare under penalty of perjury under the laws of the State of California that the  
12 foregoing is true and correct. Executed at CARLSBAD, California on October 22,  
13 2012.

14 By: Sean Leslie  
15 Sean Leslie

16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

David Cameron Carr, no. 124510  
Law Office of David Cameron Carr PLC  
530 B Street, Suite 1410  
San Diego, California 92101  
Tel: (619) 696-0526  
Fax: (619) 696-0523

Attorney for Respondent  
DAVID TAYLOR KAYE

STATE BAR COURT

HEARING DEPARTMENT- LOS ANGELES

In the Matter of )  
 )  
David Taylor Kaye, )  
no. 171160 )  
 )  
 )  
A Member of the State Bar )  
\_\_\_\_\_ )  
\_\_\_\_\_ )

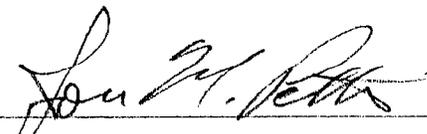
Case No(s): 11-C-10329  
RAP  
DECLARATION OF JON  
PETTIS

I, Jon Pettis declare:

- I. I am an attorney licensed to practice law in the State of California, State Bar no. 181459. I make this declaration from my personal knowledge and I can competently testify to the facts stated here.
- II. I have been a member of the State Bar for over 16 years. I am a criminal defense attorney in private practice in San Diego County.
- III. David Kaye is a colleague of mine and I have known him for well over a decade. I have always found him to demonstrate the highest moral and ethical character in his professional responsibilities, Whether in discussion of cases, judges, prosecutors, or in personal interaction aside from the practice of law, I have always found Mr. Kaye to be honest and professional.
- IV. I am aware that Mr. Kaye was convicted after plea, of two misdemeanor counts of violating Penal Code section 647(j)(3)(a) (secretly filming a person) and two misdemeanor counts of Penal Code section 647(j)(1) (peeking through a private area) based on his surreptitious photography of eight women at tanning salon in March and April 2010.
- V. I have a good opinion of Mr. Kaye's character, despite the criminal conviction. He is an excellent attorney and always has his clients' best interests in his heart. I have on numerous occasions sought out Mr. Kaye's counsel on strategic and ethical issues and found it invaluable.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at Lemon Grove, California on October 26, 2012.

By:

  
\_\_\_\_\_  
Jon Pettis

1 David Cameron Carr, no. 124510  
2 Law Office of David Cameron Carr PLC  
3 530 B Street, Suite 1410  
4 San Diego, California 92101  
5 Tel: (619) 696-0526  
6 Fax: (619) 696-0523

7 Attorney for Respondent  
8 DAVID TAYLOR KAYE

9 STATE BAR COURT  
10 HEARING DEPARTMENT- LOS ANGELES

11 In the Matter of ) Case No(s): 11-C-10329 RAP  
12 David Taylor Kaye, )  
13 no. 171160 ) DECLARATION OF SCOTT MULLINS  
14 A Member of the State Bar )

15 I, Scott Mullins, declare:

- 16 1. I am over the age of 18 years and a resident of San Diego County. I make this  
17 declaration from my personal knowledge and I can competently testify to the facts  
18 stated here.
- 19 2. I am a software engineer and architect from Vista, California. I design and develop  
20 software for information systems at a Fortune 500 provider of financial and  
21 analytical data, information and research services.
- 22 3. I have known David Kaye since 1979. We attended junior high, high school and  
23 college together. During our 33 year acquaintance we have maintained a close  
24 friendship and regular contact with each other.
- 25 4. I am aware that Mr. Kaye was convicted after plea, of two misdemeanor counts of  
26 violating Penal Code section 647(j)(3)(a) (secretly filming a person) and two  
27 misdemeanor counts of Penal Code section 647(j)(1) (peeking through a private  
28 area) based on his surreptitious photography of eight women at tanning salon in

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

March and April 2010.

