

ORIGINAL
SUPREME COURT
FILED

Clerk of the Supreme Court of California
350 McAllister Street
San Francisco, CA 94102

November 11, 2013

NOV 14 2013

In re: Sergio C. Garcia on Admission, #S202512

Frank A. McGuire Clerk

Dear Clerk:

Deputy

Please kindly accept this letter brief in response to the October 16th Order of the Court, inviting supplemental submissions. The recent statute (AB 1024) appears to be designed to remove a narrow issue of preemption by Federal immigration laws. The new statute does not otherwise have any affect upon the issues pending before this Court, e.g., the applicant's moral fitness or his unclean hands, as discussed below. AB 1024 is not dispositive of the issue of whether the applicant should be admitted to the bar. The state legislature does not have the authority to prescribe that the applicant be admitted. That decision rests solely with this Court.

The fact remains that the applicant has been knowingly, willfully and deliberately defying the laws of the country for an extended period of time and is currently, actively defying those laws. The issue presented is whether a person who is expressly defying the law can be entrusted with the duty of upholding the law. The authorities cited in my prior brief are adopted by reference; they explain that an attorney must obey the law in order to be able to practice the law. The wisdom, *vel non*, of the law currently being defied is not properly before this Court.

In another context, a young man who passed a bar exam was denied admission to a state bar because of his personal beliefs, even though he had not then actually violated any law. See http://en.wikipedia.org/wiki/Matthew_F._Hale. He was morally deficient because he violated unwritten codes of behavior and in so doing offended traditional American values. Mr. Garcia's transgression is more profound. He has been and is defying written codes of behavior, which codes represent the formal expression of American values. He is trespassing in this country. Only Federal law determines if someone is authorized to be present in this country. No local ordinance or other fiat can presume to permit an alien to be present in this country. "Sanctuary" cannot be conferred upon someone by lesser state entities, no matter how much certain groups of people may hope or wish otherwise. The state is not free to "...redefin[e] what it means to be an American." That is exclusively a Federal prerogative. AB 1024 does not affect this issue.

Lawyers are not free to participate in civil disobedience. They are not free to chain themselves to building entrances, to impede activities they find to be objectionable, such as military research, abortion or otherwise. They are not free to engage in altercations with the police or vandalize private property, no matter how "good" their ultimate objective may be. They are not free to disregard or defy the law or ask others to disregard or defy the law. We should not precipitate the principle of *defiance in uno, defiance in omnibus*. By way of example, a lawyer may not, in a closing argument, ask a jury to disregard the judge's instructions upon the law or to engage in "jury nullification." We he/she to do so, he/she would probably be held in contempt of court. A lawyer is supposed to uphold both the law and certain elemental principles. See RPCs 3.3, 3.4, 4.1, 4.2, 4.4. Those principles still pertain, even in the modern age of relativism. Lawlessness is not an option. Applicant should not be heard to ask this court to reward or ratify his lawlessness, to any degree. Were it to do so, other forms of lawlessness would later seek

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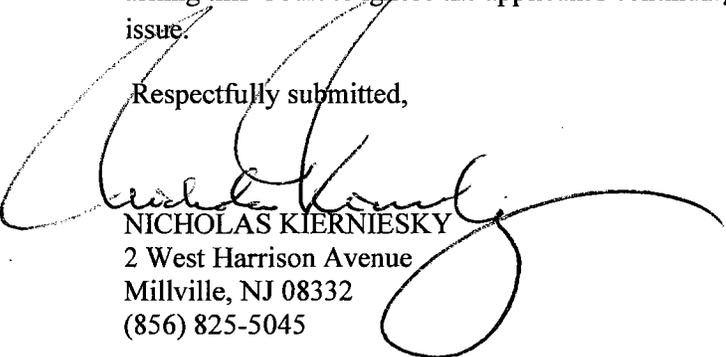
CLERK SUPREME COURT

comparable ratification, if they allegedly occurred for "good" reasons. Will we someday see marijuana dealers, defying Federal law, demand the right to practice law? AB 1024 does not affect this issue.

(Parenthetically, it is not known if Mr. Garcia has registered with Selective Service. See www.sss.gov. If he has not, he should not be heard to ask America to accommodate him in any way. Non-registration should preclude him from deriving any benefits from Federal law or state laws (such as AB 1024) promulgated pursuant to Federal law.)

Applicant's counsel has stated that the applicant is seeking legal status. If the applicant were to attain that status, and to otherwise conform his behavior to the rule of law, then and only then should his application be considered. Prior thereto, he should not be permitted to practice law. The applicant has presented the instant issue, his eligibility to practice law, to this Court. It is submitted that - as a matter of law - his status as a real-time law breaker can and should preclude him from being entrusted with upholding the law. Unlike the case of Stephen Glass (#S196374), whose wayward activities reportedly ended in years past and have not been repeated, the instant case is more egregious, as the applicant is asking this Court to ignore the applicant's continuing defiance of the law. AB 1024 does not affect this issue.

Respectfully submitted,



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