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PUBLIC MATTER

FILED

APR 07 2004

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

**THE STATE BAR COURT
HEARING DEPARTMENT - LOS ANGELES**

In the Matter of)
ERIC MONROE ST. JOHN,)
Member No. 69432,)
A Member of the State Bar.)

Case No. 03-N-03106-RMT
**DECISION AND ORDER OF
INVOLUNTARY INACTIVE
ENROLLMENT**

INTRODUCTION

The sole issue in this case is whether Respondent Eric Monroe St. John wilfully failed to obey an order of the California Supreme Court requiring him to comply with rule 955 of the California Rules of Court and, if so, the appropriate discipline to be imposed.

For the reasons stated below, this Court finds, by clear and convincing evidence, that Respondent wilfully failed to comply with the requirements of rule 955 as ordered by the Supreme Court. As a result, this Court recommends that Respondent be disbarred from the practice of law in the State of California and that his name be stricken from the roll of attorneys.

PROCEDURAL HISTORY

This proceeding was initiated by the filing of a Notice of Disciplinary Charges ("NDC") by the Office of the Chief Trial Counsel of the State Bar of California ("State Bar") on September 10, 2003. The NDC was properly served upon Respondent on September 10, 2003, by certified mail, return receipt requested, addressed to Respondent's official membership address ("official address") pursuant to Business and Professions Code section 6002.1,



1 subdivision (c) and rule 60 of the Rules of Procedure of the State Bar (“Rules of Procedure”).¹
2 However, the NDC was returned to the State Bar by the U.S. Postal Service with the envelope
3 stamped “Unclaimed”.²

4 Respondent did not file an answer to the NDC. Thereafter, on November 24, 2003, the
5 State Bar filed a Notice of Motion and Motion for Entry of Default. The motion was properly
6 served upon Respondent on November 24, 2003, by certified mail, return receipt requested, at his
7 official address.

8 The Court entered Respondent’s default on December 10, 2003, after Respondent failed
9 to file an answer to the NDC within ten days after service of the Motion for Entry of Default.
10 (See Rules Proc. of State Bar, rule 200(c).) Notice of Entry of Default was properly served upon
11 Respondent on November 11, 2003, by certified mail addressed to him at his official address.

12 On January 13, 2004, the State Bar filed a brief regarding culpability and discipline.

13 The State Bar was represented throughout these proceedings by Deputy Trial Counsel
14 Erin McKeown Joyce. Respondent did not participate at any stage of these proceedings, either
15 personally or through counsel.

16 This matter was taken under submission as of January 14, 2004, since the State Bar did
17 not request a hearing.

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21 ¹Pursuant to Evidence Code § 452, the Court takes judicial notice of the membership
22 records of the State Bar, which show that at all times since December 17, 2001, Respondent’s
official address has been 7561 Center Ave. #52, Huntington Beach, California 92647.

23 ²See the Declaration of Erin McKeown Joyce, Deputy Trial Counsel, submitted in support
24 of the motion for entry of Respondent’s default, which explains that a 20-day letter sent to
25 Respondent on August 21, 2003, was not returned by the postal service, and that she checked
26 Respondent’s State Bar probation file to ascertain whether there was another address for
27 Respondent, but found no other address. See also the Declaration of Delma Gordon, a paralegal
28 for the State Bar, who also made attempts to locate Respondent, including calling the telephone
number listed on his membership records, calling directory assistance for a telephone listing,
checking the Parker’s Directory, and doing a search of People Locator of Lexis Nexis. None of
these efforts were successful in locating information about Respondent.

1 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

2 Respondent was admitted to the practice of law in California on June 25, 1976, and has
3 been a member of the State Bar at all times since.³

4 On April 28, 2003, the Supreme Court of California entered a final disciplinary order in
5 *In re Eric Monroe St. John on Discipline*, Supreme Court Case No. S113239 (State Bar Court
6 Case No(s). 00-O-15435; 01-O-02994, 01-O-03399, 01-O-04102, 02-O-10036, and 02-O-11352
7 (Cons.)) In its order, the Supreme Court suspended Respondent from the practice of law for
8 two years and until he demonstrated his rehabilitation, stayed execution of the suspension, and
9 placed Respondent on probation for two years on conditions which included actual suspension
10 for 120 days.

