

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – LOS ANGELES

In the Matter of	)	Case No.: <b>11-C-10276-RAP</b>
	)	
<b>ANGELA KAY WEST,</b>	)	<b>DECISION AND ORDER OF</b>
	)	<b>INVOLUNTARY INACTIVE</b>
<b>Member No. 139555,</b>	)	<b>ENROLLMENT</b>
	)	
<u>A Member of the State Bar.</u>	)	

Respondent Angela Kay West (respondent) was convicted of violating Penal Code sections 417, subdivision (a)(1) (drawing or exhibiting a deadly weapon other than a firearm in a rude, angry, or threatening manner) and 243, subdivision (b) (battery against peace officer), misdemeanors which may or may not involve moral turpitude or constitute other misconduct warranting discipline. Upon finality of the conviction, the review department issued an order referring this matter to the hearing department for a hearing and decision recommending the discipline to be imposed if the facts and circumstances surrounding the violations involved moral turpitude or other misconduct warranting discipline. Respondent failed to participate either in person or through counsel, and her default was entered. The State Bar filed a petition for disbarment under the Rules of Procedure of the State Bar, rule 5.85.<sup>1</sup>

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<sup>1</sup> Unless otherwise indicated, all references to rules are to this source. Rule 5.345(C) makes the default procedures in rules 5.80-5.86, with certain exceptions, applicable in conviction proceedings.

Rule 5.85 provides the procedure to follow when an attorney fails to participate in a disciplinary proceeding after receiving adequate notice and opportunity. The rule provides that if an attorney's default is entered for failing to respond to the notice of hearing on conviction (NOH), and the attorney fails to have the default set aside or vacated within 180 days, the State Bar will file a petition requesting the court to recommend the attorney's disbarment.<sup>2</sup>

In the instant case, the court concludes that the requirements of rule 5.85 have been satisfied, and therefore, grants the petition and recommends that respondent be disbarred from the practice of law.

### **FINDINGS AND CONCLUSIONS**

Respondent was admitted to practice law in this state on May 15, 1989, and has been a member since then.

#### **Procedural Requirements Have Been Satisfied**

On May 19, 2011, the State Bar Court filed and properly served the NOH on respondent by certified mail, return receipt requested, at her membership records address. The NOH notified respondent that her failure to participate in the proceeding would result in a disbarment recommendation. (Rule 5.345.)

Thereafter, the State Bar attempted to reach respondent at her membership records email address.<sup>3</sup> The email was not returned, but respondent did not reply to the email. The State Bar also sent two letters to respondent's official membership records address, but one letter was returned by the U.S. Postal Service stamped "Return to Sender. Not Deliverable as Addressed. Unable to forward." The State Bar also sent a letter to two alternate addresses for respondent in

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<sup>2</sup> If the court determines that any due process requirements are not satisfied, including adequate notice to the attorney, it must deny the petition for disbarment and take other appropriate action to ensure that the matter is promptly resolved. (Rule 5.85(E)(2).)

<sup>3</sup> Effective February 1, 2010, all attorneys are required to maintain a current email address to facilitate communications with the State Bar. (Cal. Rules of Court, rule 9.7(a)(2).)

Los Angeles and Pasadena, California, which were located through an internet search. The letter sent to the Los Angeles address was returned by the U.S. Postal Service stamped “Return to Sender. Attempted Not Known. Unable to Forward.” The letter to the Pasadena address was not returned by the U.S. Postal Service. The State Bar also attempted to contact respondent by telephone at telephone numbers located through an internet search. However, one telephone number was disconnected or not in service; the other telephone number reached a Spanish recording advising that it was a “help line.”

Respondent failed to file a response to the NOH. On June 28, 2011, the State Bar filed and properly served a motion for entry of respondent’s default. The motion complied with all the requirements for a default, including a supporting declaration of reasonable diligence by the State Bar deputy trial counsel declaring the additional steps taken to provide notice to respondent. (Rule 5.80.) The motion also notified respondent that if she did not timely move to set aside her default, the court would recommend her disbarment. Respondent did not file a response to the motion, and her default was entered on July 19, 2011. The order entering the default was served on respondent at her membership records address by certified mail, return receipt requested. The court also ordered respondent’s involuntary inactive enrollment as a member of the State Bar under Business and Professions Code section 6007, subdivision (e), effective three days after service of the order, and she has remained inactively enrolled since that time.

