

PUBLIC MATTER

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JAN 30 2018

STATE BAR COURT
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STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES

In the Matter of)
) Case Nos.: **16-C-12593 (16-C-12629) and**
) **16-O-17918 (16-O-17937)-DFM**
) **(Consolidated)**
GEORGE RAFAEL ANGULO,) **DECISION, ORDER CONSOLIDATING**
) **CASES, AND ORDER OF**
) **INVOLUNTARY INACTIVE**
) **ENROLLMENT**
A Member of the State Bar, No. 195700.)

ORDER CONSOLIDATING CASES

On December 7, 2017, the Office of the Chief Trial Counsel, State Bar of California (State Bar), timely filed and properly served on Respondent in case No. 16-O-17918 a petition pursuant to rule 5.85 of the Rules of Procedure of the State Bar, requesting that this court recommend Respondent's disbarment to the Supreme Court in light of the entry of Respondent's default in that matter.

On December 12, 2017, the State Bar timely filed and properly served on Respondent in case Nos. 16-C-12593 and 16-C-12629 (Consolidated) another petition pursuant to rule 5.85, requesting that this court recommend Respondent's disbarment to the Supreme Court in light of the entry of Respondent's default in those matters.

Respondent did not timely file and serve any motion to set aside or vacate the defaults in either of those cases. (See Rules Proc. of State Bar, rules 5.28(A) & 5.85(D).) Accordingly, on



January 9, 2018, this court issued a single order submitting both matters, then unconsolidated, for a decision.

Although the above two matters have been on separate procedural tracks until the present time, no good reason exists for two separate recommendations simultaneously being submitted by this court to the Supreme Court, both recommending Respondent's disbarment. Accordingly, the above captioned matters are hereby consolidated for purposes of this decision and recommendation. However, the substance and procedural history of each of the matters, will be separately described and assessed in this decision.

DECISION

Findings And Conclusions

Jurisdiction

Respondent was admitted to practice law in this state on June 2, 1998, and has been a member since that date.

Case Nos. 16-C-12593 and 16-C-12629

Respondent George Rafael Angulo (Respondent) was convicted of violating Vehicle Code section 23550.5, subdivision (a) (driving under the influence of alcohol with prior felony driving under the influence conviction) and Vehicle Code section 23153, subdivision (b) (driving with a 0.08 percent or more blood alcohol content causing injury), felonies which may or may not involve moral turpitude. Upon finality of the conviction, the Review Department of the State Bar Court 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 violation involved moral turpitude or other misconduct warranting discipline.¹ Even though

¹ Pursuant to Business and Professions Code section 6102, the Review Department also suspended Respondent from the practice of law, effective September 6, 2016, pending final

Respondent had notice of the trial date, he failed to appear at the trial and his default was entered. Thereafter, the Office of Chief Trial Counsel of the State Bar of California (State Bar) filed a petition for disbarment under rule 5.85 of the Rules of Procedure of the State Bar.²

Rule 5.85 provides the procedure to follow when an attorney fails to appear at trial after receiving adequate notice and opportunity. The rule provides that, if an attorney's default is entered for failing to appear at trial, and the attorney fails to have the default set aside or vacated within 45 days, the State Bar will file a petition requesting the court to recommend the attorney's disbarment.³

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.

Procedural Requirements Have Been Satisfied

On August 11, 2016, the State Bar Court filed and properly served the Notice of Hearing on Conviction (NOH) on Respondent by certified mail, return receipt requested, at his membership records address. The NOH notified Respondent that his failure to participate in the proceeding would result in a disbarment recommendation. (Rule 5.345.) Respondent filed an answer on February 3, 2017.

Respondent appeared in person at status conferences on January 30, March 6, and April 24, 2017. On July 24, 2017, the court filed an order scheduling a pretrial conference for September 25, 2017, and setting trial on October 6, 2017. This trial-setting order was properly

disposition of this matter; and it ordered Respondent to comply with California Rules of Court, rule 9.20. Respondent filed his rule 9.20 compliance declaration on December 29, 2016.

² Unless otherwise indicated, all references to rules are to this source. Rule 5.346(A) makes the default procedures in rules 5.80-5.86, with certain modifications, applicable in conviction proceedings.

³ 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(F)(2).)

served by first-class mail, postage prepaid, on Respondent at the address in his answer.⁴ (Rule 5.81(A).)

