

IN THE SUPREME COURT OF PENNSYLVANIA

In the Matter of : No. 330 Disciplinary Docket No. 3
: :
CHRISTOHER R. McFARLAND : No. 50 DB 1997
: :
: Attorney Registration No. 38794
: :
PETITION FOR REINSTATEMENT : (Lehigh County)

ORDER

PER CURIAM:

AND NOW, this 30th day of May, 2013, upon consideration of the Report and Recommendations of the Disciplinary Board dated March 27, 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 5/30/2013

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

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CHRISTOPHER R. MCFARLAND : :
: Attorney Registration No. 38794
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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

Christopher R. McFarland filed a Petition for Reinstatement on March 9, 2012, seeking reinstatement from his disbarment ordered by the Supreme Court of Pennsylvania on May 21, 1997. Petitioner filed Supplements to the Petition for Reinstatement on March 8, 2012, March 19, 2012, and April 19, 2012. Office of Disciplinary Counsel filed a Response to Petition on May 14, 2012.

A reinstatement hearing was held on July 31, 2012, before a District II Hearing Committee comprised of Chair Nelson J. Sack, Esquire, and Members Francis J.

Catania, Esquire, and John P. McBlain, Esquire. Petitioner was represented by William J. Honig, Esquire. Petitioner presented the testimony of eight witnesses and testified on his own behalf. Exhibits P-1 through P-11 were accepted into evidence. Office of Disciplinary Counsel introduced Exhibits ODC-1 through ODC-3, which were accepted into evidence. Office of Disciplinary Counsel did not present any witness testimony.

Following the submission of a brief by Petitioner, the Hearing Committee filed a Report on November 26, 2012 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 January 23, 2013.

II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner is Christopher R. McFarland. He was born in 1958 and was admitted to the practice of law in the Commonwealth of Pennsylvania in 1983. His current business address is 1248 Hamilton Street, Allentown PA 18102. He is subject to the jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

2. By Order dated May 21, 1997, the Supreme Court of Pennsylvania disbarred Petitioner on consent.

3. Petitioner's disbarment was based upon numerous complaints alleging that Petitioner neglected files and client legal matters for which he had been retained,

failed to maintain communication with clients and abandoned his office and the practice of law.

4. Petitioner's abandonment of his practice caused Office of Disciplinary Counsel to file a Petition for Conservator.

5. Following Petitioner's admission to the bar in 1983, he worked as an associate at several law firms in Bucks County. From 1985 until 1993 he was employed as an associate at Mondschein & Associates in Allentown. Petitioner was terminated from that position due to issues with drugs and alcohol. From 1993 until 1996, Petitioner was a sole practitioner.

6. During the time frame of the misconduct and subsequent thereto Petitioner suffered from a long-term addiction to marijuana, cocaine, and other drugs. His active addiction to marijuana and other drugs worsened over the years, until by 1996, he was abusing these substances on a daily basis and unable to effectively practice law. (N.T. 136-137)

7. Following disbarment, Petitioner moved to Florida in 1997 and for some time exerted better control over his addictive behavior, but was never quite successful in achieving full recovery. (N.T. 143; 175-176)

8. In 2000, Petitioner obtained employment with a financial services company. He remarried and had two children. He described himself during that time period as a "highly functioning addict." (Pet. for Reinstatement)

9. In December 2007, Petitioner was terminated from his employment due to addiction-related issues. His wife took their children and moved back to Allentown, which became a wake-up call for Petitioner. He moved back to Pennsylvania and eventually reconciled with his wife. (N.T. 142-143)

10. Petitioner was committed to changing his life, but was still having periods where he was not sober. (N.T. 143)

11. Petitioner began attending Lawyers Concerned for Lawyers ("LCL") meetings in January 2009. (N.T. 144) He began attending Narcotics Anonymous ("NA") meetings in February 2009.

12. Petitioner has not consumed alcohol since February 2009. His addiction to marijuana was harder to break; he relapsed three times during the period February 2009 until March 2010. (N.T. 143)

13. Since March 25, 2010, Petitioner has been entirely drug and alcohol free. (N.T. 146)

14. Petitioner is an active member of LCL and regularly attends NA meetings, upon average 3-4 meetings per week, in which he frequently relates his story of addiction. (N.T. 147-156; 169)

15. Petitioner has an NA sponsor and NA home group, and he performs NA service work for his home group and for the Lehigh Valley area service structure of NA. This involves providing support for other NA meetings and groups within his geographic region. (N.T. 147-148)

16. With the assistance and support of LCL, Petitioner has founded and chairs a bi-monthly lawyers' recovery support group meeting in Allentown. Petitioner volunteers his time to help other current and former addicts in their recovery program. (N.T. 148-155)

17. Petitioner attends a monthly LCL meeting located at the Caron Foundation in Reading, for the benefit of impaired lawyers who are receiving inpatient treatment at that facility. (N.T. 165)

18. Petitioner attends the annual LCL Volunteer Conference in Harrisburg and serves as a volunteer for LCL. (N.T. 151-155)

19. Petitioner understands that he is and will continue to be an addict and must be proactive in his sobriety. (N.T. 136, 146-157)

