

FILED

JUN 03 2015

STATE BAR COURT
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STATE BAR COURT OF CALIFORNIA

REVIEW DEPARTMENT

IN BANK

In the Matter of)	Case No. 13-Q-16567
)	
MARY ALICE NOLAN,)	RECOMMENDATION ON
)	RESIGNATION
A Member of the State Bar, No. 108907.)	
_____)	

Respondent Mary Alice Nolan filed her resignation with charges pending on October 8, 2013.¹ On April 28, 2015, the Office of the Chief Trial Counsel of the State Bar (OCTC) filed its required report on the resignation, recommending that it be declined. Respondent did not file a response to OCTC's report. We recommend that Respondent's resignation be rejected under California Rules of Court, rule 9.21(d),² because (1) she has a pending disciplinary proceeding for a conviction with probable cause to believe it involved moral turpitude, (2) she has not reached an agreement on a written stipulation as to the facts and conclusions of law regarding her pending disciplinary proceeding, (3) a public record of her misconduct is warranted, and (4) accepting the resignation would be inconsistent with the need to protect the public, the courts, and the legal profession.

¹ The resignation proceeding was abated on February 11, 2014. The Court vacated the order abating the resignation proceeding on April 3, 2015.

² All further references to rules are to this source unless otherwise noted.

I. BACKGROUND

Respondent was admitted to practice law in California on July 1, 1983. She has a pending disciplinary case (State Bar Court case no. 12-C-16497) involving her conviction of 18 United States Code section 2511(1)(a) (interception of communications) and 26 United States Code section 7201 (tax evasion).³ On December 4, 2013, Respondent was suspended from the practice of law due to this conviction. The disciplinary proceeding was abated on October 8, 2014.

On April 28, 2015, OCTC filed its report and recommendation on Respondent's resignation request. OCTC proposed that this Court recommend to the Supreme Court that Respondent's resignation with charges pending be declined.

II. CONSIDERATION OF THE GROUNDS SET FORTH IN RULE 9.21(d)

We have considered Respondent's resignation in light of the grounds set forth in rule 9.21(d). Below is a summary of the relevant information as to each ground.

1. Whether the preservation of testimony is complete

OCTC reports that preservation of testimony is complete.

2. Whether Respondent committed the unauthorized practice of law after she submitted her resignation

OCTC reports that it is not aware that Respondent has practiced law or held herself out as entitled to practice law after her transfer to inactive status.

3. Whether Respondent performed the acts specified by rule 9.20(a)-(b)

OCTC reports that it is not aware that Respondent failed to perform any acts specified by rule 9.20(a)-(b).

³ We take judicial notice of the State Bar Court records regarding Respondent's pending disciplinary matter and direct the Clerk to include copies of the records in this resignation proceeding. (Evid. Code, § 452, subd. (d).)

4. Whether Respondent provided proof of compliance with rule 9.20(c)

OCTC reports that on October 30, 2013, Respondent provided proof of compliance with rule 9.20(c).

5. Whether the Supreme Court has filed a disbarment order

The Supreme Court has not filed a disbarment order.

6. Whether the State Bar Court has filed a decision recommending disbarment

The State Bar Court has not filed a decision or opinion recommending Respondent's disbarment.

7. Whether Respondent previously resigned or has been disbarred and reinstated to the practice of law

Respondent has not previously resigned or been disbarred.

8. Whether Respondent and OCTC have entered into a stipulation as to the facts and conclusions of law regarding the pending disciplinary matter

Respondent and OCTC have not reached an agreement on a written stipulation as to the facts and conclusions of law regarding Respondent's pending disciplinary proceeding (case no. 12-C-16497), which was pending at the time Respondent tendered her resignation.


9. Whether the acceptance of Respondent's resignation will reasonably be inconsistent with the need to protect the public, the courts, or the legal profession

Respondent should not be allowed the benefit of resigning because there is probable cause to believe that her pending disciplinary matter involved moral turpitude. Respondent's illegal eavesdropping was particularly heinous and greatly tarnished the reputation of the legal profession. If allowed to resign, Respondent would avoid a public record of her misconduct on the pending matter. The absence of a public record of discipline, particularly where Respondent has been convicted of an act that reasonably involves moral turpitude, would be misleading to the public and potentially harmful to any future employer, licensing agency or other jurisdiction.

Under these circumstances, Respondent should not be entitled to the benefit of resigning as it would undermine public confidence in the disciplinary system and the legal profession. Thus, we find that acceptance of Respondent's resignation would be inconsistent with the need to protect the public, the courts, and the legal profession.

III. RECOMMENDATION

We recommend that the Supreme Court decline to accept the resignation of Mary Alice Nolan, State Bar number 108907.



Presiding Judge

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); 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 3, 2015, I deposited a true copy of the following document(s):

RECOMMENDATION ON RESIGNATION FILED JUNE 3, 2015

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

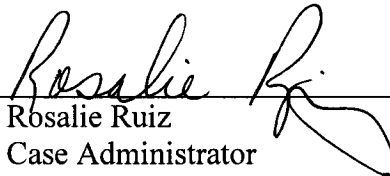
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

MARY A. NOLAN
1935 LEIMERT BLVD
OAKLAND, CA 94602

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

SHERRIE B. MCLETCHE, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on June 3, 2015.



Rosalie Ruiz
Case Administrator
State Bar Court