

IN THE SUPREME COURT OF PENNSYLVANIA

In the Matter of : No. 1259 Disciplinary Docket No. 3
: :
PHILIP G. GENTILE : No. 54 DB 2007
: :
: Attorney Registration No. 57151
: :
: (Northampton County)
PETITION FOR REINSTATEMENT :

ORDER

PER CURIAM

AND NOW, this 16th day of March, 2018, the Petition for Reinstatement is granted. Petitioner is directed to pay the expenses incurred by the Board in the investigation and processing of the Petition for Reinstatement. See Pa.R.D.E. 218(f).

A True Copy Patricia Nicola
As Of 3/16/2018

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

In the Matter of : No. 1259 Disciplinary Docket No. 3
: :
: No. 54 DB 2007
PHILIP G. GENTILE : :
: Attorney Registration No. 57151
: :
PETITION FOR REINSTATEMENT : (Northampton County)

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

By Order dated August 30, 2007, the Supreme Court of Pennsylvania disbarred Petitioner, Philip G. Gentile, as reciprocal discipline to the disbarment by consent by Order of the Supreme Court of New Jersey dated February 26, 2007. Petitioner filed a Petition for Reinstatement on September 22, 2016, and a supplement to

Petition for Reinstatement on October 26, 2016. Office of Disciplinary Counsel filed a response on December 9, 2016.

Following a prehearing conference, a reinstatement hearing was held on May 18, 2017, before a District I Hearing Committee. Petitioner appeared *pro se*. Petitioner presented documentary evidence and the testimony of eight witnesses, and testified on his own behalf.

Following the submission of Petitioner's brief and Office of Disciplinary Counsel's letter in lieu of a brief, the Hearing Committee filed a Report on October 5, 2017, and recommended that the Petition for Reinstatement be granted.

The parties did not take exception to the Hearing Committee's recommendation.

The Disciplinary Board adjudicated this matter at the meeting on January 11, 2018.

II. FINDINGS OF FACT

The Board makes the following findings:

1. Petitioner is Philip G. Gentile, who was born in 1961 and admitted to the practice of law in the Commonwealth in 1989. Petitioner is subject to the jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania. ODC-1.

2. Petitioner was admitted to practice law in the State of New Jersey in 1988 and in the State of New York in 1997, and practiced primarily in those jurisdictions throughout his career. ODC-1.

3. In 2004, Petitioner was experiencing marital problems and significant stress in his law practice. He started using cocaine and became addicted, and remained addicted through completion of a treatment program that commenced in March 2007 and concluded in December 2007. ODC-1; N.T. 15.

4. In 2006, Petitioner entered a plea of guilty to felony charges of cocaine possession and passing bad checks in New Jersey. Petitioner served time in jail pending each charge, for a total of five days in the county jail. Petitioner was sentenced to two years of probation plus costs, fines and restitution. ODC-1.

5. In December 2012, Petitioner satisfied the restitution. P- 4, P- 6.

6. In 2008, Petitioner entered a plea of guilty in New York to charges of grand larceny stemming from his theft of funds from his employee's pension funds, committed in 2005. Petitioner was sentenced to five years of probation plus costs, fines and restitution. ODC-1.

7. In December 2013, Petitioner satisfied the restitution. P-3.

8. As a result of the foregoing criminal matters, on February 26, 2007, Petitioner was disbarred by consent from the practice of law in New Jersey. Petitioner was reciprocally disbarred in Pennsylvania by Order of the Supreme Court of Pennsylvania dated August 30, 2007, and disbarred in New York on October 2, 2007. ODC-1.

9. In March 2007, Petitioner entered an intensive nine-month outpatient treatment program at Revolution Recovery in Bangor, Pennsylvania. Petitioner was

discharged from treatment in December 2007 and has been drug and alcohol free for more than ten years. N.T. 15.

10. While in treatment, Petitioner attended group therapy sessions three nights per week for three hours each night, and individual counseling once per week for one hour, under the primary care of Jeffrey Skelton, a substance abuse counselor. N.T. 12-13, 15.