20. Petitioner has a strong network of family and friends to whom he can turn for support. (N.T. 55-56; 96-114; 149; 151)

21. Petitioner is in treatment with Dennis Widdersheim, a certified addictions specialist.

22. Mr. Widdersheim credibly testified that Petitioner is committed to his recovery. (N.T. 53) Petitioner's sustained period of recovery is a strong indicator that he will avoid relapses in the future.(N.T. 58-59) In Mr. Widdersheim's opinion, Petitioner's sobriety period of 28 months is a very extended period of time in terms of his addiction, compared to most patients. (N.T. 59) Petitioner's prognosis for the future is good. (N.T. 60)

23. In February 2010, Petitioner obtained employment as a paralegal with the firm of Eidelman & Associates in Allentown. Petitioner's employers are aware of his personal history and drug addiction. (N.T. 29; 41)

24. Petitioner does not engage in the practice of law or hold himself out as a licensed lawyer. He is not treated as an attorney by his employer.

25. Mary Eidelman is a principal with the firm of Eidelman & Associates. She has daily contact with Petitioner in his capacity as a paralegal. (N.T. 28-41)

26. Ms. Eidelman testified credibly that Petitioner has proven to be a trustworthy employee who is an asset to the firm. (N.T. 37)

27. Ms. Eidelman has complete confidence in Petitioner and believes that he is able to handle the stress of a law practice. (N.T. 34-35; 125-16)

28. Ms. Eidelman fully supports Petitioner's reinstatement to the bar, and views his return to practice law as an asset to the legal community. (N.T. 39)

29. Marc Kranson is an attorney in Allentown who has known Petitioner for at least 20 years. Mr. Kranson is aware of Petitioner's misconduct and his addiction to substances. Petitioner worked for Mr. Kranson as a research assistant briefly in 2009. Mr. Kranson supervised Petitioner's work and gave proper notice to the Disciplinary Board. (N.T. 77, 82)

30. Mr. Kranson testified credibly that he believes Petitioner's reinstatement would be a benefit to the bar. (N.T. 77-83)

31. Lee Rothman, Esquire, is a Lehigh County practitioner who has known Petitioner since 1982 or 1983. (N.T. 87-88) He is aware of the addiction problems Petitioner has suffered. Mr. Rothman described Petitioner as an extremely competent practitioner in the area of family law. (N.T. 88) He believes that Petitioner made bad choices as a result of his addiction and has now made adjustments to his life. (N.T. 92) Mr. Rothman testified credibly that Petitioner's reinstatement would be an asset to the bar. (N.T. 92)

32. Edward Eidelman, Esquire, is an attorney in Allentown who has known Petitioner for many years and is aware of his misconduct and addiction problems. (N.T. 116-118). Mr. Eidelman is married to Mary Eidelman, Petitioner's employer, and sees Petitioner on a regular basis. He testified credibly that Petitioner is very open and honest about his situation and is committed to making his sobriety work. (N.T. 123) Mr. Eidelman has no hesitation in supporting Petitioner's reinstatement to the bar. (N.T. 126)

33. Petitioner offered in evidence letters from several additional character and fact witnesses, who were not called to testify, which letters variously attest to Petitioner's commitment to his recovery from addiction; to his reputation within the legal community for honesty and competency; to his fitness to practice law; and, to the benefits to the public interest of Petitioner's reinstatement. (P-7 through P-11)

34. Kimberly McFarland is Petitioner's wife. She testified credibly that while their relationship has been strained in the past, since Petitioner's recovery they have been very close and she has observed that he is a new and better person who is committed to his rehabilitation. (N.T. 130)

35. Petitioner has two young sons, one of whom has special needs and serves as an inspiration to Petitioner as well as a significant reason to maintain his sobriety. (N.T. 34; 128; 157-158)

36. Petitioner testified on his own behalf. He testified truthfully and candidly. He accepts responsibility for his misconduct and is sincerely remorseful. (N.T. 124; 135; 163; 170)

37. Petitioner has reimbursed the Pennsylvania Lawyers Fund for Client Security, with interest, for amounts paid to former clients as a result of his misconduct. (N.T. 159-160)

38. Petitioner has fulfilled his requirements for Continuing Legal Education and has maintained his legal knowledge through his employment as a paralegal, and by reviewing numerous legal periodicals, newsletters and cases. (N.T. 164)

39. If reinstated, Petitioner intends to practice in Allentown. (N.T. 166-168, 182)

40. Office of Disciplinary Counsel does not oppose the Petition for Reinstatement.

III. CONCLUSIONS OF LAW

1. The misconduct for which Petitioner was disbarred is not so egregious as to preclude reinstatement. Office of Disciplinary Counsel v. Keller, 506 A.2d 872 (Pa. 1986)

2. Petitioner has demonstrated by clear and convincing evidence that a sufficient period of time has passed since the misconduct. In re Verlin, 731 A.2d 600 (Pa. 1999)

3. Petitioner has demonstrated by clear and convincing evidence that he possesses the moral qualifications, competency and learning in the law required to practice law in Pennsylvania, and 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 or subversive of the public interest. Pa.R.D.E. 218(c)(3).

