

Serial: 94873

IN THE SUPREME COURT OF MISSISSIPPI

No. 89-R-99010-SCT

RE: RULES OF DISCIPLINE FOR THE MISSISSIPPI BAR

ORDER

This matter has come before the Court en banc on the Petition to Amend Rule 12 of the Mississippi Rules of Discipline and brief in support thereof filed by The Mississippi Bar. The Bar's proposal was published in accordance with M.R.A.P. 26(f) and comments and suggestions were invited. Pursuant to such notice numerous comments were received, and oral arguments were held on February 7, 2002. After considering the petition and brief and the comments, suggestions and oral arguments, the Court finds that the petition should be granted to the extent set forth herein and that the amendment of Rule 12 of the Rules of Discipline for the Mississippi Bar will promote the fair and efficient administration of justice in the state.

IT IS THEREFORE ORDERED that the petition of The Mississippi Bar is granted to the extent of the relief granted herein and Rule 12 of the Rules of Discipline for the Mississippi Bar is hereby amended as set forth in Exhibit "A" hereto.

IT IS FURTHER ORDERED that the Clerk of this Court shall spread this order upon the minutes of the Court and shall forward a true certified copy hereof to West Publishing Company for publication in the next edition of the *Mississippi Rules of Court* and in the *Southern Reporter, Second Series, (Mississippi Edition)*.

SO ORDERED, this the 4th day of April, 2002.

/s/ Edwin Lloyd Pittman

EDWIN LLOYD PITTMAN, CHIEF

JUSTICE, FOR THE COURT

McRae, P.J. and Diaz, Easley and Graves, JJ. would deny the petition.

EXHIBIT "A" TO ORDER

RULES OF DISCIPLINE FOR THE MISSISSIPPI BAR

RULE 12. REINSTATEMENT

(a) No person disbarred or suspended for a period of six months or longer shall be reinstated to the privilege of practicing law except upon petition to the Court.

(b) Reinstatement to the practice of law following any other discipline shall be only upon proof of compliance with any such sanctions.

(c) An attorney who has been disbarred for conviction of a felony criminal offense which occurred after April 4, 2002, in a court of this state or any other state, or a court of the United States for any felony crime a necessary element of which, as determined by the statutory or common law definition of the crime, involves interference with the administration of justice, false swearing, misrepresentation, fraud, deceit, bribery, extortion, misappropriation, theft, the sale or distribution of a controlled substance, or an attempt, conspiracy or solicitation of another to commit such a crime, shall be ineligible for reinstatement to the practice of law.

[Amended effective August 12, 1992; amended April 4, 2002.]

Procedure

(12.1) Disbarments. The petition for reinstatement shall not be filed until three (3) years after the date the order of disbarment became final.

(12.2) Suspensions. A petition for reinstatement shall be required in all cases of suspension for a period of six months or more. In cases of suspension pending satisfaction of conditions precedent, reinstatement shall not be permitted except upon proof that the conditions have been met.

(12.3) Suspensions - Revocation of Probation. Probation may be revoked upon clear and convincing proof that the attorney has failed to meet the terms of the probation. It shall be the duty of the Committee on Professional Responsibility to monitor such suspensions with probation, to receive any reports which the attorney may be required to submit, and to take such action as may be appropriate in the circumstances.

(12.4) Suspensions - Time for Filing Petitions for Reinstatement. A suspended attorney shall not file a petition for reinstatement until the expiration of the period of suspension. In cases of suspension of six months or longer pending satisfaction of conditions precedent, the petition for reinstatement may be filed immediately upon the attorney's meeting these conditions.

(12.5) Examination Requirements. Subsequent to the time of eligibility for reinstatement of an attorney suspended for six months or longer, the petitioning attorney shall take the Multi-State Professional Responsibility Exam, as prepared by the National Conference of Bar Examiners, and achieve a scaled score of not less than 80, if the Complaint Tribunal determines, on a case-by-case basis, that good cause exists to require the applicant for reinstatement to take such test. A disbarred attorney, prior to reinstatement, shall be required to take and pass the complete bar examination administered by the Mississippi Board of Bar Admissions and achieve the score then required for admission to the bar of new attorneys as well as passing the Multi-State Professional Responsibility Exam with the score required for admission of new lawyers.

(12.6) Effect - Adverse Determination. If a petition for reinstatement is denied, no other petition shall be filed until one year after the date of the prior adverse decision.

(12.7) Contents of Reinstatement Petitions - Jurisdictional Matters. All reinstatement petitions shall be addressed to the Court, shall state the cause or causes for suspension or disbarment, give the names and current addresses of all persons, parties, firms, or legal entities who suffered pecuniary loss due to the improper conduct, the making of full amends and restitution, the reasons justifying reinstatement, and requisite moral character and legal learning to be reinstated to the privilege of practicing law. Upon filing, the petition shall be served on, and an investigatory fee of \$500.00 shall be paid to the Bar, same to be in addition to any other sum due the Bar, or persons injured by the petitioner's improper conduct. The matters set out in this paragraph shall be jurisdictional.

(12.8) Board of Bar Commissioners. Upon receipt of the reinstatement petition, the Court shall allow the Board of Bar Commissioners thirty (30) days within which to conduct an investigation and fully answer the petition. After filing of pleadings or notice on behalf of the Bar, the proceedings shall continue, if necessary or desirable, as the Court may direct and the Court, in its discretion, may grant or deny the petition as circumstances and justice require.

(12.9) Matter of Public Record. All petitions for reinstatement shall be matters of public record, Rule 15 notwithstanding.

[12.5 added effective April 9, 1987; 12.8 amended March 12, 1990; 12.2, 12.4 and 12.5 amended effective August 12, 1992; 12.3 amended November 16, 1995.]