

IN THE SUPREME COURT OF PENNSYLVANIA

In the Matter of : No. 1077 Disciplinary Docket No. 3
: :
CHARLES P. MIRARCHI, III : No. 10 DB 2006
: :
: Attorney Registration No. 27600
: :
PETITION FOR REINSTATEMENT : (Philadelphia)


ORDER

PER CURIAM:

AND NOW, this 24th day of October, 2013, upon consideration of the Report and Recommendations of the Disciplinary Board dated August 15, 2013, the Petition for Reinstatement is granted.

Pursuant to Rule 218(f), Pa.R.D.E., petitioner is directed to pay the expenses incurred by the Board in the investigation and processing of the Petition for Reinstatement.

A True Copy Patricia Nicola
As Of 10/24/2013

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

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REPORT AND RECOMMENDATIONS OF
THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

TO THE HONORABLE CHIEF JUSTICE AND JUSTICES
OF THE SUPREME COURT OF PENNSYLVANIA:

Pursuant to Rule 218(c)(5) of the Pennsylvania Rules of Disciplinary Enforcement, The Disciplinary Board of the Supreme Court of Pennsylvania submits its findings and recommendations to your Honorable Court with respect to the above captioned Petition for Reinstatement.

I. HISTORY OF PROCEEDINGS

By Order dated September 7, 2007, The Supreme Court suspended Charles P. Mirarchi, III, for a period of five years, retroactive to February 23, 2006. Mr. Mirarchi applied for reinstatement by Petition dated April 24, 2012. Office of Disciplinary Counsel filed a Response on September 13, 2012.

A reinstatement hearing was held on December 4, 2012, before a District I Hearing Committee comprised of Chair Andrew J. Trevelise, Esquire, and Members Tamara Lee Wible, Esquire and Tammi Markowitz, Esquire. Respondent was represented by Samuel C. Stretton, Esquire. Petitioner presented the testimony of numerous witnesses and testified on his own behalf.

Following the submission of a brief by Petitioner, the Hearing Committee filed a Report on March 13, 2013 and recommended that the Petition for Reinstatement be granted.

No Briefs on Exception were filed by the parties.

This matter was adjudicated by the Disciplinary Board at the meeting on May 23, 2013.

II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner is Charles P. Mirarchi, III. He was born in 1950 and was admitted to practice law in Pennsylvania in 1978. His current attorney registration address is 3232 Chaucer Street, Philadelphia PA 19145. Petitioner is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court.

2. Petitioner practiced law as a sole practitioner until the time of his suspension in 2007. He also served as a Deputy Commissioner for Elections in Philadelphia County for thirty years, having retired from that position on or about November 1, 2011. (N.T. 126, 127)

3. Petitioner was suspended from the practice of law by Order of the Supreme Court dated September 7, 2007, retroactive to February 23, 2006.

4. Petitioner's suspension was based on his criminal conviction for one count of mail fraud. From July 23, 2002 to September 17, 2002, Petitioner conspired with others to effectuate a scheme wherein parking tickets owed were reduced or eliminated. Petitioner did not initiate the scheme, but he did receive economic benefit. Petitioner also signed hundreds of false entry of appearance slips over a period of one and a half years wherein he certified that he was authorized to represent the ticket holders at a hearing before a hearing examiner, when Petitioner knew that the individuals never authorized the representation. Petitioner received no economic benefit from the false entry of appearance slips.

5. Petitioner suffers from a gambling addiction. (N.T. 133, 134)

6. Petitioner first sought treatment for the addiction in 1984 at the behest of his wife. At that time, he went to Philadelphia Psychiatric Center (presently Belmont Behavioral Center) and remained there as an in-patient from December 4, 1984 until January 3, 1985. He then went to Gamblers Anonymous for many years thereafter. (N.T. 132-134)

7. Petitioner remained gambling free for fifteen years beginning in 1984, but relapsed in 2000 when he started investing in the stock market and stopped attending Gamblers Anonymous meetings. (N.T. 137, 140-142)

8. Petitioner continued gambling until February 13, 2003, when he was arrested in connection with the parking ticket scheme.