Respondent did not appear at the September 25, 2017 pretrial conference. On September 25, 2017, the court filed a Minute Order stating, in pertinent part, "Respondent needs to comply with trial-setting order and appear at trial or default will be entered."

The State Bar appeared for trial on October 6, 2017, but Respondent did not. The court entered Respondent's default in an order filed on October 6, 2017. The order entering the default was properly served on Respondent at his membership records address by certified mail, return receipt requested (rule 5.81(B)), and by first-class mail. The order notified Respondent that, if he did not timely move to set aside his default, the court would recommend his disbarment. 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 he has remained inactively enrolled since that time.

Respondent did not seek to have his default set aside or vacated. (Rule 5.83(C)(2) [attorney has 45 days after order entering default is served to file motion to set aside default].) On December 12, 2017, the State Bar filed and properly served a petition for disbarment on Respondent.⁵ As required by rule 5.85(A), the State Bar reported in the petition that: (1) it has not had any contact with Respondent since the default was entered;⁶ (2) there are two other disciplinary matters pending against Respondent; (3) Respondent does not have a record of prior discipline; and (4) the Client Security Fund has not made any payments resulting from

⁴ This address was Respondent's membership records address.

⁵ The petition for disbarment was served by certified mail, return receipt requested, to Respondent at his membership records address.

⁶ The declaration of Senior Trial Counsel Ross Viselman (STC Viselman) reflects that there has been no contact with Respondent since October 3, 2017, when STC Viselman spoke to Respondent and discussed Respondent's failure to participate in this proceeding and other proceedings. Respondent told STC Viselman that he had no interest in practicing law and he refused to participate in settlement discussions or trial.

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 January 9, 2018.

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 5.346(D) & 5.82.) As set forth below in greater detail, Respondent's convictions for (1) driving under the influence of alcohol with prior felony driving under the influence conviction and (2) driving with a 0.08 percent or more blood alcohol content causing injury support the conclusion that Respondent violated a statute, rule or court order that would warrant the imposition of discipline. (Rule 5.85(F)(1)(d).)

Case No. 16-C-12593 (Conviction Matter)

Respondent was convicted of violating Vehicle Code section 23550.5, subdivision (a) (driving under the influence of alcohol with prior felony driving under the influence conviction), as a result of an incident occurring on June 21, 2014. On that date, Respondent was in his vehicle, waiting in the entrance line to enter Leo Carrillo State Park. Respondent fell asleep at the wheel. A state park officer determined that Respondent was drunk.

The Ventura County District Attorney filed an amended felony criminal complaint against Respondent on March 4, 2015, charging him with one count of violating Vehicle Code section 23550.5, subdivision (a) and one count of violating Vehicle Code section 23550.5, subdivision (b). Both counts were charged with special allegations under Vehicle Code section 23578 (having a blood alcohol content of 0.15 percent and higher) and Penal Code section 667.5 (sentencing enhancement for prior conviction). The court entered Respondent's plea of guilty to count one on March 8, 2016, to a violation of Vehicle Code section 23550.5, subdivision (a)

(driving under the influence of alcohol with prior felony driving under the influence conviction). Respondent admitted the special allegation as to count one under Vehicle Code section 23578. The remaining count was dismissed. On May 3, 2016, Respondent was sentenced to one year and four months in state prison.

Driving under the influence with a prior felony conviction for driving under the influence is a crime 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. (*In re Kelley* (1990) 52 Cal.3d 487, 494.)

Case No. 16-C-12629 (Conviction Matter)

Respondent was convicted of violating Vehicle Code section 23153, subdivision (b) (driving with a 0.08 percent or more blood alcohol content causing injury), as a result of an incident occurring on January 24, 2009. On that date, Respondent drove through a stop sign and collided with a police car. The police officers were injured and arrested Respondent for drunk driving.

An information was filed on May 18, 2009, in the Superior Court of Los Angeles County. The court entered Respondent's plea of nolo contendere on September 4, 2009, to a violation of Vehicle Code section 23153, subdivision (b) (driving with a 0.08 percent or more blood alcohol content causing injury). The court sentenced Respondent to two years in state prison.

Driving with a 0.08 percent or more blood alcohol content causing injury is a crime 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. (*In re Kelley, supra*, 52 Cal.3d at p. 494.)

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 NOH was properly served on Respondent under rule 5.25;

(2) Respondent had actual notice of this proceeding and actual notice of the trial date prior to entry of the default;

(3) the default was properly entered under rule 5.81; 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 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.

