

THE STATE BAR OF CALIFORNIA  
OFFICE OF CHIEF TRIAL COUNSEL  
KEVIN B. TAYLOR, No. 151715  
180 Howard Street  
San Francisco, California 94105-1639  
Telephone: (415) 538-2000

**FILED** H2

April 9, 2019

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

## Public Matter

IN THE STATE BAR COURT OF THE STATE BAR OF CALIFORNIA

IN THE MATTER OF THE ) Case No. SBC-19-C-30149  
CONVICTION OF: )  
) Transmittal of Records of Conviction of Attorney (Bus. & Prof.  
ERIK J. GRAEFF, ) Code §§ 6101-6102; Cal. Rules of Court, rule 9.5 et seq.)  
AKA ERIK JOHN GRAEFF )  
No. 265862 ) (OCTC Case No. 19-C-10074)  
)  
) [ X ] Felony;  
A Member of the State Bar ) [ ] Crime(s) involved moral turpitude;  
) [ ] Probable cause to believe the crime(s) involved moral  
) turpitude;  
) [ X ] Crime(s) which may or may not involve moral turpitude or  
) other misconduct warranting discipline;  
) [ ] Transmittal of Notice of Finality of Conviction.

To the CLERK OF THE STATE BAR COURT:

1. Transmittal of records.

- [ X ] A. Pursuant to the provisions of Business and Professions Code, section 6101-6102 and California Rules of Court, rule 9.5 et seq., the Office of Chief Trial Counsel transmits a certified copy of the record of convictions of the following member of the State Bar and for such consideration and action as the Court deems appropriate:
- [ ] B. Notice of Appeal
- [ ] C. Evidence of Finality of Conviction
- [ ] D. Other



Name of Member: Erik J. Graeff

Date member admitted to practice law in California: December 1, 2009

Member's Address of Record: PO Box 5532  
Portland, OR 97228-5532

2. Date and court of conviction; offense(s).

The record of conviction reflects that the above-named member of the State Bar was convicted as follows:

Date of entry of conviction: October 26, 2018

Convicting court: Oregon Circuit Court, Washington County

Case number(s): 18CR161251

Crime(s) of which convicted and classification(s):

**Violation of Oregon Revised Statutes 166.220(1)(b), Unlawful Use of a Weapon**, a felony that may or may not involve moral turpitude or other misconduct warranting discipline.

Oregon Revised Statutes 166.220(1)(b) makes it a crime to *intentionally discharge a firearm, blowgun, bow and arrow, crossbow or explosive device within the city limits of any city or within residential areas within urban growth boundaries at or in the direction of any person, building, structure or vehicle within the range of the weapon without having legal authority for such discharge*. The statute states that it is a *Class C felony*. A Class C felony in Oregon is a crime that is punishable by up to five years' incarceration. (Oregon Revised Statutes 161.605.)

Basis for felony classification: California Penal Code section 247(b) prohibits the discharge of a firearm at an unoccupied motor vehicle, building or dwelling. A conviction under the California statute is punishable by imprisonment in state prison. As such, it is a felony in California pursuant to Penal Code section 17(a). The State Bar submits that a violation of Oregon Revised Statutes 166.220(1)(b) is more egregious than a violation of California Penal Code section 247(b) because the Oregon statute addresses the discharge of a weapon towards potentially occupied building and vehicles, where the California statute addresses only unoccupied targets. If the discharge of a weapon towards unoccupied buildings and vehicles is a felony in California, a discharge towards occupied buildings or vehicles, where the threat of harm is greater, would also constitute a felony. Therefore, violation of the Oregon statute would be a felony in California and should be treated as such for purposes of California disciplinary proceedings. (Also see California Penal Code 246.3(a), willfully discharge a firearm in a grossly negligent manner which could result in injury or death, a felony pursuant to section 17(a) because it is punishable by imprisonment pursuant to section 1170(h).)

Basis for moral turpitude classification: California Penal Code section 245(a), assault upon another with a deadly weapon, is a crime that may or may not involve moral turpitude. (*In re Larkin* (1989) 48 Cal.3d 236.) By analogy, a violation of Oregon Revised Statutes 166.220(1)(b) does not involve moral turpitude as a matter of law under California law.

**Violation of Oregon Revised Statutes 163.195, Recklessly Endangering Another Person**, a misdemeanor that may or may not involve moral turpitude or other misconduct warranting discipline. (*In re Larkin* (1989) 48 Cal.3d 236 [assault with deadly weapon does not involve moral turpitude per se and *In the Matter of Jensen* (Review Depart. 2013) 5 Cal. State Bar Ct. Rptr. 283 [misdemeanor child endangerment does not involve moral turpitude per se].)

3. Compliance with Rule 9.20. (Applicable only if checked.)

We bring to the Court's attention that, should the Court enter an order of interim suspension herein, the Court may wish to require the above-named member to comply with the provisions of rule 9.20, California Rules of Court, paragraph (a), within 30 days of the effective date of any such order; and to file the affidavit with the Clerk of the State Bar Court provided for in paragraph (c) of rule 9.20 within 40 days of the effective date of said order, showing the member's compliance with the provisions of rule 9.20.

4. Other information to assist the State Bar Court

---

---

DOCUMENTS TRANSMITTED:

District Attorney's Information  
Petition to Enter Plea and Order  
Case Summary (Docket)

THE STATE BAR OF CALIFORNIA  
OFFICE OF CHIEF TRIAL COUNSEL

DATED: April 9, 2019

BY: 

Kevin B. Taylor  
Senior Trial Counsel

A copy of this transmittal and its  
Attachments have been sent to:

Erik J. Graeff  
PO Box 5532  
Portland, OR 97228-5532

**DECLARATION OF SERVICE BY FIRST CLASS AND CERTIFIED MAIL**

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

**CASE NUMBER: 19-C-10074**

I, the undersigned, over the age of eighteen (18) years, whose business address and place of employment is the State Bar of California, 180 Howard Street, San Francisco, California 94105, declare that I am not a party to the within action; that I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service; that in the ordinary course of the State Bar of California's practice, correspondence collected and processed by the State Bar of California would be deposited with the United States Postal Service that same day; that I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date on the envelope or package is more than one day after date of deposit for mailing contained in the affidavit; and that in accordance with the practice of the State Bar of California for collection and processing of mail, I deposited or placed for collection and mailing in the City and County of San Francisco, on the date shown below, a true copy of the within

**TRANSMITTAL OF RECORDS OF CONVICTION OF ATTORNEY, including:  
District Attorney's Information  
Petition to Enter Plea and Order  
Case Summary (Docket)**

in a sealed envelope placed for collection and mailing as first class mail and as certified mail, return receipt requested, Article No.: 9414 7266 9904 2093 9432 90, at San Francisco, on the date shown below, addressed to:


**Erik J Graeff  
PO Box 5532  
Portland, OR 97228-5532**

in an inter-office mail facility regularly maintained by the State Bar of California addressed to:

**N/A**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at San Francisco, California, on the date shown below.

**DATED: April 9, 2019**

Signed:   
\_\_\_\_\_  
**Ina M. Strehle  
Declarant**