

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 State Bar No. 101336
AMANDA DODDS
4 Senior Legal Analyst
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2141
7 Facsimile: (619) 645-2061
Attorneys for Complainant
8

9 **BEFORE THE**
BOARD OF PHARMACY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:	Case No. 4344
13 MATTHEW DARLING MONROE	A C C U S A T I O N
14 16455 Zarco Luna Pl.	
14 Moreno Valley, CA 92551	
15 Pharmacy Technician Registration	
15 No. TCH 109571	
16	
17 Respondent.	

18
19 Complainant alleges:

20 **PARTIES**

- 21 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
22 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 23 2. On or about April 4, 2011, the Board of Pharmacy issued Pharmacy Technician
24 Registration Number TCH 109571 to Matthew Darling Monroe (Respondent). The Pharmacy
25 Technician Registration was in full force and effect at all times relevant to the charges brought
26 herein and will expire on October 31, 2012, unless renewed.

27 ///
28 ///

1
2
3
4
5
6
7
8
9
10
11

JURISDICTION

12 3. This Accusation is brought before the Board of Pharmacy (Board), Department of
13 Consumer Affairs, under the authority of the following laws. All section references are to the
14 Business and Professions Code (Code) unless otherwise indicated.

15 4. Section 4300, subdivision (a) of the Code states: "Every license issued may be
16 suspended or revoked."

17 5. Section 118, subdivision (b), of the Code provides that the suspension, expiration,
18 surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
19 disciplinary action during the period within which the license may be renewed, restored, reissued
20 or reinstated.

STATUTORY PROVISIONS

21 6. Section 482 of the Code states:

22 Each board under the provisions of this code shall develop criteria to evaluate
23 the rehabilitation of a person when:

24 (a) Considering the denial of a license by the board under Section 480; or

25 (b) Considering suspension or revocation of a license under Section 490.

26 Each board shall take into account all competent evidence of rehabilitation
27 furnished by the applicant or licensee.

28 7. Section 490 of the Code provides, in pertinent part, that a board may suspend or
revoke a license on the ground that the licensee has been convicted of a crime substantially
related to the qualifications, functions, or duties of the business or profession for which the
license was issued.

8. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a
board within the department pursuant to law to deny an application for a license or to
suspend or revoke a license or otherwise take disciplinary action against a person who
holds a license, upon the ground that the applicant or the licensee has been convicted
of a crime substantially related to the qualifications, functions, and duties of the
licensee in question, the record of conviction of the crime shall be conclusive
evidence of the fact that the conviction occurred, but only of that fact, and the board
may inquire into the circumstances surrounding the commission of the crime in order
to fix the degree of discipline or to determine if the conviction is substantially related
to the qualifications, functions, and duties of the licensee in question.

1 As used in this section, "license" includes "certificate," "permit," "authority,"
2 and "registration."

3 9. Section 4301 of the Code states:

4 The board shall take action against any holder of a license who is guilty of
5 unprofessional conduct or whose license has been procured by fraud or
6 misrepresentation or issued by mistake. Unprofessional conduct shall include, but is
7 not limited to, any of the following:

8

9 (f) The commission of any act involving moral turpitude, dishonesty, fraud,
10 deceit, or corruption, whether the act is committed in the course of relations as a
11 licensee or otherwise, and whether the act is a felony or misdemeanor or not.

12

13 (l) The conviction of a crime substantially related to the qualifications,
14 functions, and duties of a licensee under this chapter. The record of conviction of a
15 violation of Chapter 13 (commencing with Section 801) of Title 21 of the United
16 States Code regulating controlled substances or of a violation of the statutes of this
17 state regulating controlled substances or dangerous drugs shall be conclusive
18 evidence of unprofessional conduct. In all other cases, the record of conviction shall
19 be conclusive evidence only of the fact that the conviction occurred. The board may
20 inquire into the circumstances surrounding the commission of the crime, in order to
21 fix the degree of discipline or, in the case of a conviction not involving controlled
22 substances or dangerous drugs, to determine if the conviction is of an offense
23 substantially related to the qualifications, functions, and duties of a licensee under this
24 chapter. A plea or verdict of guilty or a conviction following a plea of nolo
25 contendere is deemed to be a conviction within the meaning of this provision. The
26 board may take action when the time for appeal has elapsed, or the judgment of
27 conviction has been affirmed on appeal or when an order granting probation is made
28 suspending the imposition of sentence, irrespective of a subsequent order under
Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of
guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
dismissing the accusation, information, or indictment.

. . . .

REGULATORY PROVISIONS

10. California Code of Regulations, title 16, section 1769, states:

. . . .

(b) When considering the suspension or revocation of a facility or a personal
license on the ground that the licensee or the registrant has been convicted of a crime,
the board, in evaluating the rehabilitation of such person and his present eligibility for
a license will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- (2) Total criminal record.
- (3) The time that has elapsed since commission of the act(s) or offense(s).
- (4) Whether the licensee has complied with all terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.
- (5) Evidence, if any, of rehabilitation submitted by the licensee.