11 As relevant to this proceeding, the Supreme Court also ordered Respondent to comply
12 with subdivisions (a) and (c) of rule 955 of the California Rules of Court within 30 and 40 days,
13 respectively, after the effective date of the Supreme Court's order. The order of the Supreme
14 Court became effective on May 28, 2003.

15 Upon filing of the April 28, 2003, order, in accordance with rule 24(a) of the California
16 Rules of Court, the Office of the Clerk of the Supreme Court of California served Respondent
17 with a copy of the Supreme Court's order imposing discipline and directing Respondent's
18 compliance with rule 955. (See Evid. Code, § 664.)

19 Respondent did not file an affidavit with the State Bar Court evidencing his compliance
20 with the requirements of rule 955, as ordered by the Supreme Court, either by the date ordered by
21 the Court (i.e., July 7, 2003) or at any time thereafter.

22 The fact that Respondent may not be aware of the requirements of rule 955 or of his
23 obligation to comply with those requirements is immaterial. "Wilfulness" in the context of rule
24 955 does not require actual knowledge of the provision which is violated. The Supreme Court
25 has disbarred attorneys whose failure to keep their official addresses current prevented them from

26 _____
27 ³Effective September 16, 2003, Respondent was suspended from the practice of law for
28 failure to pay annual membership dues, and the suspension remains in effect. (Evidence Code § 452.)

1 learning that they had been ordered to comply with rule 955. (See *Powers v. State Bar* (1988)
2 44 Cal.3d 337, 341.)

3 Accordingly, this Court concludes that the State Bar has established by clear and
4 convincing evidence that Respondent wilfully failed to comply with rule 955 by failing to file an
5 affidavit attesting to his compliance with subdivision (a) of that rule, as ordered by the Supreme
6 Court in its April 28, 2003, order. Respondent's failure to comply with rule 955, as ordered by
7 the Supreme Court, also constitutes a wilful violation of Business and Professions Code section
8 6103 which provides that the wilful disobedience or violation of an order of a court constitutes
9 cause for disbarment or suspension.

10 LEVEL OF DISCIPLINE

11 Factors in Mitigation

12 There are no mitigating factors presented by the record in this proceeding.

13 Factors in Aggravation

14 Respondent has been disciplined on one previous occasion, which is an aggravating
15 factor pursuant to Standard 1.2(b)(i) of the Standards for Attorney Sanctions for Professional
16 Misconduct.

17 As previously indicated, by minute order filed April 28, 2003, in Case No. S113239
18 (State Bar Court Case Nos. 00-O-15435; 01-O-02994, 01-O-03399, 01-O-04102, 02-O-10036,
19 and 02-O-11352 (Cons.)), the Supreme Court suspended Respondent for two years and until he
20 demonstrated rehabilitation, stayed execution of the suspension, and placed him on probation for
21 two years on conditions which included an actual suspension from the practice of law for 120
22 days. Respondent was found culpable of mishandling six separate client matters, in particular,
23 failure to perform services with competence, failure to adequately communicate, improper
24 withdrawal, violation of a court order, failure to return unearned fees, failure to return a client
25 file, and failure to cooperate with the State Bar's investigations.

26 Respondent's failure to file the rule 955 compliance affidavit with the Clerk of the State
27 Bar Court significantly harmed the public and the administration of justice. (Standard
28 1.2(b)(iv).)

1 **Discussion**

2 Rule 955(d) provides in part that “[a] suspended member’s wilful failure to comply with
3 the provisions of this rule constitutes a cause for disbarment or suspension and for revocation of
4 any pending probation.”

5 Timely compliance with rule 955 is essential to ensure that all concerned parties
6 (including clients, co-counsel, opposing counsel and all courts in which the attorney has pending
7 litigation) learn about the attorney’s actual suspension from the practice of law. Compliance
8 with rule 955 also keeps the State Bar Court and the Supreme Court informed of the location of
9 attorneys who are subject to their respective disciplinary authority. (*Lydon v. State Bar* (1988)
10 45 Cal.3d 118, 1187.)

11 Disbarment is generally the appropriate sanction to be imposed for a wilful violation of
12 rule 955. (*Bercovich v. State Bar* (1990) 50 Cal.3d 116,131.)