5. Despite the conviction, I have the highest opinion of Mr. Kaye's good moral character. In my experience, he has repeatedly showed his concern for those around him and compassion. When presented with ethical dilemmas during the years I have known him, he has consistently discerned the morally superior course of action.
6. In observing Mr. Kaye's legal practice, I have found him scrupulously honest sensitive to the rights of others. I am a close personal friend of Mr. Kaye. I spend time with Mr. Kaye on a weekly basis when we meet for lunch and my family and Mr. Kaye's family spend time together on the holidays. Mr. Kaye and I have extensively discussed the criminal and bar disciplinary matters many times over the past two years

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at Vista, California on October 25, 2012.

By:   
\_\_\_\_\_  
Scott Mullins

1 David Cameron Carr, no. 124510  
Law Office of David Cameron Carr PLC  
2 530 B Street, Suite 1410  
San Diego, California 92101  
3 Tel: (619) 696-0526  
Fax: (619) 696-0523

4 Attorney for Respondent  
5 DAVID TAYLOR KAYE

6  
7 STATE BAR COURT  
8 HEARING DEPARTMENT- LOS ANGELES  
9

10 In the Matter of ) Case No(s): 11-C-10329 RAP  
11 David Taylor Kaye, )  
12 no. 171160 ) DECLARATION OF CHRIS  
13 A Member of the State Bar ) MCWILLIAMS  
14

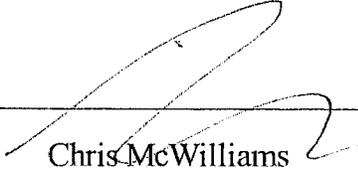
15 I, Chris McWilliams, declare:

- 16 1. I am over the age of 18 years and a resident of San Diego County. I make this  
17 declaration from my personal knowledge and I can competently testify to the facts  
18 stated here.
- 19 2. I am the Chief Financial Officer for a privately held company.
- 20 3. I have been friends with known David Kaye for several years.
- 21 4. I am aware that Mr. Kaye was convicted after plea, of two misdemeanor counts of  
22 violating Penal Code section 647(j)(3)(a) (secretly filming a person) and two  
23 misdemeanor counts of Penal Code section 647(j)(1) (peeking through a private  
24 area) based on his surreptitious photography of eight women at tanning salon in  
25 March and April 2010. Mr. Kaye has shared this information with me. I am aware  
26 that the State Bar is evaluating what impact this should have on his law license.
- 27 5. I have a good opinion of Mr. Kaye's character, despite the criminal conviction. He  
28 is an excellent attorney. I have referred both family and friends to Mr. Kaye for

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

representation, I know several of his clients who are very satisfied with his representation.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at tax 23rd, California on October 20, 12 2012.

By:   
Chris McWilliams

1 David Cameron Carr, no. 124510  
2 Law Office of David Cameron Carr PLC  
3 530 B Street, Suite 1410  
4 San Diego, California 92101  
5 Tel: (619) 696-0526  
6 Fax: (619) 696-0523

7 Attorney for Respondent  
8 DAVID TAYLOR KAYE

9 STATE BAR COURT  
10 HEARING DEPARTMENT- LOS ANGELES

11 In the Matter of ) Case No(s): 11-C-10329 RAP  
12 David Taylor Kaye, )  
13 no. 171160 ) DECLARATION OF RICHARD  
14 A Member of the State Bar ) WAGNER

15 I, Richard Wagner declare:

- 16 1. I am an attorney licensed to practice law in the State of California, State Bar no.  
17 198699. I make this declaration from my personal knowledge and I can  
18 competently testify to the facts stated here.
- 19 2. I have been licensed to practice law since 1998.
- 20 3. I have known David Kaye since 2006. Mr. Kaye was "of counsel" to the Law  
21 Offices of Myles L. Berman while I was employed at that firm between 2006 and  
22 2009. Mr. Kaye and I worked on several cases together, including People v.  
23 Stephen Cortesy, case no. 09HM00314, where Mr. Kaye tried our case and our  
24 client found not guilty by a jury.
- 25 4. I am aware that Mr. Kaye was convicted after plea, of two misdemeanor counts of  
26 violating Penal Code section 647(j)(3)(a) (secretly filming a person) and two  
27 misdemeanor counts of Penal Code section 647(j)(1) (peeking through a private  
28 area) based on his surreptitious photography of eight women at tanning salon in

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

March and April 2010.