11. California Code of Regulations, title 16, section 1770, states:

For the purpose of denial, suspension, or revocation of a personal or facility license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered substantially related to the qualifications, functions or duties of a licensee or registrant if to a substantial degree it evidences present or potential unfitness of a licensee or registrant to perform the functions authorized by his license or registration in a manner consistent with the public health, safety, or welfare.

COSTS

12. Section 125.3 of the Code states, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(January 25, 2012 Criminal Conviction for Robbery on October 31, 2011)

13. Respondent has subjected his registration to discipline under sections 490 and 4301, subdivision (l) of the Code in that he was convicted of a crime that is substantially related to the qualifications, duties, and functions of a pharmacy technician. The circumstances are as follows:

a. On or about January 25, 2012, in a criminal proceeding entitled *People of the State of California v. Matthew Darling Monroe*, in Riverside County Superior Court, case number RIF1105582, Respondent was convicted on his plea of guilty to violating Penal Code section 211, robbery, a felony. The court found the conviction qualified as a strike offense.

b. As a result of the conviction, on or about January 25, 2012, the court sentenced Respondent to serve 240 days in the custody of the Riverside County Sheriff, with credit for 20 days, and ordered him to pay \$1,782.10 in fees and fines. Respondent was further ordered to pay victim restitution, submit to a Fourth Amendment waiver, provide a DNA sample, participate and

1 complete any counseling or rehabilitation/treatment program deemed appropriate by probation
2 officer, and seek and maintain gainful employment or attend a full-time school or vocational
3 program. Respondent was prohibited from contact with his victim, associating with any unrelated
4 person on probation or parole, leaving the State of California without written permission of the
5 probation department, and from owning or possessing any firearm, deadly weapon, ammunition
6 or weapon related paraphernalia.

7 c. The facts that led to the conviction are that on or about the morning of October
8 31, 2011, the Riverside Police Department responded to a report of a strong arm robbery outside
9 of a Bank of America. The victim, a 44-year-old female, told officers that she had just cashed a
10 check for \$540 at the Bank of America and placed the money in her purse. The officer observed
11 that the victim had fresh scratches on her face and she was bleeding and trembling. The victim
12 stated she exited the bank with her purse on her right shoulder and walked to her vehicle. As she
13 was attempting to open the driver's door, Respondent came up from behind and grabbed the
14 victim's purse. A struggle ensued; the victim fell to the ground, but continued to hold onto her
15 purse. Several witnesses told police officers that they heard the victim scream. As the victim lay
16 on the ground, Respondent repeatedly punched the victim until he was able to pull the purse away
17 from her. Several people chased Respondent as he ran away with the victim's purse, including an
18 off-duty Riverside County Sheriff's Deputy. Respondent was apprehended several blocks away.
19 The victim's purse, cash, and personal identification were recovered. A witness positively
20 identified Respondent as the person who committed the robbery. During questioning,
21 Respondent told the officers that rent was due and that he did not have any money or a job. When
22 he saw the victim leaving the bank, he took the opportunity to steal her purse.

SECOND CAUSE FOR DISCIPLINE

(Commission of an Act Involving Moral Turpitude or Corruption)

23
24
25 14. Respondent has subjected his registration to discipline under section 4301,
26 subdivision (f) of the Code in that he committed an act of moral turpitude and corruption when he
27 robbed a female victim, using force, fear, and violence, as described in paragraph 13, above.

28 ///

1 **DISCIPLINARY CONSIDERATIONS**

2 15. To determine the degree of discipline, if any, to be imposed on Respondent, pursuant
3 to California Code of Regulations, title 16, section 1769, Complainant alleges:

4 a. On or about May 18, 2006, in a prior criminal proceeding entitled *The State of*
5 *Texas vs. Matthew D. Monroe*, in Dallas County Criminal Court No. 5, case number MB0527314,
6 the court found Respondent guilty of committing the offense of criminal trespassing on May 10,
7 2005.

8 b. On or about September 12, 2005, in a prior criminal proceeding entitled *The*
9 *State of Texas vs. Matthew D. Monroe*, in Dallas County Criminal Court No. 5, case number
10 MB0528641, Respondent was charged with the offense of possessing marijuana on August 21,
11 2005. On or about May 18, 2006, the court convicted Respondent of a reduced charge of
12 disorderly conduct.

13 **PRAYER**

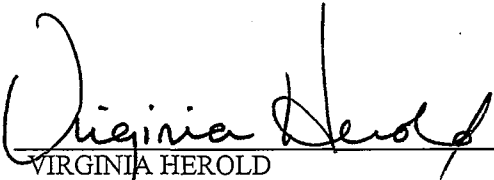
14 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
15 and that following the hearing, the Board of Pharmacy issue a decision:

16 1. Revoking or suspending Pharmacy Technician Registration Number TCH 109571,
17 issued to Matthew Darling Monroe;

18 2. Ordering Matthew Darling Monroe to pay the Board of Pharmacy the reasonable
19 costs of the investigation and enforcement of this case, pursuant to Business and Professions
20 Code section 125.3;

21 3. Taking such other and further action as deemed necessary and proper.

22
23
24 DATED: 7/19/12


25 VIRGINIA HEROLD
26 Executive Officer
27 Board of Pharmacy
28 Department of Consumer Affairs
State of California
Complainant

SD2012703681