

FOR IMMEDIATE NEWS RELEASE

NEWS RELEASE # 68

FROM: CLERK OF SUPREME COURT OF LOUISIANA

The Opinions handed down on the 29th day of November, 2006, are as follows:

PER CURIAM:

2005-OB-0999

IN RE: JOSEPH AIAVOLASITI KOTT

(Committee on Bar Admissions)

Accordingly, it is ordered that the application for admission be and hereby is denied. Petitioner may not reapply for admission for a period of at least eighteen months from the finality of this judgment.

CALOGERO, C.J., dissents and would admit petitioner conditionally.

KIMBALL, J., dissents and assigns reasons.

KNOLL, J., dissents and would conditionally admit petitioner.

11/29/06

SUPREME COURT OF LOUISIANA

NO. 05-OB-0999

IN RE: JOSEPH AIAVOLASITI KOTT

ON APPLICATION FOR ADMISSION TO THE BAR

PER CURIAM

The Committee on Bar Admissions (“Committee”) opposed the application of petitioner, Joseph A. Kott, to sit for the Louisiana Bar Examination based on character and fitness concerns primarily arising out of his felony conviction for vehicular homicide. We subsequently granted petitioner permission to sit for the bar exam, with the condition that upon his successful completion of the exam, he apply to the court for the appointment of a commissioner to take character and fitness evidence.¹

Petitioner thereafter successfully passed the essay portion of the bar exam, and upon his application, we appointed a commissioner to take evidence and report to this court whether petitioner possesses the appropriate character and fitness to be admitted to the bar and allowed to practice law in the State of Louisiana. We also authorized the Office of Disciplinary Counsel to conduct an investigation into petitioner’s qualifications to be admitted to the bar.

The commissioner conducted a character and fitness hearing in February 2006, pursuant to Supreme Court Rule XVII, § 9(B). The commissioner received documentary evidence and heard testimony given by petitioner and his witnesses. At the conclusion of the hearing, the commissioner filed his report with this court, recommending that petitioner be denied admission to the practice of law in Louisiana

¹ *In re: Kott*, 04-2715 (La. 12/10/04), 888 So. 2d 820.

at this time. Petitioner objected to that recommendation, and oral argument was conducted before this court pursuant to Supreme Court Rule XVII, § 9(B)(3).

After hearing oral argument, reviewing the evidence, and considering the law, we conclude petitioner has failed to meet his burden of proving that he has “good moral character” to be admitted to the Louisiana State Bar Association. See Supreme Court Rule XVII, § 5(E). Accordingly, it is ordered that the application for admission be and hereby is denied. Petitioner may not reapply for admission for a period of at least eighteen months from the finality of this judgment.

11/29/06

SUPREME COURT OF LOUISIANA

NO. 05-OB-0999

IN RE: JOSEPH AIAVOLASITI KOTT

ON APPLICATION FOR ADMISSION TO THE BAR

KIMBALL, J. dissenting.

I respectfully dissent from the majority because I believe petitioner has affirmatively shown that his character has been rehabilitated in the eight years since his felony conviction for vehicular homicide. *See* La. Sup. Ct. Rule XVII, § 5(D). At the character and fitness hearing, petitioner testified that he tried to do positive things after the accident in an effort to redeem himself. He sought counseling and participated in AA, became involved in the youth ministry at St. Peter's Catholic Church in Covington, did volunteer work and other community service, and participated in student government and extracurricular activities at Southeastern. Petitioner has been alcohol- and drug-free since the accident, and is still actively involved with AA and attends meetings each week. Moreover, he has successfully founded two different facilities in Mandeville and Covington for young people who are recovering alcoholics. He has been active in speaking to high school students, fraternity brothers, and GED graduates about the dangers of alcohol and his own life story. He has worked closely with several other individuals who suffer from alcoholism and has led them on the road to rehabilitation, most notably the son of the man petitioner killed in the accident. When asked to explain why he wants to be a lawyer, petitioner expressed a desire to redeem himself:

Your Honor, I am well aware of the graveness of my actions as a teenager. And they are inexcusable. And I suffer with them every day. And no matter what I note, no matter what any court says, any – I still – they come

with me where ever I go. I have made it my point in life to do what I can to overcome these things and contribute back into society what I have – what I've taken away.

I know that there is more that I can do. And I want to do that. But I know that to make up for the things that I have done, it is – it has to be done in bits. Because I cannot – I cannot in one day repay and undo and balance off what I did as a teenager. And I know that it will take – it will take my entire life to repay that and through – through doing whatever I can do for whomever I can do for.

And I intend to do that. . . . And that's the only way any of this would work. Because I can't take it back. I understand that. I cannot take back the things that I have done wrong, and I cannot take back the accident. But the only thing that I know I can do is to contribute and do what I can.

* * *

And I want – I desire to contribute in the legal profession. . . . I would – I would really love to have the opportunity to give people second chances and fight for their causes. As there have been people who fought for my causes. . . . And I want to be there for someone else who can do that. And I want to be able to do that for them. . . .

Petitioner was consumed by remorse after the fatal accident on December 12, 1998. He accepted full responsibility for his actions and pledged to do everything he could to rehabilitate himself and become a productive member of society. Moreover, petitioner met all of the requirements of his probation. On July 25, 2003, with the support of the State, his probation officer, and the widow and son of the man killed in the accident, the district court granted petitioner's motion for early termination of probation and for expungement of his criminal record, noting the very strong support of petitioner expressed by the victim's family. Petitioner's actions, including his involvement with AA coupled with his efforts to serve the community, demonstrate his rehabilitation and establish his character and fitness to practice law. Therefore, I would conditionally admit petitioner to the practice of law in Louisiana.