

FILED

AUG 24 2018

**STATE BAR COURT
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STATE BAR COURT OF CALIFORNIA

REVIEW DEPARTMENT

IN BANK

In the Matter of)	Case No. 09-C-13858
)	
NATHAN WHITNEY DRAGE,)	RECOMMENDATION OF SUMMARY
)	DISBARMENT
A Member of the State Bar, No. 130448.)	
_____)	

On June 29, 2018, the Office of the Chief Trial Counsel of the State Bar (OCTC) filed a request for summary disbarment based on Nathan Whitney Drage's felony conviction. Drage did not respond. We grant the request and recommend that Drage be summarily disbarred.

On March 17, 2015, Drage was convicted of violating one count of title 18 United States Code section 371 (conspiracy to impair and impede the Internal Revenue Service), a felony involving moral turpitude, and three counts of title 26 United States Code section 7203 (willful failure to file tax returns), misdemeanors which may or may not involve moral turpitude. On July 24, 2015, we ordered that Drage be placed on interim suspension, effective August 25, 2015, pending the final disposition of his proceeding.

By way of procedural background, OCTC originally transmitted respondent's convictions on June 26, 2015, but the federal court set aside the felony count. The criminal prosecutor appealed, and on March 7, 2017, the appellate court ordered the felony conviction reinstated. On April 5, 2017, the appellate court denied respondent's motion for rehearing. On May 3, 2018,

the district court entered an amended judgment in the criminal case on the felony and three misdemeanor convictions stated above. The certified docket shows that no party has filed a timely notice of appeal within the statutory period following entry of the amended judgment. Therefore, the conviction is final. (Cal. Rules of Court, rule 9.10(a).)

After the judgment of conviction becomes final, “the Supreme Court shall summarily disbar the attorney if the offense is a felony . . . and an element of the offense is the specific intent to deceive, defraud, steal, or make or suborn a false statement, or involved moral turpitude.” (Bus. & Prof. Code, § 6102, subd. (c).) The record of conviction in this case establishes both criteria for summary disbarment.

First, Drage’s offense is a felony. (See 18 U.S.C. § 3559(a) [classifying offenses based on sentencing ranges].) A conspiracy to impair or impede the IRS is punishable by either a fine, imprisonment of up to five years, or both. (18 U.S.C. § 371.) If, however, the object offense of the conspiracy was a misdemeanor only, then “the punishment for such conspiracy shall not exceed the maximum punishment provided for such misdemeanor.” (*Ibid.*) Here, the object of Drage’s conspiracy was to violate title 26 United States Code section 7203 (willful failure to file tax returns), a felony. Since the target offense of the conspiracy was to commit a felony, Drage’s conspiracy offense is to be considered a felony as per the code section.

Second, Drage’s offenses involved moral turpitude as a matter of law. A criminal offense necessarily involves moral turpitude if the conviction would evidence bad moral character in every case. (*In re Lesansky* (2001) 25 Cal.4th 11, 16.) If the underlying crime involves moral turpitude, a conspiracy to commit that crime also involves moral turpitude as a matter of law. (*United States v. Moe* (9th Cir. 2015) 781 F.3d 1120, 1124.) Here, Drage’s underlying offense involves fraud, and crimes involving intent to deceive or defraud are unquestionably moral

turpitude. (*Jordan v. De George* (1951) 341 U.S. 223, 232.) Accordingly, Drage's felony conviction qualifies him for summary disbarment.

When an attorney's conviction meets the requirements of Business and Professions Code section 6102, subdivision (c), "the attorney is not entitled to a State Bar Court hearing to determine whether lesser discipline is called for." (*In re Paguirigan* (2001) 25 Cal.4th 1, 7.) Disbarment is mandatory. (*Id.* at p. 9.)

We therefore recommend that Nathan Whitney Drage, State Bar number 130448, be disbarred from the practice of law in this state. We also recommend that he be ordered to comply with California Rules of Court, rule 9.20 and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court's order. Finally, we recommend that the costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, and that such costs be enforceable both as provided in Business and Professions Code 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 Court Specialist 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 August 24, 2018, I deposited a true copy of the following document(s):

RECOMMENDATION OF SUMMARY DISBARMENT FILED AUGUST 24, 2018

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

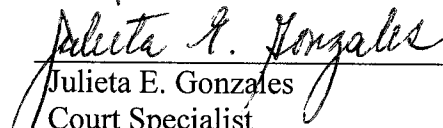
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

NATHAN W. DRAGE
NATHAN W. DRAGE PC, INC.
791 E SHADY LAKE DR
SALT LAKE CITY, UT 84106 - 1582

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

Kevin B. Taylor, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on August 24, 2018.



Julieta E. Gonzales
Court Specialist
State Bar Court