IV. DISCUSSION

Petitioner seeks reinstatement to the bar of the Supreme Court of Pennsylvania following his disbarment on consent by Order of the Supreme Court dated May 21, 1997. Petitioner was disbarred as a result of misconduct involving the failure to represent clients through the complete abandonment of his practice and the retention of

fees paid to him but not earned. The underlying and substantive cause of Petitioner's conduct was addiction to and abuse of alcohol and drugs.

Petitioner's request for readmission is initially governed by the standard set forth by the Supreme Court of Pennsylvania in Office of Disciplinary Counsel v. Keller, 506 A.2d 872 (Pa. 1986). The Keller standard is the premise that when reinstatement is sought by a disbarred attorney, the threshold question must be whether the magnitude of the breach of trust would permit resumption of practice without a detrimental effect upon the integrity and standing of the bar or the administration of justice nor be subversive of the public interest. This inquiry recognizes that some forms of misconduct are so egregious that they will bar the attorney from successfully gaining reinstatement.

The case law supports the conclusion that Petitioner's misconduct is not so egregious as to preclude his reinstatement. In re Greenberg, 749 A.2d 434 (Pa. 2000) (misappropriation of \$2 million and commission of perjury in bankruptcy proceeding not so egregious as to preclude reinstatement); In re Perrone, 777 A.2d 413 (Pa. 2001) (disbarred attorney's misconduct in filing false and misleading fee petitions to obtain payment for legal services was not so deplorable as to preclude reinstatement); In re Costigan, 664 A.2d 518 (Pa. 1995) (disbarred attorney criminally convicted in connection with his handling of an estate where he concealed assets from the rightful heir was not barred from reinstatement).

A related question in reinstatement from disbarment matters is whether Petitioner has met his burden of proving by clear and convincing evidence that his resumption of the practice of law would not have a detrimental impact on the integrity and standing of the bar, the administration of justice or the public interest. Office of Disciplinary Counsel v. Keller, supra. The Board must consider the quantity of time that has passed

since Petitioner was disbarred and his efforts at a qualitative rehabilitation, in order to determine whether the detrimental impact of the misconduct on the public trust has dissipated. In re Verlin, 731 A.2d 600 (Pa. 1999).

Petitioner was disbarred on consent on May 21, 1997. Petitioner has been removed from the practice of law for approximately 15 years as of the date of the reinstatement hearing. The only firm timetable set by the Supreme Court in reinstatement from disbarment matters is the five year waiting period after disbarment. Pa.R.D.E. 218(b). Whether sufficient time has passed must be determined by the unique circumstances of each case. The record in this matter supports the conclusion that Petitioner has undergone a qualitative period of disbarment.

Petitioner is a recovering addict who has been sober since March 25, 2010. He presented credible and compelling evidence of his recovery through the testimony of his therapist and character witnesses, as well as his own testimony.

Petitioner abandoned the practice of law in 1997 due to his addiction to drugs and alcohol, which rendered him unable to practice law. For a period of about ten years following disbarment, he failed to adequately address these addictions, even as he pursued employment in other non-legal fields. Faced at the end of 2007 with termination of employment due to his continued addiction and the separation from his wife and children, who had moved back to Pennsylvania from Florida, Petitioner resolved to take steps to improve his situation. He relocated back to Pennsylvania and began to make gradual but steady progress in dealing with his addictions. He was able to stabilize his family life as well as his professional life.

The steps Petitioner took began with his involvement in structured recovery groups, including Narcotics Anonymous and Lawyers Concerned for Lawyers. He began

treating with a licensed addictions counselor and continues in that treatment. Although he did suffer setbacks in the period of 2009-2010, those setbacks were directly addressed by Petitioner and were of short duration. Eventually Petitioner achieved total abstinence from drugs and alcohol in March 2010 and has remained abstinent. Petitioner's involvement in recovery groups has grown to the point where he has become a leader among his peers and has been credited with aiding in the recovery of others.

The witness testimony is credible and persuasive as to Petitioner's strong commitment to his recovery. There is a high degree of probability that Petitioner will remain sober. Dennis Widdersheim testified credibly that Petitioner's 28 months of recovery is compelling and serves as a strong indicator that he will not relapse.

Petitioner has returned to legal work in his capacity as a paralegal for Eidelman & Associates in Allentown. Mary Eidelman, Esquire, described Petitioner as a diligent and competent employee who is an asset to her firm, and will be an asset to the bar upon reinstatement. Other witness testimony echoed these sentiments and was strongly supportive of Petitioner's reinstatement.

Petitioner has expressed sincere remorse for his misconduct and recognition of the harm he caused to his clients when he abandoned his law practice. After 15 years away from the legal profession, Petitioner is now able to recognize, in the clear light of his recovery, the duties and responsibilities to which an attorney must adhere.

Petitioner has met his burden by clear and convincing evidence that he is fit to resume the practice of law. For this reason, we recommend that the Petition for Reinstatement be granted.


V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that Petitioner, Christopher R. McFarland, 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: 

David E. Schwager, Board Member

Date: March 27, 2013

Board Members Momjian and Hastie did not participate in the adjudication.