11. Since his treatment began, Petitioner has regularly attended Narcotics Anonymous ("NA") meetings and has a sponsor to support his recovery efforts. N.T. 142-143.

12. Petitioner serves as a sponsor to other individuals in recovery, chairs local NA meetings, organized an NA meeting group at his church, and volunteers his time with inmates in addiction recovery. N.T. 143.

13. From June 2007 until August 2012, Petitioner worked at Republic Lens Co., a manufacturing facility in Bangor, Pennsylvania. ODC-1; N.T. 159.

14. In August 2012, Petitioner began working at Revolution Recovery as a drug and alcohol counselor. ODC-1. N.T. 159.

15. Currently, Petitioner is employed by the Malvern Institute, an inpatient rehabilitation facility in Catasauqua, Pennsylvania, as a drug and alcohol counselor. ODC-1; N.T. 159.

16. Petitioner is interested in seeking licensure in addiction counseling. ODC-1.

17. Petitioner divorced his first wife, remarried and has two children. N.T. 105.

18. Petitioner is a parishioner at Hopesprings Community of Faith church, and frequently volunteers his time with the church youth group and other church activities. N.T. 72, 84.

19. Petitioner completed the Continuing Legal Education credits required for reinstatement. ODC-1.

20. Since his disbarment, Petitioner has not practiced law and has not held himself out as an attorney licensed to practice in Pennsylvania.

21. If reinstated, Petitioner plans to practice in the fields of social justice and immigration. ODC-1; N.T. 155-156.

22. Petitioner presented the credible testimony of eight witnesses.

23. Jeffrey Skelton has been a substance abuse counselor for seventeen years and has treated hundreds of patients. N.T. 12.

24. Mr. Skelton testified that Petitioner successfully completed his treatment program, strenuously works at recovery and has been sober for ten years. N.T. 13-15, 20.

25. Mr. Skelton testified that Petitioner's ten-year duration of abstinence makes him less likely to relapse than a person in the earlier stages of recovery. N.T. 20-21, 24.

26. Mr. Skelton testified that while there is no guarantee that the stress of life would not cause a relapse, Petitioner has the daily tools that would prevent him from breaking his sobriety in the future. N.T. 21.

27. Mr. Skelton described Petitioner's tools as having a sponsor, going to frequent, near daily NA meetings, and helping others who are addicted to controlled substances. N.T. 22-23.

28. Mr. Skelton has observed Petitioner for the past ten years and has seen personal growth, in that Petitioner now lives a life of recovery and is giving back to the recovery community. N.T. 17.

29. Andrew Bisson is Petitioner's sponsor and has known him for approximately ten years. As a sponsor, Mr. Bisson frequently talks with Petitioner and meets with him in person, and gives Petitioner assignments based on the various steps of the NA recovery program. Mr. Bisson testified that Petitioner has completed eleven of the twelve recovery steps and has "exceeded expectation of a full and lasting recovery." N.T. 28, 30-31, 34, 38.

30. Mr. Bisson further testified that Petitioner is active in administrative efforts of the NA community and serves as an example to others in recovery. N.T. 32-33.

31. Mr. Bisson testified that Petitioner has established a wide-ranging network of people that support him in his endeavors. N.T. 40.

32. Mr. Bisson has no reservations concerning Petitioner's readmission to the practice of law, in part because Petitioner has had ten years of exemplary behavior, has analyzed what he did wrong and has improved his character. N.T. 35, 39-40.

33. Linda Pellegrino, Esquire, is a licensed attorney in New York and New Jersey. She has known Petitioner in a professional capacity since 1986. N.T. 48.

34. Ms. Pellegrino was aware of Petitioner's cocaine addiction, acts of misconduct, and eventual recovery from addiction. She testified that Petitioner was a competent attorney prior to his addiction and she would trust him now as a lawyer if he is reinstated. N.T. 67.

35. Jonathan Almanzar is the pastor of Hopesprings Community of Faith church and has known Petitioner since 2013 in the capacity of a mentor and a friend. In addition, Pastor Almanzar has relied on Petitioner for business advice. N.T. 71-72, 74.

