



**PUBLIC MATTER**

**FILED**

**MAY 10 2019**

**STATE BAR COURT  
CLERK'S OFFICE  
LOS ANGELES**

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

In the Matter of	)	Case No. 17-C-03403-YDR
	)	
CARLOS JOEL PEREZ,	)	DECISION AND ORDER OF
	)	INVOLUNTARY INACTIVE
State Bar No. 285936.	)	ENROLLMENT
_____	)	

Respondent Carlos Joel Perez (Respondent) was convicted in the Los Angeles Superior Court for violating Penal Code section 148(a)(1) (resisting, delaying, or obstructing a peace officer) and Vehicle Code section 12500(a) (driving without a license). Upon finality of the conviction, the Review Department 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 conviction involve moral turpitude or other misconduct warranting discipline. Respondent, for the most part, failed to participate in these proceedings and his default was entered. The State Bar filed a petition for disbarment under rule 5.85 of the Rules of Procedure of the State Bar.<sup>1</sup>

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

---

<sup>1</sup> Unless otherwise indicated, all references to rules are to this source. Rule 5.345(C) makes the default procedures in rules 5.80-5.86, with certain exceptions, applicable in conviction proceedings.

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.<sup>2</sup>

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 this state on December 5, 2012, and has been a California attorney since then.

#### **Procedural Requirements Have Been Satisfied**

On March 16, 2018, Respondent pleaded nolo contendere to misdemeanor violations of Penal Code section 148(a)(1) (resisting, delaying, or obstructing a peace officer) and Vehicle Code section 12500(a) (driving without a license). On May 23, 2018, the Office of Chief Trial Counsel of the State Bar of California (OCTC) transmitted evidence of finality of Respondent's conviction to the Review Department. On June 14, 2018, the Review Department referred the matter to the Hearing Department for a hearing and decision recommending the discipline to be imposed if the facts and circumstances surrounding the conviction involve moral turpitude or other misconduct warranting discipline. On June 18, 2018, the State Bar Court filed a Notice of Hearing on Conviction. The Notice of Hearing on Conviction was properly served on Respondent by certified mail, return receipt requested, at his then official attorney records address. The Notice of Hearing on Conviction notified Respondent that his failure to timely file a written answer to the notice would result in a disbarment recommendation. (Rule 5.345.)

---

<sup>2</sup> 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).)

In addition, Respondent had actual notice of this proceeding. On September 17, 2018, Respondent appeared for a status conference in this matter. The court issued an order stating that the response to the Notice of Hearing on Conviction was due by September 26, 2018.

Respondent subsequently failed to file a response to the Notice of Hearing on Conviction.

Prior to Respondent's appearance at the September 17, 2018 status conference, the OCTC, on September 5, 2018, filed and properly served a motion for entry of Respondent's default. The motion included a supporting declaration of reasonable diligence by the deputy trial counsel 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 October 25, 2018. The order entering default was served on Respondent at his then official State Bar records address by certified mail, return receipt requested. The court also ordered Respondent's involuntary inactive enrollment as an attorney 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.

On December 27, 2018, Respondent filed a motion to set aside his default (motion to set aside default). On January 9, 2019, the OCTC filed an opposition to the motion to set aside default. No good cause having been shown, the court issued an order denying the motion to set aside default on February 20, 2019.

On March 14, 2019, the OCTC filed the petition for disbarment. As required by rule 5.85(A), the State Bar reported in the petition that: (1) it has had contact with Respondent since

the default was entered;<sup>3</sup> (2) Respondent has other disciplinary matters pending; (3) Respondent has no prior record of 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 April 25, 2019.

### **The Admitted Factual Allegations Warrant the Imposition of Discipline**

Upon entry of Respondent's default, the factual allegations set forth in Respondent's conviction matter are deemed admitted and no further proof is required to establish the truth of such facts. (Rule 5.82.) As set forth below in greater detail, the factual allegations in Respondent's conviction matter 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. 17-C-03403**

Respondent was convicted of violating Penal Code section 148(a)(1) (resisting, delaying, or obstructing a peace officer) and Vehicle Code section 12500(a) (driving without a license). The court finds that the following facts and circumstances surrounding Respondent's conviction do not involve moral turpitude, but do constitute other misconduct warranting discipline.

On April 9, 2017, Respondent sped past two motorcycle officers. The officers attempted to effectuate a traffic stop, but Respondent fled. Thereafter, Respondent ignored numerous commands to stop his vehicle. Respondent drove to his residence and pulled into the driveway. Officers approached Respondent's vehicle with weapons drawn and he rolled up his windows and ignored commands to exit the vehicle. When Respondent ultimately did exit the vehicle, he

---

<sup>3</sup> Respondent contacted the OCTC on or about January 18, 2019, and the parties discussed Respondent's motion to set aside default and the OCTC's opposition. Respondent has not contacted the OCTC since the motion to set aside default was denied on February 20, 2019.

struggled with the officers when they attempted to handcuff him. Respondent kicked and flailed, resulting in an injury to one of the officers.

### **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 Notice of Hearing on Conviction was properly served on Respondent;
- (2) Respondent had actual notice 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 Respondent's conviction matter 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.

## **RECOMMENDATIONS**

### **Disbarment**

The court recommends that respondent Carlos Joel Perez 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**

It is further recommended 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 imposing discipline in this matter.<sup>4</sup> Failure to do so may result in disbarment or suspension.


**Costs**

It is further 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. Unless the time for payment of discipline costs is extended pursuant to subdivision (c) of section 6086.10, costs assessed against a member who is actually suspended or disbarred must be paid as a condition of reinstatement or return to active status.

**ORDER OF INVOLUNTARY INACTIVE ENROLLMENT**

In accordance with Business and Professions Code section 6007, subdivision (c)(4), the court orders that Carlos Joel Perez, State Bar number 285936, be involuntarily enrolled as an inactive attorney of the State Bar of California, effective three calendar days after the service of this decision and order. (Rule 5.111(D).)

Dated: May 10, 2019

  
\_\_\_\_\_  
YVETTE D. ROLAND  
Judge of the State Bar Court

---

<sup>4</sup> For purposes of compliance with rule 9.20(a), the operative date for identification of “clients being represented in pending matters” and others to be notified is the filing date of the Supreme Court order, not any later “effective” date of the order. (*Athearn v. State Bar* (1982) 32 Cal.3d 38, 45.) Further, Respondent is required to file a rule 9.20(c) affidavit even if Respondent has no clients to notify on the date the Supreme Court filed its order in this proceeding. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.) In addition to being punished as a crime or contempt, an attorney’s failure to comply with rule 9.20 is, inter alia, cause for disbarment, suspension, revocation of any pending disciplinary probation, and denial of an application for reinstatement after disbarment. (Cal. Rules of Court, rule 9.20(d).)

## 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 May 10, 2019, 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:

CARLOS J. PEREZ  
THE LAW FIRM OF CARLOS JOEL PEREZ DE TEJ  
8325 DINSDALE ST  
DOWNEY, CA 90240 - 3902

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

HUGH G. RADIGAN, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on May 10, 2019.



---

Mazie Yip  
Court Specialist  
State Bar Court