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MAR 18 2016
STATE BAR COURT
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LOS ANGELES

PUBLIC MATTER

STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT – LOS ANGELES

In the Matter of)	Case No.: 16-PM-10320 (S222830)
)	
BERYL DEAN DROEGEMUELLER,)	ORDER GRANTING MOTION TO
)	REVOKE PROBATION AND FOR
Member No. 76278)	INVOLUNTARY INACTIVE
)	ENROLLMENT
<u>A Member of the State Bar.</u>)	

Introduction¹

In this probation revocation proceeding, Beryl Dean Droegemueller (“Respondent”), is charged with violating his probation conditions imposed by the California Supreme Court. The Office of Probation of the State Bar of California (“Office of Probation”) seeks to revoke his probation, to impose upon Respondent the entire period of suspension previously stayed, and to involuntarily enroll Respondent as an inactive member of the State Bar.

The court finds, by preponderance of the evidence, that Respondent has violated his probation conditions and hereby grants the motion. Therefore, the court orders that Respondent be involuntarily enrolled as an inactive member of the State Bar. The court also recommends, among other things, that Respondent's probation be revoked, that the previously stayed, one-year suspension be lifted, and that he be actually suspended for one year.²



¹ Unless otherwise indicated, all references to rules refer to the State Bar Rules of Professional Conduct. Furthermore, all statutory references are to the Business and Professions Code, unless otherwise indicated.

² The State Bar has not established whether Respondent complied with his obligation to submit proof of his attendance at and passage of the Ethics School exam as required in the underlying case, case number 14-O-01596. As such, this court does not factor the Ethics School probation condition into its decision to revoke Respondent’s probation.

Significant Procedural History

On January 21, 2016, the Office of Probation filed and properly served a motion to revoke probation on Respondent. The motion was mailed to Respondent's official membership records address by regular mail and by certified mail. Respondent did not file a response within 20 days of the service of the motion.

The court took this matter under submission on February 22, 2016.

Findings of Fact and Conclusions of Law

Respondent was admitted to the practice of law in California on December 21, 1977, and has been a member of the State Bar of California at all times since that date.

Facts

On January 25, 2015, in Supreme Court case No. S222830, the California Supreme Court ordered, among other things, that:

1. Respondent be suspended from the practice of law for one year, that execution of the suspension be stayed, and that he be placed on probation for one year, as recommended by the Hearing Department of the State Bar Court in its order approving stipulation filed September 16, 2014 (State Bar Court case No. 14-O-01596.); and
2. Respondent comply, among other things, with the following probation conditions:
 - A. During the period of probation, Respondent was required to submit a written report to the Office of Probation on January 10, April 10, July 10 and October 10 of each year, or part thereof, during which the probation is in effect, stating under penalty of perjury that he has complied with provisions of the State Bar Act and Rules of Professional Conduct during said period; and

B. Within 30 days from the effective date of discipline (by March 23, 2015),

Respondent was to contact the Office of Probation to schedule a meeting.

The Supreme Court order became effective on February 21, 2015, 30 days after it was entered. (Cal. Rules of Court, rule 9.18(a).) It was properly served on Respondent.³

On January 29, 2015, the Office of Probation wrote a letter to Respondent, properly sent to him at his official address, reminding him of certain terms and conditions of his suspension and the probation imposed pursuant to the Supreme Court's order and enclosing, among other things, copies of the Supreme Court's order, the probation conditions portion of the stipulation, and instruction sheets or forms to use in submitting quarterly reports.

Deputy Michael Kanterakis of the Office of Probation conducted the required meeting with Respondent on April 7, 2015. The probation deputy reviewed with him all of his probation conditions and the applicable deadlines.

Respondent's first quarterly report, due April 10, 2015, was filed on April 7, 2015. However, Respondent has failed to file his next three quarterly reports due July 10, 2015, October 10, 2015, and January 10, 2016. In addition, Respondent was required to provide proof of completion of Ethics School requirement by February 21, 2016. As of January 21, 2016, Respondent had not provided any proof of completion of his Ethics School requirement.

³Although no proof was offered that the Clerk of the Supreme Court served the Supreme Court's order upon Respondent, California Rules of Court, rule 8.532(a) requires clerks of reviewing courts to immediately transmit a copy of all decisions of those courts to the parties upon filing. It is presumed pursuant to Evidence Code section 664 that official duties have been regularly performed. (*In re Linda D.* (1970) 3 Cal.App.3d 567, 571.) Therefore, in the absence of evidence to the contrary, this court finds that the Clerk of the Supreme Court performed his duty and transmitted a copy of the Supreme Court's order to Respondent immediately after its filing.

Conclusions

Section 6093, subdivision (b), provides that violation of a probation condition constitutes cause for revocation of any probation then pending and may constitute cause for discipline.

