

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES

In the Matter of)	Case No.: 13-O-16420-LMA
)	
JONATHON ROBERT PATTERSON,)	DECISION AND ORDER OF
)	INVOLUNTARY INACTIVE
Member No. 220037,)	ENROLLMENT
)	
<u>A Member of the State Bar.</u>)	

Respondent Jonathon Robert Patterson (respondent) was charged with failing to comply with certain conditions attached to his disciplinary probation. He failed to file a response to the Notice of Disciplinary Charges (NDC) in this matter, and his default was entered. The Office of the Chief Trial Counsel (State Bar) filed a petition for disbarment under rule 5.85 of the Rules of Procedure of the State Bar.¹

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 NDC and the attorney fails to have the default set aside or vacated within 90 days, the State Bar will file a petition requesting the court to recommend the attorney's disbarment.²

¹ Unless otherwise indicated, all references to rules are to this source.

² 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).)

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 June 8, 2002, and has been a member since then.

Procedural Requirements Have Been Satisfied

On August 27, 2014, the State Bar filed and properly served the NDC in this matter on respondent by both certified mail, return receipt requested, and first-class mail to his membership records address. The NDC notified respondent that his failure to participate in the proceeding would result in a disbarment recommendation. (Rule 5.41.) The return card for the NDC was received by the State Bar signed by Carol Sue Eklund.

Respondent had actual notice of this disciplinary proceeding. On September 29, 2014, Deputy Trial Counsel Shane C. Morrison (DTC Morrison) reached respondent by telephone at his membership records telephone number, and respondent acknowledged receipt of the NDC. DTC Morrison advised respondent of the State Bar's intention of file a motion for entry of default. Respondent indicated that he did not intend to respond to the NDC or the motion for entry of default. Thereafter, on October 6, 2014, respondent participated in a telephonic status conference in this matter. In an order filed October 6, 2014, following the status conference, the court notes that respondent intends to default.

Respondent failed to file a response to the NDC. On October 2, 2014, and October 6, 2014, the State Bar served and filed, respectively, a motion for entry of default on respondent by

certified mail, return receipt requested, to his membership records address.³ 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) and reflecting that respondent had actual notice of this proceeding. The motion also notified respondent that if he did not timely move to set aside his default, the court would recommend his disbarment. Respondent did not file a response to the motion, and his default was entered on October 23, 2014. The order entering the default was served on respondent at his membership records address by certified mail, return receipt requested.⁴ 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. He has remained inactively enrolled since that time.

Respondent also did not seek to have his default set aside or vacated. (Rule 5.83(C)(1) [attorney has 90 days to file motion to set aside default].) On February 23, 2015, and February 24, 2015, the State Bar served and filed, respectively, the petition for disbarment on respondent at his membership records address by certified mail, return receipt requested. As required by rule 5.85(A), the State Bar reported in the petition that: (1) it has had no contact with respondent since his default was entered; (2) there are no other investigations or disciplinary charges pending against respondent; (3) respondent has a record of prior discipline; and (4) the Client Security Fund has not paid out any claims as a result of respondent's misconduct. Respondent

³ A courtesy copy was also sent to respondent's membership records address. The declaration of service by certified mail reflects that the motion was addressed to respondent at 1445 America Pacific Ln #110-256, rather than 1445 American Pacific Ln #110-256. The court, however, finds this error de minimus and notes that the declaration of DTC Morrison attached to the State Bar's petition for disbarment reflects that the State Bar received the return receipt for the motion on October 6, 2014, which indicates that it was signed on October 4, 2014.

⁴ The return receipt was returned to the court on October 27, 2014, reflecting that the order was received by P. Logan.

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 26, 2015.

Respondent has a record of prior discipline. Pursuant to a Supreme Court order filed on September 12, 2012, which amended nunc pro tunc an order filed on July 19, 2012, respondent was suspended for three years, the execution of which was stayed, and he was placed on probation for three years with conditions, including that he be suspended for a minimum of the first two years of probation and until he provides proof of his rehabilitation, fitness to practice, and learning and ability in the general law. Respondent participated in this prior disciplinary matter. Respondent stipulated that the facts and circumstances surrounding his violation of Nevada Revised Statutes 199.480, 200.47 (conspiracy to commit assault), a gross misdemeanor, involved moral turpitude. Respondent's conviction resulted from his exposing his penis and masturbating in front of two 14-year-old girls.

The Admitted Factual Allegations Warrant the Imposition of Discipline

Upon entry of a respondent's default, the factual allegations in the NDC are deemed admitted and no further proof is required to establish the truth of such facts. (Rule 5.82.) As set forth below in greater detail, the factual allegations in the NDC support the conclusion that respondent is culpable as charged and, therefore, violated a statute, rule or court order that would warrant the imposition of discipline. (Rule 5.85(F)(1)(d).)

Case Number 13-O-16420 (Probation Violation Matter)

Respondent willfully violated Business and Professions Code section 6068, subdivision (k) (duty to comply with probation conditions) by failing to comply, or by failing to timely comply, with certain specified conditions attached to the disciplinary probation in State Bar Court case number 11-C-12125.

Disbarment is Recommended

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

- (1) the NDC was properly served on respondent under rule 5.25;
- (2) respondent had actual notice of this proceeding, as DTC Morrison spoke with respondent by telephone, and respondent acknowledged receipt of the NDC and indicated that he did not intend to respond to the NDC or the motion for entry of default; respondent also participated in a telephonic status conference in this matter;
- (3) the default was properly entered under rule 5.80; and
- (4) the factual allegations in the NDC 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 actual 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 recommends disbarment.

RECOMMENDATION

Disbarment

The court recommends that respondent Jonathon Robert Patterson be disbarred from the practice of law in the State of California and that his name be stricken from the roll of attorneys.

California Rules of Court, Rule 9.20

The court also recommends that respondent be ordered to comply with the requirements of 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 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 Jonathon Robert Patterson, State Bar number 220037, 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. (Rule 5.111(D).)

Dated: April ____, 2015

LUCY ARMENDARIZ
Judge of the State Bar Court