

FILED

OCT 04 2017 *ML*

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-03499
)	
ALBERT MYRICK GRAHAM, JR.,)	AMENDED RECOMMENDATION ON
)	RESIGNATION
A Member of the State Bar, No. 44490.)	
_____)	

On June 16, 2017, respondent Albert Myrick Graham, Jr., filed a resignation with charges pending. On August 15, 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. Based on OCTC's recommendation and in light of the grounds set forth in California Rules of Court, rule 9.21(d),¹ as detailed below, we recommend that the Supreme Court accept the resignation.

I. BACKGROUND

Graham was admitted to practice law in California on June 27, 1969 and has not been eligible to practice law in California since August 1, 2012. He has three prior records of discipline.

First, on November 26, 2012, Graham received a private reproof with conditions lasting for one year. (State Bar Court case no. 01-O-05359.) He stipulated that he improperly entered into a business transaction with a client. (Rules of Prof. Conduct, rule 3-300.) In mitigation, Graham had no prior record of discipline, did not cause any client harm, displayed candor and

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



cooperation with the State Bar, and demonstrated good character. No aggravating circumstances were involved.

Second, on July 25, 2012 (effective August 1, 2012), the Supreme Court ordered Graham suspended for three years, execution stayed; placed on probation for three years; and actually suspended for a minimum of the first two years of probation and until he provided proof of his rehabilitation, fitness to practice and learning and ability in the general law. (*In re Albert Myrick Graham* (S201839), State Bar Court case no. 06-O-11488.) Graham was found culpable of committing acts of moral turpitude, namely he engaged in a scheme to hide income and assets to avoid paying taxes and a private debt. In mitigation, Graham demonstrated good character and engaged in extensive community service. In aggravation, Graham had a prior record of discipline, committed multiple acts of misconduct, lacked candor at trial, and lacked insight and remorse.

Third, on January 13, 2016 (effective February 12, 2016), the Supreme Court ordered Graham suspended for three years, execution stayed; placed on probation for three years; and actually suspended for a minimum of the first two years of probation and until he provided proof of his rehabilitation, fitness to practice and learning and ability in the general law. (*In re Albert Myrick Graham* (S228325), State Bar Court case no. 12-N-16663.) Graham was found culpable of failing to comply with rule 9.20. In mitigation, Graham did not harm his clients and cooperated by stipulating to certain facts and the admission of exhibits. In aggravation, Graham had two prior records of discipline and lacked insight.

The only discipline proceeding currently pending against Graham is a probation with conditions imposed upon him by Supreme Court order (S228325).² On August 15, 2017, the

² We consider a pending probation as a “proceeding,” as contemplated by rule 5.427(B) of the Rules of Procedure of the State Bar of California.

parties filed a stipulation as to facts and conclusions of law in that Graham failed to comply with all conditions attached to his disciplinary probation. (Bus. & Prof. Code, §6068, subd.(k).)

OCTC also reports that Graham is 80 years old. He has been seriously ill since December 2015 and was therefore unable to comply with his probation conditions. Graham has indicated he does not intend to seek reinstatement in the future should his resignation be accepted. No Client Security Fund claims are pending against him.

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

We have considered Graham'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 the perpetuation of the evidence is not necessary in the pending matters.

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

OCTC reports that there is no evidence that Graham has practiced law in California or held himself out as entitled to practice law in California since he tendered his resignation or since August 1, 2012, the effective date of his second discipline.

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

OCTC reports that, consistent with rule 9.20(a)-(b), Graham has attested he has no clients, no client papers or other property to return, no unearned fees, and no pending client matters. Accordingly, it appears that there were no acts that Graham was required to perform.

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

Graham filed a rule 9.20(c) compliance declaration on August 2, 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 disbarment.

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

Graham has not previously resigned or been disbarred in California.

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

Graham and OCTC entered into a stipulation as to facts and conclusions of law regarding the pending disciplinary matter.

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

We recommend accepting Graham's resignation for the reasons OCTC presented in its filings in this matter. Graham: (1) submitted a rule 9.20 compliance declaration; (2) submitted a stipulation to facts and conclusions of law; (3) has not practiced in California since August 1, 2012; (4) cooperated with OCTC by entering into a stipulation; and (5) has no Client Security Fund claims, or other claims pending against him. Further, Graham is 80 and does intend seek reinstatement, and OCTC states that his serious health problems caused him to violate his probation. 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 Albert Myrick Graham, Jr., State Bar number 44490. 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 October 4, 2017, I deposited a true copy of the following document(s):

ORDER FILED October 4, 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:

ALBERT MYRICK GRAHAM JR
1120 SAN JOSE AVE
COSTA MESA, CA 92626 - 1660

- ☐ by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

Angie Esquivel, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on October 4, 2017.



Nikiah Hawkins
Case Administrator
State Bar Court