- 5. Despite the criminal conviction, I have the highest opinion of Mr. Kaye's good moral character.
- 6. In working with Mr. Kaye, I have found him to be scrupulously honest and sensitive to the rights of others. In the Cortesy case, Mr. Kaye consistently worked to ratchet down the emotional tension in the courtroom and guide our client to a not-guilty verdict. Throughout the trial, he consistently displayed civility and professionalism in the face of considerable provocation from the prosecuting attorney.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at Irvine, California on October 24 2012.

By:   
Richard Wagner

1 David Cameron Carr, no. 124510  
2 Law Office of David Cameron Carr PLC  
3 530 B Street, Suite 1410  
4 San Diego, California 92101  
5 Tel: (619) 696-0526  
6 Fax: (619) 696-0523

7 Attorney for Respondent  
8 DAVID TAYLOR KAYE

9 STATE BAR COURT  
10 HEARING DEPARTMENT- LOS ANGELES

11 In the Matter of ) Case No(s): 11-C-10329 RAP  
12 David Taylor Kaye, )  
13 no. 171160 ) DECLARATION OF BRUCE  
14 A Member of the State Bar ) CAMPBELL

15 I, Bruce Campbell, declare:

- 16 1. I am over the age of 18 years and a resident of San Bernardino County. I make this  
17 declaration from my personal knowledge and I can competently testify to the facts  
18 stated here.
- 19 2. I currently work providing personal security for high profile clients. I formerly  
20 worked as a Los Angeles Police Department officer for 15 years.
- 21 3. I have known David Kaye for over thirty years.
- 22 4. I am aware that Mr. Kaye was convicted after plea, of two misdemeanor counts of  
23 violating Penal Code section 647(j)(3)(a) (secretly filming a person) and two  
24 misdemeanor counts of Penal Code section 647(j)(1) (peeking through a private  
25 area) based on his surreptitious photography of eight women at tanning salon in  
26 March and April 2010. I am aware of the State Bar's discipline matter.
- 27 5. I have a good opinion of Mr. Kaye's character, despite the criminal conviction. I  
28 have found Mr. Kaye to be an honest and ethical person over the years. I have

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

referred clients to him because of my trust and confidence in him.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at Alta Loma, California on October 26, 2012.

By: B. Campbell

Bruce Campbell

1 David Cameron Carr, no. 124510  
2 Law Office of David Cameron Carr PLC  
3 530 B Street, Suite 1410  
4 San Diego, California 92101  
5 Tel: (619) 696-0526  
6 Fax: (619) 696-0523

7 Attorney for Respondent  
8 DAVID TAYLOR KAYE

9 STATE BAR COURT  
10 HEARING DEPARTMENT- LOS ANGELES

11 In the Matter of ) Case No(s): 11-C-10329 RAP  
12 David Taylor Kaye, )  
13 no. 171160 ) DECLARATION OF DIANNA PARRO  
14 A Member of the State Bar )

15 I, Dianna Parro, declare:

- 16 1. I am over the age of 18 years and a resident of Riverside County. I make this  
17 declaration from my personal knowledge and I can competently testify to the facts  
18 stated here.
- 19 2. I am a singer/songwriter. I work in the music industry and for many charties.
- 20 3. I have been known David Kaye for several years. He is a close and personal friend.
- 21 4. I am aware that Mr. Kaye was convicted after plea, of two misdemeanor counts of  
22 violating Penal Code section 647(j)(3)(a) (secretly filming a person) and two  
23 misdemeanor counts of Penal Code section 647(j)(1) (peeking through a private  
24 area) based on his surreptitious photography of eight women at tanning salon in  
25 March and April 2010.
- 26 5. I have a good opinion of Mr. Kaye's character, despite the criminal conviction. I  
27 know him to be an ethical, honest and moral person. He has represented friends of  
28 mine and has been very professional. I would have no hesitation referring more

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

people to him for legal assistance.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at SAN MARCOS, California on October 13, 2012.

