

IN THE SUPREME COURT OF PENNSYLVANIA

In the Matter of : No. 1137 Disciplinary Docket No. 3
: :
JOHN A. HAVEY : No. 42 DB 2006
: :
PETITION FOR REINSTATEMENT : Attorney Registration No. 10008
: :
: (Beaver County)

AMENDED ORDER

PER CURIAM:

AND NOW, this 28th day of September, 2010, upon consideration of the Report and Recommendations of the Disciplinary Board dated August 6, 2010, 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 September 28, 2010

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

On October 22, 2009, John A. Havey filed a Petition for Reinstatement to the bar of the Supreme Court of Pennsylvania. By Order of the Court dated May 19, 2008, Mr. Havey was suspended for a period of three years, retroactive to July 14, 2006. Office of Disciplinary Counsel filed a Response to Petition on December 21, 2009.

A reinstatement hearing was held on February 23, 2010 before a District IV Hearing Committee comprised of Chair Paul J. Walsh, III, Esquire, and Members Albert A. Torrence, Esquire, and Mark R. Alberts, Esquire. Petitioner appeared pro se. He testified on his own behalf and presented the testimony of seven witnesses and a letter of reference. Additional evidence of 12 other witnesses was stipulated. The Petition for Reinstatement and Questionnaire with attached exhibits were submitted. Exhibits indicating current compliance with required filing and payment obligations concerning income taxes were presented. Additional Continuing Legal Education credits information was submitted.

The Hearing Committee filed a Report on May 13, 2010 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 July 17, 2010.

II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner is John A. Havey. He was born in 1946 and was admitted to the practice of law in Pennsylvania in 1972. His current address is 2310 Virginia Avenue, Aliquippa PA 15001. He is subject to the jurisdiction of the Disciplinary Board of the Supreme Court.

2. On May 19, 2008, Petitioner was suspended from the practice of law for a period of three years, retroactive to July 14, 2006.

3. The suspension was the result of Petitioner's criminal conviction for tax evasion for the tax years 1993, 1994, and 1995 involving tax returns filed on April 11, 1997.

4. On February 3, 2006, Petitioner was sentenced to 21 months imprisonment, to be followed by supervised release of three years. He began serving his prison sentence on September 25, 2007 and was released on February 3, 2009. Petitioner's time was served without incident. He entered a halfway house and was later placed on supervised release. Petitioner remains on supervised release until 2012, or until such time as he is released by the Court.

5. Petitioner has arranged for installment payments to the IRS and is current with tax filing and payments.

6. Petitioner has not engaged in the practice of law since his suspension was imposed. During his time at the halfway house, he was employed at Alam's Hardware in Aliquippa helping with office work and computers.

7. During his suspension, Petitioner performed research for two attorneys, Michelle Portnoff, Esquire, and John F. Salopek, Esquire. This employment was for a limited amount of time and all rules were complied with as to notifying the Disciplinary Board.

8. Petitioner fulfilled his Continuing Legal Education requirements necessary for reinstatement. The courses he took were representative of the areas of the law he intends to practice upon reinstatement.

9. In addition to the CLE credits, Petitioner reviewed several legal periodicals and newspapers to keep apprised of the current state of the law.

10. If reinstated, Petitioner intends to practice law in Aliquippa with an emphasis on education law.

11. Petitioner presented seven witnesses. Their collective testimony was credible, unrefuted and persuasive that Petitioner's reinstatement to the bar would not be detrimental to the integrity and standing of the bar or the administration of justice. Additional evidence of 12 other witnesses who would have testified in a similar manner was stipulated.

12. Alfred F. Steff, Jr., is a lawyer and has practiced law in Beaver County since 1966. He testified credibly that Petitioner has a reputation in the community as an excellent lawyer who made a serious mistake and has paid for it.

13. Petitioner presented a letter from Charles F. Bowers, Jr., Esquire, who supports Petitioner's reinstatement and indicates he would be an asset to the bar and the community in Beaver County.

