

S264858

IN THE SUPREME COURT OF CALIFORNIA

En Banc

SUPREME COURT
FILED

JENNIFER LYNN KAMMERER, Petitioner,

DEC 30 2020

v.

Jorge Navarrete Clerk

STATE BAR OF CALIFORNIA, Respondent.

Deputy

The petition for writ of mandate is denied.

CANTIL-SAKAUYE

Chief Justice

B

FILED

MAR 20 2015

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

STATE BAR COURT OF CALIFORNIA

REVIEW DEPARTMENT

IN BANK

In the Matter of) Case No. 13-C-14553
JENNIFER LYNN KAMMERER,)
A Member of the State Bar, No. 204888.) RECOMMENDATION OF
SUMMARY DISBARMENT

On October 7, 2014, the State Bar's Office of Chief Trial Counsel (OCTC) filed a motion for summary disbarment based on Jennifer Lynn Kammerer's felony convictions.¹ Kammerer filed a response arguing that the request for summary disbarment should be denied, and instead she should be ordered to attend the Alternative Discipline Program (ADP) and allowed to continue with her meetings with the Lawyers Assistance Program (LAP). We grant OCTC's motion and recommend that Kammerer be summarily disbarred.

On November 25, 2013, Kammerer was charged with 46 felony counts, including unlawfully entering an inhabited dwelling house with intent to commit a felony, and obtaining and using the personal information of another to apply for a Citibank credit card. On March 11, 2014, Kammerer entered a guilty plea to felony violations of Penal Code sections 459 and 460, subdivision (a) (burglary of an inhabited dwelling house), and 530.5, subdivision (a)

¹ On November 21, 2014, OCTC was ordered to re-serve the motion for summary disbarment after it provided clarification regarding a discrepancy in the case numbers in the conviction records.

(unauthorized use of personal identifying information of another).² As a result of Kammerer's felony convictions, we placed her on interim suspension, effective May 28, 2014, and she has remained on interim suspension since that time. On October 7, 2014, OCTC submitted evidence that the conviction had become final and requested Kammerer's summary disbarment. Kammerer filed a response on December 17, 2014.

After the judgment of conviction becomes final, "the Supreme Court shall summarily disbar the attorney if the offense is a felony . . . and an element of the offense is the specific intent to deceive, defraud, steal, or make or suborn a false statement, or involved moral turpitude." (Bus. & Prof. Code, § 6102, subd. (c).) The record of conviction establishes both criteria for summary disbarment.

First, Kammerer admits that she was charged with and convicted of felony violations of Penal Code sections 459 and 460, subdivision (a), and section 530.5. (Pen. Code, §§ 461, 530.5, subd. (a) [first degree burglary punishable by imprisonment in state prison for two, four, or six years; unauthorized use of personal identifying information of another may punishable by imprisonment under the provisions of Pen. Code, § 1170, subd. (h)];³ Pen. Code, § 17, subd. (a) [crime punishable by imprisonment in state prison or under the provisions of Pen. Code, § 1170, subd. (h) is a felony].)

Second, both convictions involve moral turpitude.

² Kammerer also pleaded guilty to a violation of Business and Professions Code section 6126, subdivision (b) (unauthorized practice of law), but we do not rely on this conviction in making a recommendation of summary disbarment. All other counts were dismissed.

³ A violation of Penal Code section 530.5, subdivision (a) "is a 'wobbler,' punishable either as a misdemeanor or a felony." (*In re Rolando S.* (2011) 197 Cal.App.4th 936, 940.)

Burglary is committed by every person who enters a house or other listed structure or vehicle with the intent to commit grand or petit larceny or any felony. (Pen. Code, § 459.)⁴ “[W]hether or not the target felony itself evidences a moral defect, burglary remains in all cases the fundamentally deceitful act of entering a house or other listed structure with the secret intent to steal or commit another serious crime inside. A felony conviction of such an act demonstrates a ‘readiness to do evil’ and hence necessarily involves moral turpitude. [Citations.]” (*People v. Collins* (1986) 42 Cal.3d 378, 395, footnotes omitted [discussing classification of burglary for impeachment purposes].) Thus, the commission of acts in the nature of burglary “constitutes moral turpitude and dishonesty and that the protection of the courts and the integrity of the legal profession require that [Kammerer] be disbarred.” (*In re Hurwitz* (1976) 17 Cal.3d 562, 567.)

“Every person who willfully obtains personal identifying information . . . of another person, and uses that information for any unlawful purpose, including to obtain, or attempt to obtain, credit, goods, services, real property, or medical information without the consent of that person, is guilty of a public offense. . . .” (Pen. Code, § 530.5, subd. (a).) Otherwise known as the “identity theft” statute, “the purpose of section 530.5, subdivision (a) is to criminalize the willful use of another’s personal identifying information, regardless of whether the user intends to defraud and regardless of whether any actual harm or loss is caused.” (*People v. Johnson* (2012) 209 Cal.App.4th 800, 818; see also *People v. Valenzuela* (2012) 205 Cal.App.4th 800, 806 [Pen. Code, § 530.5 is a theft crime].) While it does not require an intent to defraud the person whose identity is assumed, “[t]he wording of the statute contemplates misleading the person or entity from whom the goods, services, etc. are obtained.” (*People v. Hagedorn* (2005) 127 Cal.App.4th 734, 747.) Theft is an offense that involves moral turpitude. (See *In re*

⁴ Pursuant to Penal Code section 460, subdivision (a), first degree burglary is burglary “of an inhabited dwelling house, vessel . . . which is inhabited and designed for habitation.”

Duchow (1988) 44 Cal.3d 268, 269 [theft of public money involves moral turpitude]; *In re Rothrock* (1944) 25 Cal.2d 588, 590 [crimes of robbery, embezzlement and other forms of theft necessarily involve moral turpitude].) Further, “attorney’s practice of deceit involves moral turpitude.” (*Cutler v. State Bar of California* (1969) 71 Cal.2d 241, 253.) Accordingly, a conviction under Penal Code section 530.5, subdivision (a) involves moral turpitude.

Kammerer’s response to OCTC’s request for summary disbarment does not support a different outcome. She argues that the circumstances of her conviction, particularly the difficult relationship she had with her husband and the resulting emotional trauma she suffered, warrants suspension while she attends ADP and participates in LAP, instead of disbarment. However, when an attorney’s conviction meets the requirements of Business and Professions Code section 6102, subdivision (c), “the attorney is not entitled to a State Bar Court hearing to determine whether lesser discipline is called for.” (*In re Paguirigan* (2001) 25 Cal.4th 1, 7.) Disbarment is mandatory. (*Id.* at p. 9.)

We therefore recommend that Jennifer Lynn Kammerer, State Bar number 204888, be disbarred from the practice of law in this state. We also recommend that she be ordered to comply with 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’s order. Finally, we recommend that the costs be awarded to the State Bar in accordance with section 6086.10 of the Business and Professions Code and that such costs be enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

Catherine D. Purcell
Presiding Judge

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. 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 20, 2015, I deposited a true copy of the following document(s):

RECOMMENDATION OF SUMMARY DISBARMENT
FILED MARCH 20, 2015

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:

JENNIFER L. KAMMERER
JENNIFER L KAMMERER
C/O CODEKAS FAMILY LAW
1425 RIVER PARK DR STE 201
SACRAMENTO, CA 95815

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

CHARLES A. MURRAY, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on March 20, 2015.


Jasmine Guladzhyan
Case Administrator
State Bar Court

**Additional material
from this filing is
available in the
Clerk's Office.**