Section 6093, subdivision (c), provides that the standard of proof is the preponderance of the evidence. Bad faith is not a requirement for a finding of culpability in a probation violation matter. Instead, a general purpose or willingness to commit an act or permit an omission is sufficient. (*In the Matter of Potack* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 525, 536.)

Respondent did not comply with the conditions of probation, as ordered by the Supreme Court in S222830: (1) Respondent has failed to file three of his quarterly reports due July 20, 2015, October 10, 2015, and January 10, 2016; and (2) Respondent has failed to timely schedule his initial meeting with the Office of Probation.

As a result, the revocation of Respondent's probation in California Supreme Court order No. S222830 is warranted.

Aggravation⁴

Multiple Acts (Std. 1.5(b).)

Respondent committed multiple acts of wrongdoing, including failing to file three of his quarterly reports .

Indifference Toward Rectification/Atonement (Std. 1.5(g).)

An attorney's continued failure to comply with his probation conditions after being notified of that noncompliance is properly considered a substantial aggravating circumstance. It demonstrates indifference toward rectification of or atonement for the consequences of one's

⁴ All references to standards (Std.) are to the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct.

misconduct. (*In the Matter of Tiernan* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 523, 530.)

Although the motion to revoke his probation was filed in January 21, 2016, which put Respondent on notice that his probation status was in jeopardy, Respondent still failed to file the quarterly reports.

Lack of Candor/Cooperation to Victims/State Bar (Std. 1.5(h.))

Respondent's failure to participate in this proceeding is also an aggravating factor.

Mitigation

Since Respondent did not file a response to the probation revocation motion, no evidence in mitigation was presented and none is apparent from the record. (Std. 1.6.)

Discussion

Section 6093 authorizes the revocation of probation for a violation of a probation condition. The extent of the discipline to recommend is dependent, in part, on the seriousness of the probation violation and Respondent's recognition of his misconduct and his efforts to comply with the conditions. (*In the Matter of Potack* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 525, 540.)

The Office of Probation requested that Respondent be actually suspended for the full amount of the stayed suspension, that Respondent should be ordered to comply with rule 9.20, California Rules of Court and that Respondent should be placed on involuntary inactive enrollment pursuant to section 6007(d). This court agrees.

Recommendations

The court recommends that the probation of Respondent Beryl Dean Droegemueller, member No. 76278, imposed in Supreme Court case No. S222830 (State Bar Court case No. 14-O-01596) be revoked, that the previous stay of execution of the suspension be lifted, and that

Respondent be actually suspended from the practice of law for one year and he will remain suspended until the following requirements are satisfied:

1. Respondent provides proof of attendance at a session of Ethics School and passage of the test given at the end of that session.
2. If he remains suspended for two years or more as a result of not satisfying the preceding condition, Respondent must also provide proof to the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law before his suspension will be terminated. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

Multistate Professional Responsibility Examination

The court will not recommend that Respondent take and pass the Multistate Professional Responsibility Examination (MPRE) because Respondent was required to provide proof of MPRE passage to the Office of Probation in the underlying case.

California Rules of Court, Rule 9.20

It is further recommended 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. Failure to do so may result in disbarment or suspension.⁵

Costs

It is recommended that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

⁵ Respondent is required to file a rule 9.20(c) affidavit even if he has no clients to notify. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.)

Order of Involuntary Inactive Enrollment

Section 6007, subdivision (d)(1), provides for an attorney's involuntary inactive enrollment for violating probation if: (A) the attorney is under a suspension order any portion of which has been stayed during a period of probation, (B) the court finds that probation has been violated, and (C) the court recommends that the attorney receive an actual suspension due to the probation violation or other disciplinary matter. The requirements of section 6007, subdivision (d)(1) have been met.

Respondent is ordered to be involuntarily enrolled inactive under section 6007, subdivision (d)(1).⁶ This inactive enrollment order will be effective three calendar days after the date upon which this order is served.

Dated: March 17, 2016


YVETTE D. ROLAND
Judge of the State Bar Court

⁶ The court recommends that any period of involuntary inactive enrollment be credited against the period of actual suspension ordered. (Bus. & Prof. Code, § 6007, subd. (d)(3).)

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 March 18, 2016, I deposited a true copy of the following document(s):

**ORDER GRANTING MOTION TO REVOKE PROBATION AND FOR
INVOLUNTARY INACTIVE ENROLLMENT**

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

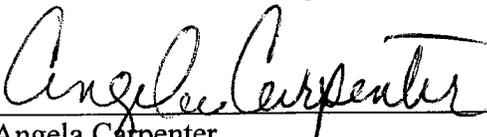
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**BERYL DEAN DROEGEMUELLER
2836 HUTCHISON ST
VISTA, CA 92084**

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

Terrie L. Goldade, Office of Probation, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on March 18, 2016.



Angela Carpenter
Case Administrator
State Bar Court