

FILED

JUL 25 2017

**STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES**

STATE BAR COURT OF CALIFORNIA

REVIEW DEPARTMENT

IN BANK

In the Matter of)	Case No. 17-Q-02310
)	
JAMES BERNARD DOWLING,)	RECOMMENDATION ON
)	RESIGNATION
A Member of the State Bar, No. 79976.)	
_____)	

On April 21, 2017, James Bernard Dowling filed a resignation with charges pending and was transferred to inactive status. On June 10, 2017, the Office of Chief Trial Counsel of the State Bar (OCTC) filed its report on the resignation and the parties' Stipulation as to Facts and Conclusions of Law. OCTC recommends that the resignation be accepted. Dowling did not file a response.

Based on OCTC's recommendation and in light of the grounds set forth in California Rules of Court, rule 9.21(d),* as detailed below, we recommend that the Supreme Court accept the resignation.

I. BACKGROUND

Dowling was admitted to practice law in California on June 23, 1978. He has one prior record of discipline.

On April 10, 2015 (effective May 10, 2015), the Supreme Court ordered respondent suspended for one year, execution stayed, and placed on probation for one year subject to the

* All further references to rules are to this source unless otherwise noted.

conditions of probation, including a 30-day period of actual suspension. (*In re James Bernard Dowling* (S224073), State Bar Court Case No. 14-O-01608.) Dowling stipulated to one count of reporting under penalty of perjury to the State Bar that he was in compliance with the minimum continuing legal education (MCLE) requirements when he knew he was not in compliance with the MCLE requirements. (Bus. & Prof. Code, § 6106.) In mitigation, he had no prior record of discipline in over 36 years of practice, and he cooperated by stipulating to his misconduct before the filing of formal charges. No aggravating circumstances were present.

Currently, a single disciplinary investigation is pending against Dowling. (State Bar Court Case No. 16-O-15579), and the parties have entered into a stipulation as to facts and conclusions of law as follows. By failing to attend and complete State Bar Ethics School by May 10, 2016, Dowling failed to comply with the conditions attached to his disciplinary probation in State Bar Court Case No. 14-O-01608. (Bus. & Prof. Code, § 6068, subd. (k).)

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

We have considered Dowling's resignation under the grounds set forth in rule 9.21(d).

We summarize below the relevant information for each ground:

1. Whether the preservation of testimony is complete.

OCTC reports that preservation of testimony is not necessary in the pending matter.

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

OCTC reports that it is not aware of Dowling practicing law or advertising or holding himself out as entitled to practice law after his transfer to inactive status.

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

OCTC reports that, consistent with rule 9.20(a)-(b), Dowling has attested he has no clients, no client papers or other property to return, no unearned fees, and no pending client matters.

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

Dowling filed a 9.20 compliance affidavit on April 21, 2017.

5. Whether the Supreme Court has filed a disbarment order.

The Supreme Court has not filed a disbarment order.

6. Whether the State Bar Court has filed a decision recommending disbarment.

The State Bar Court has not filed a decision recommending Dowling's disbarment.

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

Dowling has not previously resigned or been disbarred.

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

Dowling has entered into a stipulation with OCTC as to facts and conclusions of law regarding pending disciplinary matters.

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

Acceptance of Dowling's resignation would be consistent with the need to protect the public, the courts, and the legal profession. Dowling has acknowledged his misconduct and complied with rule 9.20. Further, Dowling has only one prior record of discipline, and no client security fund claims are pending against him. OCTC also reports that Dowling is 69 years old and will be at least 74 years old before he is eligible to seek reinstatement. Under these

circumstances, we do not believe that public confidence in the discipline system will be undermined by accepting the resignation, and we believe that acceptance would be consistent with the need to protect the public, the courts, and the legal profession.

III. RECOMMENDATION

We recommend that the Supreme Court accept the resignation of James Bernard Dowling, State Bar number 79976. We further recommend that costs be awarded to the State Bar in accordance with Business and Professions Code section 6068.10, and that such costs be enforceable both as provided in section 6140.7 and as a money judgment.

PURCELL

Presiding Judge

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on July 25, 2017, I deposited a true copy of the following document(s):

ORDER FILED: JULY 25, 2017

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

- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:
- JAMES BERNARD DOWLING
12646 MEMORIAL WAY APT 1080
MORENO VALLEY, CA 92553
- ☐ by certified mail, No. _____, with return receipt requested, through the United States Postal Service at _____, California, addressed as follows:
- ☐ by overnight mail at _____, California, addressed as follows:
- ☐ by fax transmission, at fax number _____. No error was reported by the fax machine that I used.
- ☐ By personal service by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:
- ☒ by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

Jennifer Kishimizu, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on July 25, 2017.



Nikiah Hawkins
Case Administrator
State Bar Court