

Supreme Court of Kentucky

2021-SC-0331-KB

MYRA DESHAWN CHENAULT

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 Myra Deshawn Chenault to be reinstated to the practice of law pursuant to Supreme Court Rule (SCR) 3.510(3). The Kentucky Bar Association Board of Governors (Board), unanimously recommends approving Chenault's application. For the following reasons, we agree with the Board and therefore approve Chenault's application for reinstatement to the practice of law in the Commonwealth of Kentucky.

Chenault's KBA member number is 88691 and her bar roster address is 209 Kindel Brooke Circle, Mount Sterling, Kentucky 40353. She was admitted to practice law in the Commonwealth of Kentucky on May 1, 2001.

On June 27, 2015, Chenault pled guilty to a single count of violation of public trust stemming from improper payments she made to herself while she was Master Commissioner. As a result of her guilty plea, on June 14, 2018, Chenault was found guilty of violating SCR 3.130(8.4)(b) and 3.130(8.4)(c) and

suspended for a period of four (4) years, retroactive to June 27, 2015 with the final eighteen (18) months probated on the conditions of 1) compliance with the pre-trial diversion provisions; 2) completion of the Office of Bar Counsel Ethics and Professionalism Enhancement Program (EPEP); and 3) payment of all costs. *Kentucky Bar Ass'n v. Chenault*, 600 S.W.3d 247, 251-52 (Ky. 2018).

On March 18, 2019, Chenault moved to be reinstated and the matter was referred to the Character and Fitness Committee (Committee). The Committee contacted three former clients who reported Chenault's work as acceptable. She also supplied the Committee with more than three Kentucky attorneys in good standing with the KBA, who attested to her character and fitness and recommended Chenault's reinstatement to the practice of law.

Furthermore, the Director of CLE certified in February 2019 that Chenault had complied with all requirements for maintaining her continuing education credits through the date of certification. Chenault has no disciplinary matters currently pending against her. Although a Client Security fund claim formerly pending against her has been resolved, the Director stated Chenault was friendly and cooperative during the investigation.

On June 1, 2021, the Committee filed its Report and Recommendation finding Chenault had complied with all conditions of her four-year suspension. Furthermore, the Report found Chenault had successfully completed her Pretrial Diversion, her felony conviction had been expunged in 2019, and her sentence had been served in the form of diversion with full payment of restitution. The Committee unanimously recommended Chenault's

reinstatement to the practice of law and did not believe a hearing to be necessary.

Upon receiving the Committee's recommendation, the Office of Bar Counsel filed an objection to Chenault's reinstatement because no formal hearing was held on the matter. Bar Counsel further objected by arguing the record relied upon by the Committee did not support a finding by clear and convincing evidence that Chenault had met the requirements of SCR 3.330(4) and SCR 2.300(6) & (7). Their brief focused on the issues of Chenault's underlying conduct, contrition, and financial responsibility.

Specifically, the KBA brought up two additional disciplinary charges after her automatic suspension on June 27, 2015. Both complaints, however, were resolved by private admonition as noted by an order of this Court on June 14, 2018. The KBA also raised the issue of Chenault's IRS debt of \$70,000 as well as multiple other debts. None of those debts, though, are the subject of an unsatisfied judgment, nor has Chenault been subject to any proceedings as a result of the debt. She has not been adjudicated bankrupt. Chenault has not been fired or asked to resign from any position. She hasn't been charged with any criminal acts, except for the aforementioned breach of public of trust. Her record of this conviction has been expunged.

The Board allowed the parties to fully brief the issues and heard oral arguments on July 23, 2021. Bar Counsel argued the Board should reject the recommendation of the Committee by finding the record did not support the decision, that Chenault had not met her burden of proof that she has complied

with the conditions of reinstatement, and requested a remand to the Committee for a formal hearing.

On August 16, 2021, the Board issued its Findings of Fact, Conclusions of Law and Recommendation. After reviewing the record, hearing oral arguments, and consideration of the Rules, the Board found Chenault has shown, by clear and convincing evidence, she possesses the requisite character, fitness and moral qualifications for reinstatement in compliance with the rules and requirements of the KBA to practice law in the Commonwealth. By a vote of 20-0, with one member recused, the Board voted to accept the recommendation of the Committee and approve the application of Chenault to practice law in the Commonwealth of Kentucky.

We agree with and accept the Board's recommendation that Myra Deshawn Chenault's Application for Reinstatement to the practice of law be approved.

Bar Counsel has, however, raised a significant issue as to the lack of a formal hearing. SCR 3.505(3) provides "Applicant or Bar Counsel shall have the right to a hearing before the Character and Fitness Committee prior to the issuance of its decision. The hearing shall be held within 60 days from the request." The Board's Findings of Fact included a finding the Committee failed to provide the opportunity for a hearing after conclusion of the investigatory period. Although the Committee should be more careful in future reinstatement proceedings to provide the opportunity for the relevant parties to request a formal hearing, in this case we believe remand would not serve the ends of

justice. The Committee unanimously recommended Chenault be reinstated. The Board unanimously approved the recommendation. Moreover, the substantive issues Bar Counsel raised—as opposed to the strictly procedural argument regarding a hearing—were fully addressed both in writing and oral arguments before the Board and failed to sway a single person. We believe remanding back to the Committee for a formal hearing now would be needlessly repetitious, wasteful of KBA time and resources, and callously increase the costs of reinstatement upon Chenault through no fault of her own.

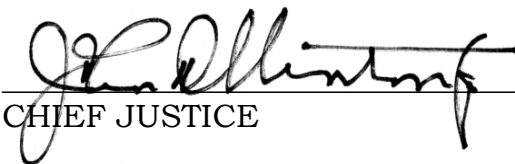
It is therefore ORDERED:

1. Myra Deshawn Chenault’s Application for Reinstatement to the Kentucky Bar Association is approved pursuant to SCR 3.510, subject to paragraph 2 below.

2. Pursuant to SCR 3.510(1), Chenault is directed to pay all costs associated with these disciplinary proceedings, in the amount of \$841.73. If KBA costs exceed the posted bond, Chenault 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: December 16, 2021.


CHIEF JUSTICE