Respondent also did not seek to have her default set aside or vacated. (Rule 5.83(C)(1) [attorney has 180 days to file motion to set aside default].) On February 9, 2012, the State Bar filed the petition for disbarment. As required by rule 5.85(A), the State Bar reported in the petition that: (1) it has had no contact with respondent since the default as entered; (2) there are no pending disciplinary investigations against respondent;

(3) respondent has no prior record of discipline; and (4) the Client Security Fund has not made any payments resulting from respondent's conduct. Respondent did not respond to the petition for disbarment or move to set aside or vacate the default. The case was submitted for decision on March 23, 2012.

### **The Admitted Factual Allegations Warrant the Imposition of Discipline**

Upon entry of respondent's default, the factual allegations set forth in the State Bar's statement of facts and circumstances surrounding respondent's conviction are deemed admitted and no further proof is required to establish the truth of such facts. (Rules 5.345(C) & 5.82.) As set forth below in greater detail, respondent's conviction for drawing or exhibiting a deadly weapon other than a firearm in a rude, angry, or threatening manner and battery against a peace officer, supports the conclusion that respondent violated a statute, rule or court order that would warrant the imposition of discipline. (Rule 5.85, subd. (E)(1)(d).)

#### **Case Number 11-C-10276 (Conviction Matter)**

Respondent was convicted of violating Penal Code sections 417, subdivision (a)(1) (drawing or exhibiting a deadly weapon other than a firearm in a rude, angry, or threatening manner) and 243, subdivision (b) (battery against peace officer), as a result of an incident at an airport food court. Respondent picked up a dust pan from a custodian cart, brought it over to a coffee stand, and began swinging the dust pan at customers. Respondent was also observed holding a metal pipe and in a "combative stance." Respondent repeatedly yelled at airport security, "you're not the police. I am a lesbian and you cannot have sex with me." After she dropped the metal pipe, respondent sat in a booth in the food court area. Upon being approached by security, respondent threatened to throw a glass bottle at them. After respondent put down the bottle, airport security attempted to approach her and place her under arrest. Respondent resisted arrest by flailing her arms and legs and kicking one of the security officers in the groin area.

After her arrest, respondent was transported to a hospital and placed on a 72-hour mental evaluation hold.

Drawing or exhibiting a deadly weapon other than a firearm in a rude, angry, or threatening manner and battery against a peace officer are crimes that may or may not involve moral turpitude or other misconduct warranting discipline, depending upon the facts and circumstances surrounding the conviction. The court finds that the facts and circumstances surrounding respondent's conviction do not involve moral turpitude but do constitute other misconduct warranting discipline. Conviction of a crime involving other misconduct warranting discipline is grounds for discipline. (*Young v. State Bar* (1990) 50 Cal.3d 1204.)

### **Disbarment is Mandated under the Rules of Procedure**

Based on the above, the court concludes that the requirements of rule 5.85(E) have been satisfied, and respondent's disbarment must be recommended. In particular:

- (1) the NOH was properly served on respondent under rule 5.25;
- (2) reasonable diligence was used to notify respondent of the proceedings prior to the entry of her default, as the NOH was served on respondent at her membership records address by certified mail; the State Bar attempted to reach respondent at her membership records email address, by mail to her official membership records address and two alternate addresses, and by telephone at telephone numbers located through an internet search;
- (3) the default was properly entered under rule 5.80; and
- (4) the factual allegations in the statement of facts and circumstances surrounding respondent's conviction deemed admitted by the entry of the default, support a finding that respondent violated a statute, rule or court order that would warrant the imposition of discipline.

Despite adequate notice and opportunity, respondent failed to participate in this disciplinary proceeding. As set forth in the Rules of Procedure of the State Bar, the court must recommend her disbarment.

### **RECOMMENDATION**

#### **Disbarment**

The court recommends that respondent Angela Kay West be disbarred from the practice of law in the State of California and that her name be stricken from the roll of attorneys.

#### **Rule 9.20**

The court also recommends that respondent be ordered to comply with the requirements of 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 order in this proceeding.

#### **Costs**

The court further recommends that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, such costs being enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

### **ORDER OF INVOLUNTARY INACTIVE ENROLLMENT**

In accordance with Business and Professions Code section 6007, subdivision (c)(4), the court orders that Angela Kay West, State Bar number 139555, be involuntarily enrolled as an inactive member of the State Bar of California, effective three calendar days after the service of this decision and order. (Rules Proc. of State Bar, rule 5.111(D).)

Dated: April 19, 2012.

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RICHARD A. PLATEL  
Judge of the State Bar Court