36. Pastor Almanzar is aware of Petitioner's past addiction to cocaine and his rehabilitation progress. He trusts Petitioner as an honest and straightforward individual. N.T. 74, 75-76, 77

37. Pamela Stopfer is the office manager at Hopesprings Community of Faith church and has known Petitioner for approximately eight years. N.T. 82-83.

38. Ms. Stopfer considers Petitioner to be a friend, and they have volunteered together on numerous community projects. N.T. 83.

39. Ms. Stopfer testified that Petitioner is reliable and dependable and committed to helping others. N.T. 84.

40. Ms. Stopfer has no concerns about Petitioner's return to the practice of law. N.T. 86.

41. Brian McCloskey is a business owner who has been friends with Petitioner for approximately eight years. N.T. 92-93, 94.

42. Mr. McCloskey has worked with Petitioner on various music benefits. N.T. 94-95.

43. Mr. McCloskey testified that Petitioner has an impeccable character, and he has an enormous amount of trust in Petitioner. N.T. 95-96.

44. Kenneth DeRoberts owns a consulting firm and has known Petitioner since the late 1980s or early 1990s in professional and personal capacities. N.T. 101-103.

45. Mr. DeRoberts testified that Petitioner's abilities as a lawyer were excellent and he always gave very good advice. N.T. 104.

46. Mr. DeRoberts is aware of Petitioner's addiction problems and testified that Petitioner is a completely different person after rehabilitation. Mr. DeRoberts described Petitioner as a better person and in a better place today. N.T. 109.

47. Mr. DeRoberts testified that approximately 18 months prior to the reinstatement hearing, he and Petitioner started a not-for-profit charity called Soup Kitchen 411, which has grown to be a national directory of hunger relief organizations. N.T. 104-105. Petitioner helps manage information, maintain the database and respond to inquiries. N.Y. 118-119.

48. Mr. DeRoberts testified that Petitioner is a person of the upmost integrity, character and purpose in life. N.T. 105-106, 112.

49. Mr. DeRoberts testified that he has no reservations about Petitioner's character that would cause him to object to Petitioner's reinstatement. N.T. 110.

50. Steven Schwed is a long-term fraud prevention strategy manager for Verizon and has known Petitioner since 1991 in professional and personal capacities. N.T. 121, 122.

51. Mr. Schwed testified that Petitioner is one of the strongest individuals he has known, and of such good character that Mr. Schwed chose Petitioner to be his son's godfather. N.T. 123.

52. Mr. Schwed is aware of Petitioner's addiction problems and testified that Petitioner has been rehabilitated from the behaviors he exhibited while addicted. N.T. 124-125.

53. Mr. Schwed testified that he has no concerns about Petitioner's reinstatement to the practice of law. N.T. 125.

54. Office of Disciplinary Counsel does not oppose 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. John J. Keller*, 506 A.2d 872 (Pa. 1986).

2. Petitioner demonstrated by clear and convincing evidence that a sufficient period of time has passed since the misconduct, during which he engaged in a qualitative period of rehabilitation. *In re Jerome J. Verlin*, 731 A.2d 600 (Pa. 1999).

3. Petitioner demonstrated by clear and convincing evidence that he possesses the moral qualifications, competency and learning in the law required to practice law in the Commonwealth, and his resumption of the practice of law will be neither detrimental to the integrity and standing of the bar or administration of justice, nor subversive of the public interest. Pa.R.D.E. 218(c)(3).

IV. DISCUSSION

Petitioner seeks readmission to the practice of law in Pennsylvania following his disbarment by Order of the Supreme Court of Pennsylvania dated August 30, 2007. The misconduct giving rise to Petitioner's disbarment were his criminal convictions for grand larceny in the State of New York, and cocaine possession and passing bad checks in the State of New Jersey.