Case Nos. 16-O-17918 and 16-O-17937

Respondent George Rafael Angulo (Respondent) was charged in this originally separate proceeding with two counts of violations of the Business and Professions Code.⁷ He failed to file a response to the Notice of Disciplinary Charges (NDC) in this matter, and his default was entered. The Office of Chief Trial Counsel of the State Bar of California (State Bar) filed a petition for disbarment under rule 5.85.

⁷ Unless otherwise indicated, all further references to section(s) refer to provisions of the Business and Professions Code.

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.

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.

Procedural Requirements Have Been Satisfied

On June 5, 2017, the State Bar filed and properly served the NDC in this matter on Respondent by certified mail, return receipt requested, at 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.) A return receipt card was received by the State Bar bearing the signature, "George Angulo."

On February 3, 2017, Respondent filed answers in his other pending disciplinary matters (Case Numbers 16-C-12593; 16-C-12629 Cons.). The senior trial counsel (STC) assigned to this matter declared that the State Bar and Respondent were then seeking to resolve the disciplinary charges against him in both this matter and his other pending matters. The STC stated that a stipulation to facts and conclusions of law was drafted in late April or early May 2017. Subsequently, the STC determined that Respondent's membership records phone number was no longer valid and attempted to find an alternate phone number for Respondent. He obtained a phone number that he believed belonged to Respondent's wife. When Respondent did not personally attend the status conference on July 17, 2017, the court attempted to contact Respondent by telephone. A woman answered and informed the court that Respondent was

undergoing a dental examination, but that he would be available later that day. When the court, in open court, subsequently tried again to call Respondent, there was no answer. On July 20, 2017, the STC attempted to reach Respondent by phone. The same woman answered, but told him she was unable to provide contact information for Respondent and instructed him to stop calling her. That same day, the STC sent a letter to Respondent, warning Respondent of his possible disbarment and asking Respondent to contact the STC.

Despite the STC's efforts, Respondent did not file a response to the NDC. On August 9, 2017, the State Bar filed and properly served a motion for entry of default by certified mail, return receipt requested, to his membership records address. The motion complied with all the requirements for a default, including a supporting declaration of reasonable diligence by the DTC declaring the additional steps taken to provide notice to Respondent. (Rule 5.80.) 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 and served on August 25, 2017. The order entering the default was served on Respondent at his 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 he has remained inactively enrolled since that time.

Respondent 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 December 7, 2017, the State Bar filed and properly served a petition for disbarment on Respondent at his membership records address by certified mail, return receipt requested, and by U.S. first-class mail. As required by rule 5.85(A), the State Bar reported in the petition that: (1) the STC spoke to Respondent on

October 3, 2017;⁸ (2) there are two other disciplinary matters pending against Respondent; (3) Respondent does not have a record of prior 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 January 9, 2018.

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(2).) 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 No. 16-O-17918

Respondent willfully violated section 6103 (failure to comply with court order) by failing to comply with the August 9, 2016 order of the Review Department of the State Bar Court to comply with California Rules of Court, rule 9.20 in case number 16-C-12629. Specifically, Respondent did not file a declaration of compliance with rule 9.20 within 40 days after the effective date of the Review Department order.

Case No. 16-O-17937

Respondent willfully violated section 6103 (failure to comply with court order) by failing to comply with the August 9, 2016 order of the Review Department of the State Bar Court to comply with California Rules of Court, rule 9.20 in case number 16-C-12593. Specifically,

⁸ As previously noted above, the STC discussed Respondent's failure to participate in this proceeding and other proceedings. Respondent told the STC that he had no interest in practicing law and he refused to participate in settlement discussions or trial.

Respondent did not file a declaration of compliance with rule 9.20 within 40 days after the effective date of the Review Department order.

Disbarment is Recommended

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

(1) the NDC 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 his default;

(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 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 recommends disbarment.

Recommendation

Disbarment

The court recommends that respondent **George Rafael Angulo**, State Bar Number 195700, 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 George Rafael Angulo, State Bar number 195700, 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: January 30, 2018


DONALD F. MILES
Judge of the State Bar Court

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 January 30, 2018, I deposited a true copy of the following document(s):

DECISION, ORDER CONSOLIDATING CASES, AND ORDER OF INVOLUNTARY
INACTIVE ENROLLMENT

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:

GEORGE R. ANGULO
3013 W AVENUE 35
LOS ANGELES, CA 90065 - 2298

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

ROSS E. VISELMAN, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on January 30, 2018.



Mazie Yip
Case Administrator
State Bar Court