13 Respondent has exhibited a disregard for both the Supreme Court and the State Bar Court
14 in their efforts to fulfill their respective responsibilities to oversee the practice of law in the State
15 of California. Respondent’s disregard is exemplified by (1) his failure to comply with rule 955;
16 and (2) his failure to participate in this disciplinary matter.

17 This Court is unaware of any facts or circumstances that would justify a departure from
18 the usual sanction of disbarment for Respondent’s wilful violation of rule 955 and his resulting
19 violation of Business and Professions Code section 6103. One of this Court’s obligations is to
20 ensure that its disciplinary recommendations to the Supreme Court are fair and consistent. (*In re*
21 *Young* (1989) 49 Cal.3d 257, 268.)

22 Respondent’s disbarment is necessary to protect the public, the courts and the legal
23 profession, to maintain high professional standards and to preserve public confidence in the
24 profession. It would seriously undermine the integrity of the disciplinary system and damage
25 public confidence in the legal profession if Respondent were not disbarred for his wilful and
26 unexplained disobedience of the Supreme Court’s April 28, 2003, order.

27 **RECOMMENDED DISCIPLINE**

28 This Court recommends that Respondent ERIC MONROE ST. JOHN be disbarred from

1 the practice of law in the State of California and that his name be stricken from the roll of
2 attorneys in this State.

3 It is also recommended that the Supreme Court order Respondent to comply with rule
4 955(a) of the California Rules of Court within 30 calendar days of the effective date of the
5 Supreme Court order in this matter and to file the compliance affidavit required by rule 955(c)
6 within 40 days of the effective date of the Court's order.

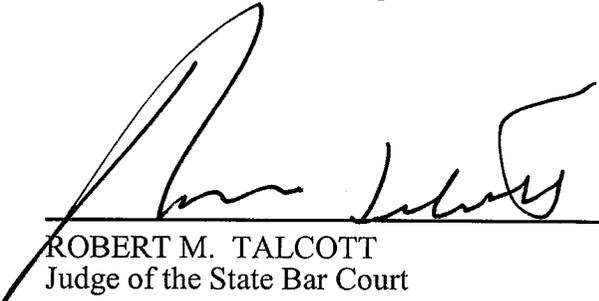
7 **COSTS**

8 It is further recommended that costs be awarded to the State Bar pursuant to Business and
9 Professions Code section 6086.10 and that such costs be made payable in accordance with
10 Business and Professions Code section 6140.7.

11 **ORDER OF INVOLUNTARY INACTIVE ENROLLMENT**

12 In light of this Court's recommendation that Respondent be disbarred from the practice of
13 law, pursuant to the provisions of Business and Professions Code section 6007, subdivision
14 (c)(4) and rule 220(b) of the Rules of Procedure, it is hereby ordered that Respondent **ERIC**
15 **MONROE ST. JOHN** be involuntarily enrolled as an inactive member of the State Bar. The
16 order of involuntary enrollment shall be effective three days after the date upon which this
17 Decision is served.

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20 Dated: March 26th, 2004



ROBERT M. TALCOTT
Judge of the State Bar Court

CERTIFICATE OF SERVICE
[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court. 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 April 7, 2004, I deposited a true copy of the following document(s):

**DECISION AND ORDER OF INVOLUNTARY INACTIVE ENROLLMENT,
filed April 7, 2004**

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

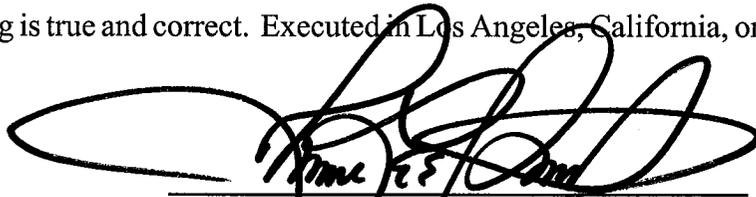
[X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**ERIC MONROE ST. JOHN
7561 CENTER AVE #52
HUNTINGTON BEACH CA 92647**

[X] by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

ERIN JOYCE , Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on April 7, 2004.

A large, stylized handwritten signature in black ink, appearing to read "Johnnie Lee Smith", is written over a horizontal line.

**Johnnie Lee Smith
Case Administrator
State Bar Court**