

**FILED**

*MOS*  
JUN 25 2010

STATE BAR COURT  
CLERK'S OFFICE  
LOS ANGELES

**REVIEW DEPARTMENT OF THE STATE BAR COURT  
IN BANK**

In the Matter of ) Case No.: 09-C-16599  
)  
PAUL ETAN FISHER )  
) **RECOMMENDATION OF SUMMARY**  
) **DISBARMENT**  
)  
A Member of the State Bar. )  
\_\_\_\_\_ )

On May 20, 2010, the State Bar filed a request for recommendation of summary disbarment based on Paul Etan Fisher's felony convictions. Fisher did not file a response. We grant the request and recommend that Fisher be summarily disbarred.

On October 15, 2009, Fisher pled guilty to felony violations of Penal Code sections 261, subdivision (a)(3) (rape by intoxication), 261.5, subdivision (d) (intercourse with a minor under 16), 288, subdivision (c)(1) (lewd act upon a child), and 288a, subdivision (i) (oral copulation by intoxication). Effective December 27, 2009, we placed him on interim suspension. On May 20, 2010, the State Bar transmitted evidence that Fisher's conviction was final.

The record of conviction establishes that Fisher's criminal violations meet the criteria for summary disbarment as the offenses are felonies necessarily involving moral turpitude. (Bus. & Prof. Code, § 6102, subs. (b) and (c).)

Fisher's conviction of Penal Code section 261, subdivision (a)(3) (rape by intoxication), necessarily involved moral turpitude. In *People v. Mazza* (1985) 175



Cal.App.3d 836, 833-844, the court of appeal held that forcible rape is a crime involving moral turpitude. The elements of forcible rape require intercourse against the victim's will accomplished by means of force or threat. The elements of Fisher's rape offense required that he knew the victim was prevented from resisting intercourse due to an intoxicating substance. Because Fisher's offense involved nonconsensual intercourse, it is as offensive to every conception of morality as the forcible rape the *Mazza* court addressed.

Fisher's conviction of Penal Code section 288a, subdivision (i) (oral copulation by intoxication), necessarily involved moral turpitude. In *People v. Rowland* (1993) 4 Cal.4<sup>th</sup> 238, 259, fn. 1, the Supreme Court stated that forcible oral copulation involves moral turpitude. The elements of forcible oral copulation require oral copulation against the victim's will accomplished by means of force or threat. The elements of Fisher's offense required that he knew the victim was prevented from resisting oral copulation due to an intoxicating substance. Because Fisher's offense involved nonconsensual oral copulation, we find it necessarily involved moral turpitude.

Fisher's conviction of Penal Code section 288, subdivision (c)(1) (lewd act upon a child), necessarily involves moral turpitude. In *In re Lesansky* (2001) 25 Cal.4<sup>th</sup> 11, 16-18 the Supreme Court determined that an attempt to commit a lewd or lascivious act on a child necessarily involves moral turpitude. Therefore, the actual commission of a lewd or lascivious act on a child in violation of Penal Code section 288, subdivision (c)(1), involves moral turpitude.

Fisher's conviction of Penal Code section 261.5, subdivision (d) (intercourse with a minor under 16), also necessarily involved moral turpitude. "In the attorney discipline context, the term 'moral turpitude' includes 'particular crimes that that are extremely repugnant to accepted moral standards such as . . . serious sexual offenses [Citation].' [Citation.]" (*In re*

*Lesansky, supra*, 25 Cal.4<sup>th</sup> 11 at p. 17.) Furthermore, unlawful sexual behavior committed against a minor who is substantially younger than the perpetrator is extremely repugnant to accepted moral standards and necessarily involves moral turpitude for purposes of attorney discipline. (*Ibid.*) Fisher's violation of Penal Code section 261.5, subdivision (d), is a serious sexual offense involving a minor under 16 and a perpetrator 21 or older. This significant age differential is aimed at protecting minors from the serious sexual misconduct of adults. Therefore, we find this violation necessarily involves moral turpitude.

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 Paul Etan Fisher, State Bar number 125309, be disbarred from the practice of law in this state. We also recommend that Fisher be ordered to comply with rule 9.20 of the California Rules of Court 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 section 6086.10 of the Business and Professions Code and that such costs be enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

  
Presiding Judge

CERTIFICATE OF SERVICE

[Rule 62(b), Rules Proc.; 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 June 25, 2010, I deposited a true copy of the following document(s):

RECOMMENDATION OF SUMMARY DISBARMENT FILED JUNE 25, 2010

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:

PAUL E. FISHER  
LAW OFFICE OF PAUL E FISHER  
1000 BRISTOL ST N #17-106  
NEWPORT BEACH, CA 92660

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:

Kristin L. Ritsema, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on June 25, 2010.

  
Milagro del R. Salmeron  
Case Administrator  
State Bar Court