9. After his arrest, Petitioner began rehabilitation for his gambling addiction. He resumed attending Gamblers Anonymous meetings and treated with a psychiatrist, Dr. Richard Limoges. Additionally, he began attending meetings of Lawyers

Concerned for Lawyers (LCL), an organization for lawyers who deal with addiction and related issues. (N.T. 149-151)

10. Although Petitioner has not engaged in gambling activities since his arrest on February 13, 2003, he uses the date of November 22, 2003 as the last date of his gambling because it is the date that lottery tickets which he had purchased prior to his arrest expired. (N.T. 144-145)

11. Petitioner understands that rehabilitation from his gambling addiction is a lifelong process. He intends to continue with Gamblers Anonymous meetings for the rest of his life. (N.T. 164-165)

12. Following his suspension, Petitioner returned to college at LaSalle University in Philadelphia where he received his Master's Degree in Clinical Counseling and Psychology. His focus was addiction and professional counseling. Petitioner graduated with a 3.9 grade point average. He received an award at graduation as the outstanding student in the program and was inducted into LaSalle's Honor Society. (N.T. 154).

13. While attending LaSalle University, Petitioner served as an intern at Belmont and then at Genesis Counseling in New Jersey. (N.T. 153, 154)

14. In 2008, Petitioner became a nationally certified gambling counselor. He was hired as the part-time Director of the Gambling Addiction Program at Genesis in New Jersey. (N.T. 155-158)

15. In addition to the Master's Degree, Petitioner is also a nationally certified counselor for the BACC, which is the highest level one can obtain with the National Counsel on Compulsive Gambling. Petitioner is one of the first individuals to have this certification in Pennsylvania. (N.T. 158-159)

16. Petitioner started a branch meeting of Gamblers Anonymous in southern New Jersey. (N.T. 159)

17. Petitioner is an active participant in Lawyers Concerned for Lawyers, and was instrumental in broadening the scope of LCL to reach lawyers and judges suffering from gambling addictions. (N.T. 137-138)

18. Petitioner is currently working in the private practice of counseling with an office at Two Penn Center in Philadelphia and an office in South Philadelphia. (N.T. 160) He is a certified provider for the Pennsylvania Department of Health. (N.T. 161)

19. Petitioner has not engaged in the practice of law during the period of his suspension.

20. Petitioner has worked for Dean Weitzman, Esquire as a paralegal since 2006. Petitioner and his employer filed the necessary paperwork with the Disciplinary Board. (N.T. 169)

21. Petitioner has fulfilled his Continuing Legal Education credits required for reinstatement and has taken extra courses. (N.T. 168-170)

22. Petitioner regularly reads the Pennsylvania Advance Sheets and has written articles, including an article for the Pennsylvania Lawyers Magazine about the issue of addiction. (N.T. 170; Exhibit P-4)

23. Petitioner is remorseful for his misconduct and since his arrest, he has used his experiences to help others who have faced similar problems. (N.T. 174-176)

24. If reinstated, Petitioner plans to practice criminal law in a part-time capacity while continuing his private practice of counseling.

25. Petitioner presented credible and impressive witnesses in support of his Petition for Reinstatement, including: (1) Kenneth Hagreen, Esquire, Executive Director

for Lawyers Concerned for Lawyers; (2) Kevin Gregan, Vice-President of the Behavior Health Centers with Genesis Counseling in New Jersey; (3) James Pappas, Executive Director of the Council on Compulsive Gambling; (4) Jennifer Levitt, addictions counselor and classmate of Petitioner at LaSalle University; and (5) Dean Weitzman, Esquire. These witnesses credibly testified that Petitioner has an excellent reputation in the community, is committed and dedicated to remaining gambling free, and has worked hard to help others overcome addiction issues.

