

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – SAN FRANCISCO

In the Matter of)	Case No.: 16-PM-16372-LMA
)	
CHARLES LEROY DUPREE IV,)	ORDER GRANTING MOTION TO
)	REVOKE PROBATION AND ORDER OF
Member No. 156840)	INACTIVE ENROLLMENT
)	
<u>A Member of the State Bar.</u>)	

Introduction

On September 16, 2016, the Office of Probation of the State Bar of California (Office of Probation) filed a motion to revoke the probation of respondent Charles Leroy Dupree IV (Respondent). Although he was properly served with the motion to revoke probation by certified mail, return receipt requested, and by regular mail at his State Bar membership records address, Respondent did not participate in this proceeding. On October 12, 2016, this court issued an order submitting the motion for decision, serving Respondent with a copy of that order.

Good cause having been shown, the motion to revoke Respondent's probation is granted and discipline is recommended as set forth below.

Findings of Fact and Conclusions of Law

On September 30, 2015, the California Supreme Court filed an order, S226728, accepting the State Bar Court's discipline recommendation in case No. 14-C-02679, in which Respondent stipulated that the criminal convictions he received on October 18, 2013, involved moral



turpitude.¹ The discipline included a one-year stayed suspension, two years' probation, and a 60-day actual suspension (with credit given for Respondent's period of interim suspension). This order was properly served on Respondent and became effective on October 30, 2015.² In addition, a copy of the stipulation and this court's order approving the same had previously been properly served on Respondent on March 30, 2015.

On October 16, 2015, the Office of Probation sent Respondent a reminder letter regarding the probation conditions at his official address. This letter was not returned as undeliverable or for any other reason.

On November 24, 2015, Respondent and his probation deputy communicated by telephone regarding the terms and conditions of his disciplinary probation. On or about January 15, 2016, Respondent's probation deputy sent a letter to Respondent advising that the Office of Probation had yet to receive his first quarterly report and requesting that he submit it immediately. On August 15, 2016, Respondent's probation deputy sent another letter to Respondent noting his non-compliance with multiple probation conditions. Neither of these letters were returned to the Office of Probation as undeliverable or for any other reason.

Despite these efforts to make Respondent aware of the conditions of his probation and to secure his compliance with them, Respondent did not comply with the following probation conditions:

¹ Respondent pleaded nolo contendere to and was convicted on three misdemeanors, including second degree commercial burglary, theft of property from a retail store, and possession of burglary tools. Respondent's three convictions resulted from an incident where he took wire cutters into a retail store, cut security devices off of several pieces of merchandise, and then concealed the merchandise and removed it from the store.

² In the absence of evidence to the contrary, the court finds that the Clerk of the Supreme Court performed his or her duty by transmitting a copy of the Supreme Court's order to Respondent immediately after its filing. (Rule 8.532(a), Cal. Rules of Court; Evid. C. §664; *In Re Linda D.* (1970) 3 Cal.App.3d 567, 571.)

(a) During the period of probation, Respondent was required to submit written quarterly reports 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 was in effect, stating under penalty of perjury that he had complied with all provisions of the State Bar Act and Rules of Professional Conduct during said period. Respondent did not file his first three quarterly reports, due January 10, 2016; April 10, 2016; and July 10, 2016.

(b) Along with his quarterly reports, Respondent was ordered to provide the Office of Probation with declarations, under penalty of perjury, that he was in compliance with the conditions imposed in his underlying criminal matter (criminal compliance declarations). Respondent failed to provide the Office of Probation with his first three criminal compliance declarations, due January 10, 2016; April 10, 2016; and July 10, 2016.

Aggravation

Prior Discipline

Respondent's prior record of discipline is a factor in aggravation. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct,³ std. 1.5(a).) Respondent has one prior imposition of discipline.

In the underlying matter, the Supreme Court, on September 30, 2015, filed an order in case No. S226728 (State Bar Court case No. 14-C-02679) suspending Respondent from the practice of law for one year, staying execution of the suspension, and placing him on probation for two years, including a 60-day period of actual suspension (with credit given for his period of interim suspension). In this matter, Respondent stipulated that his criminal convictions involved

³ Future references to standard or std. are to this source.

moral turpitude.⁴ In mitigation, Respondent had no prior record of discipline and entered into a pretrial stipulation. No aggravating circumstances were involved.

Multiple Acts of Misconduct

Respondent's violations of the terms of his disciplinary probation constitute multiple acts of misconduct. (Std. 1.5(b).)

Mitigation

It was Respondent's burden to establish mitigating factors. No mitigating factors were shown by the evidence presented to this court.

Discussion

The extent of the discipline to be recommended is dependent, in part, on the seriousness of the probation violation, the member's recognition of the misconduct, and the member's prior efforts to comply with the conditions. (*In the Matter of Potack* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 525, 540.) Having considered these factors, the court concludes that actual suspension for one year, as requested by the Office of Probation, is both required and sufficient to protect the public in this instance. Respondent was aware of the terms and conditions of his disciplinary probation, yet did not comply with them despite reminders from the Office of Probation. His failure to participate in this proceeding is also a matter of considerable concern to this court.

Recommended Discipline

Accordingly, the court recommends as follows:

1. That the probation of respondent Charles Leroy Dupree IV previously ordered in Supreme Court case No. S226728 (State Bar Court case No. 14-C-02679 be revoked;
2. That the previous stay of execution of the suspension be lifted; and

⁴ As noted above, Respondent was convicted on three theft-related misdemeanors, stemming from a single incident.

3. That Respondent be actually suspended from the practice of law for one year.

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.

Multistate Professional Responsibility Examination

It is not recommended that Respondent be ordered to take and pass the Multistate Professional Responsibility Examination as he was previously ordered to do so in Supreme Court case No. S226728.

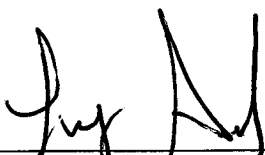
Costs

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.

Order of Involuntary Inactive Enrollment

Respondent is ordered to be involuntarily enrolled inactive under Business and Professions Code section 6007, subdivision (d)(1).⁵ This inactive enrollment order will be effective three calendar days after the date upon which this order is served.

Dated: October 18, 2016



LUCY ARMENDARIZ
Judge of the State Bar Court

⁵Any period of involuntary inactive enrollment will 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 San Francisco, on October 18, 2016, I deposited a true copy of the following document(s):

ORDER GRANTING MOTION TO REVOKE PROBATION AND ORDER OF 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 San Francisco, California, addressed as follows:

CHARLES L. DUPREE IV
638 CRAIG AVE
SONOMA, CA 95476

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

TERRIE L. GOLDADE, Probation, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on October 18, 2016.



Bernadette Molina
Case Administrator
State Bar Court