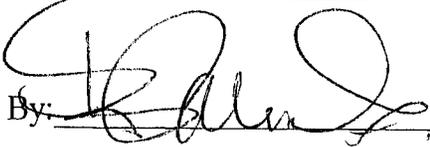
By:   
Dianna Parro

EXHIBIT 8



NCBE Account

[NCBE Home](#)

Name: DAVID KAYE  
NCBE Number: N10208296  
Date of Birth: 09/14/1967

Your score on the Multistate Professional Responsibility Examination (MPRE) administered on 11/01/2014 is as follows:

Scaled Score: 110

The score shown above has been reported to CALIFORNIA as you requested when you registered for the MPRE.

**Your MPRE score will be available on your NCBE account only until the next MPRE test date. If you want to obtain your score after that, you will need to request a score release, and pay the required fee. Therefore, we recommend that you save this page and/or print it (Control-P for Windows; Command-P for Mac) for your records.**

Each jurisdiction determines its own passing score on the MPRE. Review the [Comprehensive Guide to Bar Admission Requirements](#) and direct any questions about admission requirements pertaining to MPRE scores to the bar admission agency in the jurisdiction to which you are applying. Contact information for jurisdictions can be found in the [Bar Admission Offices Directory](#).

The MPRE scaled score is a standard score. Standard scaled scores range from 50 (low) to 150 (high).

**MPRE Score Services: All MPRE score services listed below must be requested under the Score Services tab of your NCBE account.**

- **MPRE Score Report:** If you would like to have your MPRE score sent to another jurisdiction, you must submit a request to NCBE for a score report. Score reports are sent to jurisdictions by mail.
- **MPRE Score Verification:** If you would like to have the scoring of your MPRE answer sheet rechecked by hand, you must request a score verification. **Score verification requests must be submitted to NCBE within two months of the original test date.**
- **MPRE Score Release:** If you would like a replacement copy of your MPRE score after it is no longer available on this page, you must submit a request to NCBE for a score release. Score releases cannot be requested until scores are no longer available on NCBE accounts. Score releases do not contain any additional information and are duplicative of score information provided following the exam. Score releases will be available in the File Cabinet of your NCBE account, and are not sent by mail.

[Contact Us](#)

© 2014 National Conference of Bar Examiners

EXHIBIT 9

# STATE BAR OF CALIFORNIA



## Office of Chief Trial Counsel

This is to certify that

*David T. Kaye*

State Bar No. 171160

*has completed Ethics School  
given by the State Bar of California on*

Thursday, October 23, 2014

Dated: October 29, 2014

A handwritten signature in black ink, appearing to read "Anthony Garcia", written over a horizontal line.

Anthony Garcia  
Deputy Trial Counsel

STATE BAR COURT OF CALIFORNIA

In the Matter of David Taylor Kaye )  
Case no. 11-C-10329 )

) CASE NO. 11-C-10329

) **PROOF OF SERVICE BY**  
) **OVERNIGHT DELIVERY**  
)  
)  
)  
)

At the time of service I was over the age of 18 and not a party to the within action. I am a resident of or employed in the County of San Diego, State of California. My residence or business address is P.O. Box 461473, Escondido, California 92046.

On April 19, 2016, I served the following documents:

Verified Petition for Reinstatement From Actual Suspension  
Declaration of David Taylor Kaye in Support of Verified Petition  
for Reinstatement From Actual Suspension

I served the documents on the person or persons below as follows:

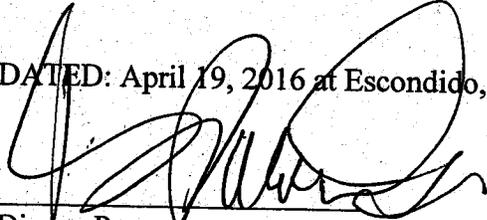
Office of the Chief Trial Counsel  
The State Bar of California  
845 S. Figueroa Street  
Los Angeles, CA 90017

The documents were personally served by the following means: OVERNIGHT DELIVERY

I enclosed such documents in an envelope or package provided by an overnight carrier and addressed to the person or persons described above. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATED: April 19, 2016 at Escondido, California.

  
\_\_\_\_\_  
Dianna Parro