14. Petitioner testified on his own behalf.

15. Prior to his criminal conviction, Petitioner was a respected lawyer in his community since 1972. He was the Solicitor of the Aliquippa School District and for the

Municipal Water Authority of Aliquippa, as well as a private practitioner. He was at the forefront of municipal finance and became a certified Redbook Bond Counselor.

16. Petitioner, along with his wife, was very involved in community activities and charitable events, particularly for the local library, student athletes, and community fireworks.

17. Petitioner displayed genuine remorse. He acknowledged and apologized for his conduct that led to his conviction for tax evasion, emphasizing the embarrassment and difficulty he caused his family, friends, and clients. Petitioner made no excuses for his actions.

18. Office of Disciplinary Counsel does not oppose reinstatement.

III. CONCLUSIONS OF LAW

1. Petitioner has demonstrated by clear and convincing evidence that he possesses the moral qualifications, competency and learning in the law for reinstatement to the practice of law in the Commonwealth of Pennsylvania. Pa.R.D.E. 218(c)(3).

2. Petitioner has demonstrated by clear and convincing evidence that his resumption of the practice of law within the Commonwealth 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 is a suspended attorney who seeks readmission to the practice of law in Pennsylvania. In support of his reinstatement he has filed a Reinstatement Questionnaire. He has testified at a hearing and has provided the testimony of seven witnesses and a letter of reference.

Petitioner was suspended for a period of three years by Order of the Supreme Court dated May 19, 2008, retroactive to July 14, 2006. Pursuant to Rule 218(a)(1), Pa.R.D.E., an attorney who is suspended for a period exceeding one year may not resume the practice of law until reinstated by the Supreme Court. In order for Petitioner to gain reinstatement, he has the burden of proving by clear and convincing evidence that he possesses the moral qualifications, competency and learning in the law required for admission to practice law in this Commonwealth. In addition, Petitioner has the burden of demonstrating that his resumption of the practice of law will not be detrimental to the integrity and standing of the bar or administration of justice nor be subversive of the public interest. Rule 218(c)(3), Pa.R.D.E.

A reinstatement proceeding is a searching inquiry into a lawyer's current 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 the lawyer has made since the time the sanction was imposed, and the degree of success achieved in the rehabilitative process. Philadelphia News, Inc. v. Disciplinary Board of the Supreme Court, 363 A.2d 779 (Pa. 1976).

Petitioner's suspension was the result of his criminal conviction for income tax evasion for the tax years 1993, 1994 and 1995. Petitioner paid a heavy price for his transgressions in that he served 21 months in prison, as well as time in a half way house and on supervised release. He remains on supervised release until 2012. Prior to his conviction, Petitioner was a respected member of his community, both in his legal capacity and personal capacity. Subsequent to his conviction, Petitioner lost his law license and his law practice and has instead worked at a hardware store and performed legal research for other licensed attorneys.

During his time of suspension, Petitioner has not engaged in the practice of law. He made arrangements for installment payments to the IRS and is current with tax filing and payments. Petitioner has taken relevant CLE courses with the desire to return to the practice of law with a new sense of commitment to the profession.

The credible testimony of seven witnesses is persuasive as to the fact that Petitioner's reinstatement would be an asset to the community. Petitioner's reputation remains intact as an excellent, hardworking lawyer who made a very big mistake, but who paid the price and deserves the opportunity to practice law again.

Most importantly, Petitioner has demonstrated sincere remorse for his past actions. He showed an understanding of how damaging his conduct was, not only to his family, friends, and colleagues, but to the entire legal profession.

The record supports the conclusion that Petitioner has met the requirements of Rule 218(c)(3) and should be reinstated to the practice of law in Pennsylvania.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that Petitioner, John A. Havey, 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: 
Albert Momjian, Board Member

Date: August 6, 2010