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JUN 29 2018 *[Signature]*

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

PUBLIC MATTER

STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT - LOS ANGELES

In the Matter of)	Case No. 17-C-02393-YDR
)	
JUSTIN J. KIM,)	DECISION AND ORDER OF
)	INVOLUNTARY INACTIVE
A Member of the State Bar, No. 237501.)	ENROLLMENT
_____)	

Respondent Justin J. Kim (Respondent) was convicted of violating: (1) Penal Code section 273.5, subdivision (a) (domestic battery with corporal injury), a felony which may or may not involve moral turpitude; (2) Penal Code section 245, subdivision (a)(4) (assault with force likely to produce great bodily injury), a felony which may or may not involve moral turpitude; (3) Penal Code section 245, subdivision (a)(1) (assault with a deadly weapon), a felony which may or may not involve moral turpitude; (4) Penal Code section 594, subdivision (a)/(b)(2)(a) (vandalism under \$400), a misdemeanor which may or may not involve moral turpitude; (5) Penal Code section 243, subdivision (e)(1) (domestic violence battery) a misdemeanor which may or may not involve moral turpitude; and (6) two counts under Penal Code section 422, subdivision (a) (criminal threats), felonies which may or may not involve moral turpitude.

After 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. Respondent failed to participate,

either in person or through counsel, and his default was entered. The Office of Chief Trial Counsel (OCTC) 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 notice of hearing on conviction, and the attorney fails to have the default set aside or vacated within 90 days, OCTC will file a petition requesting the court to recommend the attorney's disbarment.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 California on July 16, 2005, and has been a member since then.

Procedural Background

On September 12, 2017, the State Bar Court filed and properly served on Respondent the notice of hearing on conviction (NOH) in case No. 17-C-02393 by certified mail, return receipt requested, to Respondent's membership records address. The State Bar Court did not receive the return receipt card from the United States Postal Service.

On October 6, 2017, the Review Department filed a request to the Hearing Department to allow it to issue an order clarifying the nature of Respondent's criminal conviction. On October

¹ Unless otherwise indicated, all references to rule(s) 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(F)(2).)

11, 2017, the Hearing Department referred this matter to the Review Department as requested. On October 12, 2017, the Hearing Department vacated a status conference that was previously scheduled for October 16, 2017.

On October 25, 2017, the State Bar Court received Respondent's response to the NOH. On the same date, the court acknowledged receipt of Respondent's response, but the court rejected it. The letter notifying Respondent that his response was not filed with the court indicated, "This matter is not pending in the Hearing Department. It was referred back to the Review Department on October 11, 2017." The rejection letter was sent to Respondent at his membership records address.

On October 27, 2017, the Review Department filed an order clarifying the nature of Respondent's criminal conviction and referred the case to the Hearing Department for 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.

Procedural Requirements Have Been Satisfied

On November 1, 2017, the State Bar Court filed and properly served on Respondent a second notice of hearing on conviction (NOH) in case No. 17-C-02393 by certified mail, return receipt requested, to Respondent's membership records address. The NOH notified Respondent that his failure to participate in the proceeding would result in a disbarment recommendation. (Rule 5.345.) The State Bar Court did not receive the NOH return receipt card from the United States Postal Service.

Thereafter, OCTC took additional steps to notify Respondent about these proceedings by: (1) leaving a voicemail message for Respondent at his cellular phone number, which Respondent previously provided to OCTC;³ (2) emailing Respondent and asking Respondent to return the

³ Respondent did not have an active membership records phone number.

previous phone call to discuss the current matter; (3) mailing a letter to Respondent at his membership records address notifying him that OCTC intended to file a motion for entry of default; and (4) emailing the letter indicating OCTC's intent to file a motion for entry of default to Respondent at the email address provided to the State Bar for internal use only.

Respondent failed to file a response to the NOH. On December 27, 2017, OCTC properly filed and served a motion for entry of Respondent's default. The motion complied with all the requirements for a default, including a supporting declaration of reasonable diligence by OCTC 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 on January 23, 2018. 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. 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 May 4, 2018, OCTC properly filed and served the petition for disbarment on Respondent at his official membership records address. As required by rule 5.85(A), OCTC reported in the petition that: (1) there has been no contact with Respondent since his default was entered; (2) there are no other investigative matters pending against Respondent; (3) Respondent has no prior record of discipline; and (4) the Client Security Fund has not paid any claims as a result of Respondent's misconduct. 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 June 5, 2018.

The Admitted Factual Allegations Warrant the Imposition of Discipline

Upon entry of Respondent's default, the factual allegations set forth in OCTC'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. (Rule 5.346(D).) As set forth below in greater detail, Respondent's conviction supports 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 Number 17-C-02393 (Conviction Matter – Penal Code §§ 273.5, subd. (a), 245, subd. (a)(4), 245, subd. (a)(1), 594, subd. (a)/(b)(2)(A), 243, subd. (e)(1) & 422, subd. (a))

On January 15, 2017, Respondent physically attacked his wife causing her to break her wrist. He then threw vitamin bottles at her, striking her body. Thereafter, on January 16, 2017, Respondent vandalized his home using a wooden sword, dragged his wife by the shirt, placed her against the wall, and punched the wall next to his wife's face two times. Respondent then threw pillows at his wife's head.

On January 29, 2017, Respondent forced his wife to get on her knees and ask for forgiveness. Respondent then repeatedly hit his wife's stomach, torso, cheek, and top of her head with a wooden stick. He repeatedly struck his wife's face with his hand, grabbed his wife's hair and shook her head causing her to become dizzy. Respondent's wife was scared for her life and thought Respondent may kill her. After the attack, Respondent remarked, "Thank you for making me a wife beater."

On February 25, 2017, Respondent caused his wife to feel threatened after he placed a paper target riddled with bullet holes above her bed.

On February 29, 2017, the Orange County District Attorney charged respondent with violating Penal Code sections 273.5, subdivision (a) (domestic battery with corporal injury), a felony; 245, subdivision (a)(4) (assault with force likely to produce great bodily injury), a felony;

section 245, subdivision (a)(1) (assault with a deadly weapon), a felony; 594, subdivision (a)/(b)(2)(a) (vandalism under \$400), a misdemeanor; 243 subdivision (e)(1) (domestic violence battery), a misdemeanor; and section 422, subdivision (a) (criminal threats [two counts]), felonies.

On May 31, 2017, Respondent pleaded guilty to all six charges and was sentenced to three years of formal probation, 212 days in jail, a batterers' treatment program, and eight hours of community service, among other conditions.

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) 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 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 adequate notice and opportunity, Respondent failed to fully participate in this disciplinary proceeding. As set forth in the Rules of Procedure of the State Bar, the court recommends Respondent's disbarment.

RECOMMENDATION

Disbarment

The court recommends that Respondent Justin J. Kim, State Bar number 237501, 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 Justin J. Kim, State Bar number 237501, 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: June 28, 2018


YVETTE D. ROLAND
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 Court Specialist 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 29, 2018, I deposited a true copy of the following document(s):

DECISION AND ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

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

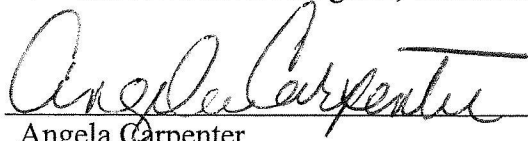
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

JUSTIN J. KIM
5 BETTY LN
ATHERTON, CA 94027 - 5401

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

Abraham M. Bagheri, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on June 29, 2018.



Angela Carpenter
Court Specialist
State Bar Court