

Supreme Court of Kentucky

2020-SC-000183-KB

KUNGU NJUGUNA

MOVANT

V.

IN SUPREME COURT

KENTUCKY BAR ASSOCIATION

RESPONDENT

OPINION AND ORDER

This matter is before the Court on review of the application of attorney Kungu Njuguna to be reinstated to the practice of law pursuant to Supreme Court Rule (SCR) 3.510(3). The Kentucky Bar Association (KBA) Board of Governors (Board) unanimously recommends approving Njuguna's application. For the following reasons, we agree with the Board and therefore approve Njuguna's application for reinstatement to the practice of law in the Commonwealth of Kentucky.

Njuguna's KBA member number is 89932, and his bar roster address is 17323 Curry Branch Road, Louisville, Kentucky 40245. He was admitted to practice law in the Commonwealth of Kentucky on October 6, 2003.

On March 21, 2013, Njuguna was found guilty on two counts of admitted violations of the Rules of Professional Conduct and suspended from the practice of law for a period of 180 days, with 90 days to be probated for a period of five years under multiple conditions. *Kentucky Bar Ass'n v. Njuguna*,

405 S.W.3d 435 (Ky. 2013), *as modified on denial of reconsideration* (Aug. 29, 2013). Because Njuguna failed to file an affidavit of compliance with the terms of his suspension within 180 days, the provisions of SCR 3.510(3) were invoked, requiring referral to the Character and Fitness Committee for proceedings under SCR 2.300 upon filing of his application for reinstatement.

On March 18, 2018, less than five years from his suspension date, Njuguna moved to be reinstated and the matter was referred to the Character and Fitness Committee. Following a detailed investigation, the Committee determined the root cause of Njuguna's disciplinary issues stemmed from a severe addiction problem which he had successfully addressed after a long and difficult process. Records from the Kentucky Lawyer's Assistance Program (KYLAP) revealed Njuguna had completed a long-term substance abuse treatment program at The Healing Place in Louisville, had not tested positive for drugs or alcohol in over three years, worked hard to maintain his sobriety, fully complied with his KYLAP agreement, and voluntarily entered an additional three-year monitoring agreement. Njuguna has subsequently obtained gainful employment in the legal field as a case manager for a law firm in Louisville which has indicated it plans to hire him as an attorney should he be reinstated to the practice of law.

Njuguna was cooperative in the investigation. He furnished medical and treatment records; disclosed his history of criminal offenses; divulged indebtedness to credit card companies and taxing authorities occasioned by his addiction struggles; provided a list of all civil actions against him, most of

which had been dismissed; and gave proof he had notified his clients of his suspension. Njuguna has had no other disciplinary proceedings instituted against him. The Committee received numerous letters and affidavits supportive of reinstatement from fellow members of the bar and a patient at The Healing Place. Njuguna complied with all CLE requirements, paid all costs of the disciplinary proceedings, and had no pending claims against the Client Security Fund.

On March 2, 2020, the Character and Fitness Committee rendered its Findings of Fact, Conclusions of Law and Recommendation finding Njuguna had complied with all conditions of his 180-day suspension, was worthy of the public trust, possessed sufficient professional capabilities, presently exhibited good moral character, and showed contrition, remorse, and sufficient rehabilitation to return to the practice of law. The Committee unanimously recommended reinstatement with conditions imposed including execution of a Conditional Admission Agreement, pursuant to SCR 2.042, concerning his continued involvement with KYLAP and a fiscal planning and debt repayment program, and monitoring of continued compliance for three years unless a future Committee assessment determined a longer period was warranted.

The Office of Bar Counsel did not object to the recommendation but moved to add additional conditions to those proposed, including providing it with: (1) a copy of the Conditional Admission Agreement within thirty days of its execution; (2) copies of any KYLAP monitoring reports within thirty days of issuance; and (3) quarterly compliance reports with any debt repayment

program required by the Conditional Admission Agreement. Njuguna did not object to the Committee's recommendation or the Office of Bar Counsel's proposed additional restrictions.

After reviewing the entire record, by a vote of 19-0 with two members absent, the Board of Governors concluded Njuguna had fully complied with the administrative steps, met all standards and requirements for reinstatement, and unanimously recommended reinstatement. The Board recommended the following conditions:

- a. his continued involvement with KYLAP;
- b. his compliance with a fiscal planning and debt repayment program which will be prepared by the Committee upon approval of his reinstatement;
- c. monitoring by the Committee of his continued compliance for at least three years, and perhaps longer, based on the Committee's assessment of his progress at that time;
- d. within 30 days of the Execution of this Conditional Admission Agreement Njuguna or his counsel shall forward a copy of the Agreement to the Office of Bar Counsel;
- e. within 30 days of the issuance of any KYLAP monitoring reports required by Njuguna's Conditional Admission, he or his counsel shall furnish the Office of Bar Counsel with copies of those reports; and,
- f. Njuguna or his counsel shall provide the Office of Bar Counsel quarterly reports concerning his compliance with any debt repayment program that is a condition of his Conditional Admission.

We agree with and accordingly accept the Board's recommendation that Kungu Njuguna's Application for Reinstatement to the practice of law be approved with conditions.

It is therefore ORDERED:


1. Kungu Njuguna's Application for Reinstatement to the Kentucky Bar Association is approved pursuant to SCR 3.510, subject to paragraphs 2 and 3 below.

2. Njuguna shall comply with the conditions for admission set forth hereinabove as paragraphs a. through f., as recommended by the Board and as amended on request of the Office of Bar Counsel.

3. Pursuant to SCR 3.500(4), Njuguna is directed to pay all costs associated with these disciplinary proceedings, in the amount of \$172.76. If KBA costs exceed the posted bond, Njuguna will pay any additional costs. This order of reinstatement is contingent upon payment of any outstanding bar dues, CLE compliance, and payment of costs in this action.

All sitting. All concur.

ENTERED: May 28, 2020.



CHIEF JUSTICE