26. Petitioner presented the overwhelmingly convincing and credible testimony of his wife of forty years, Adelaide Mirarchi. She described in great detail Petitioner's journey through recovery and rehabilitation. She explained the very positive changes she has observed in her husband during his rehabilitation. In particular, Mrs. Mirarchi described Petitioner's greater commitment to family and his enhanced sense of selflessness and empathy toward others. (N.T. 109-111)

27. Petitioner did not present any evidence at the hearing and does not oppose Petitioner's request for reinstatement.

III. CONCLUSIONS OF LAW

1. Petitioner has met his burden of proving by clear and convincing evidence that he has the moral qualifications, competency and learning in the law required for admission to practice law and that his resumption of the practice of law will be neither detrimental to the integrity and standing of the bar or the administration of justice nor subversive of the public interest. Pa.R.D.E. 218(c)(3)

IV. DISCUSSION

Petitioner seeks reinstatement to the bar following a five year suspension. Rule 218(c)(3) requires that a suspended attorney demonstrate by clear and convincing evidence that he has the moral qualifications, competency and learning in the law required for admission to practice law and that the petitioner's resumption of the practice of law will be neither detrimental to the integrity and standing of the bar or the administration of justice nor subversive of the public interest.

A reinstatement proceeding is an inquiry into a lawyer's present professional and moral fitness to resume the practice of law. The object of concern is not solely the transgressions which gave rise to the lawyer's suspension, but rather the nature and extent of the rehabilitative efforts made since the time the sanction was imposed and the degree of success achieved in the rehabilitative process. Philadelphia Newspapers, Inc. v. Disciplinary Board of the Supreme Court, 363 A.2d 779 (Pa. 1976).

The record supports the conclusion that Petitioner has demonstrated by clear and convincing evidence that he is morally qualified to practice law. Since his arrest in 2003, Petitioner has taken full responsibility for his gambling addiction and the events that lead to his arrest. Petitioner attended Gamblers Anonymous meetings, Lawyers Concerned for Lawyers, and treated with a psychiatrist in his efforts to address his addiction. He understands that rehabilitation for gambling is a lifelong process and he intends to continue with Gamblers Anonymous for the rest of his life. Petitioner not only has worked on his own rehabilitation, but has helped other individuals with addiction issues. The record demonstrates that Petitioner has achieved extraordinary success in rehabilitating himself.

Petitioner expressed sincere remorse. He presented an impressive array of witnesses who credibly testified about his fine moral character, his reputation for honesty and his service to the community. These witnesses, particularly Petitioner's wife, attested to a very positive personal transformation on Petitioner's part. Petitioner's conduct and activities since 2003 demonstrate selflessness and dedication to helping others face and deal with their gambling addictions.

Petitioner has demonstrated with clear and convincing evidence that he is competent and learned in the law. During the years of his suspension, Petitioner kept himself knowledgeable and current about developments in the law. In addition to working as a paralegal for Attorney Dean Weitzman, Petitioner regularly attended Continuing Legal Education courses, earning in excess of the number of credits required. Petitioner regularly reads the advance sheets and has written articles.

Also noteworthy is Petitioner's new career as an addictions counselor. During his suspension, he attended LaSalle University and earned a Master's Degree in Clinical Counseling and Psychology. He maintains a private counseling practice in Philadelphia. This new career path has enabled Petitioner to continue his work with addicts.

Petitioner has demonstrated that his resumption of the practice of law within this Commonwealth will neither be detrimental to the integrity and standing of the bar or the administration of justice nor subversive of the public interest. To the contrary, Petitioner's reinstatement will be beneficial to the public. If reinstated, he plans to engage in a part-time practice of criminal law. Certainly his experiences will likely render him a more empathetic criminal defense lawyer.

The record supports the conclusion that Petitioner is fit to practice law. We recommend that the Petition for Reinstatement be granted.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that Petitioner, Charles P. Mirarchi, III, be reinstated to the practice of law.

The Board further recommends that, pursuant to Rule 218(f), Pa.R.D.E., Petitioner be directed to pay the necessary expenses incurred in the investigation and processing of the Petition for Reinstatement.

Respectfully submitted,

THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

By: 

Patricia M. Hastie, Board Member

Date: August 15, 2013