Petitioner's burden of proof with respect to his request for reinstatement from disbarment is heavier than the burden of proof following a suspension. As the Supreme Court held in *Keller*, "[i]n the case of disbarment, there is no basis for an expectation by the disbarred attorney of the right to resume practice at some future point in time." *Id* at 875. The threshold issue in a disbarment matter is whether the misconduct that resulted in Petitioner's disbarment was of such magnitude so as to preclude the Board's consideration of his reinstatement. *Id*.

In light of the Supreme Court's previous holdings, we cannot say Petitioner's misconduct was so great that his reinstatement is precluded. There are numerous

examples where the threshold question has been met in cases involving dishonest, criminal conduct. See *In re Lawrence D. Greenberg*, 749 A.2d 434 (Pa. 2000) (misappropriation of two million dollars and commission of perjury in bankruptcy proceeding); *In the Matter of William James Perrone*, 777 A.2d 413 (Pa. 2001) (improperly obtaining public funds allocated for indigent legal representation by filing false fee petitions); *In the Matter of Grahame P. Richards, Jr.*, No. 43 DB 1996 (D. Bd. Rpt. 8/23/2016 (S. Ct. Order 9/21/2016) (misappropriation of more than one million dollars in client funds).

The above-cited cases are examples of serious and deplorable acts by Pennsylvania lawyers, all of whom were able to meet the threshold standard for reinstatement. The Board concludes that Petitioner's acts of misconduct, while extremely serious and a breach of his ethical responsibilities, are not so egregious as to prevent reinstatement.

Following our analysis of the *Keller* threshold, we next consider whether Petitioner has established that he has the moral qualifications, competency and learning in the law required for admission to practice law in Pennsylvania and that his readmission would not have a detrimental impact on the integrity and standing of the bar, the administration of justice or be subversive of the public interest. Pa.R.D.E. 218(c)(3). Upon this record, we conclude that allowing Petitioner to resume the practice of law at this time would not have a detrimental effect upon the integrity and standing of the bar or the administration of justice, nor would it subvert the public interest. In reaching this

conclusion, the Board considered the amount of time that has passed since Petitioner was disbarred and his efforts at qualitative rehabilitation, in order to determine whether the detrimental impact of the misconduct on the public trust had dissipated. *Verlin*, 731 A.2d at 602.

Petitioner has been removed from the practice of law for approximately ten years. The record in this case demonstrates that the lengthy period of disbarment has been qualitative and meaningful to Petitioner's rehabilitation and has dissipated the impact of the original misconduct on the public trust.

Petitioner expressed genuine remorse for his misconduct and fully acknowledged his wrongdoing. Petitioner made full restitution to the victims from whom funds were misappropriated and served the sentences imposed by the states of New York and New Jersey for his crimes. Petitioner's lengthy period of disbarment has afforded him the opportunity to reflect on his egregious acts.

During the time frame of his misconduct, Petitioner was a regular user of cocaine and by his own admission, was addicted. Petitioner presented compelling and credible evidence that he has devoted his disbarment period to the treatment of his addiction and the maintenance of his hard-won sobriety. Petitioner offered extensive evidence that he is no longer addicted to cocaine and that he has maintained continuous, uninterrupted sobriety since completing treatment in December 2007. In his own testimony, Petitioner stated unequivocally, "I don't want to be that person anymore. I haven't for ten years." N.T. 144.

In March 2007, Petitioner entered a nine-month intensive outpatient treatment program at Revolution Recovery, where he attended individual and group therapy sessions each week under the primary care of a substance abuse counselor. Since his treatment began, and continuing to the present, Petitioner has regularly attended NA meetings and has a sponsor to support his recovery efforts. The evidence supports a finding that Petitioner is fully invested in his recovery program and has worked tirelessly to stay committed to his sobriety. Petitioner is very involved in NA, by sponsoring other individuals in recovery, chairing local NA meetings, volunteering with inmates in addiction recovery, and organizing NA meetings at his church. In addition to his service within NA, Petitioner volunteers time in his local community, including his church, and helped start a soup kitchen charity.

While disbarred, Petitioner maintained continuous employment through work at a manufacturing facility, and subsequently as a substance abuse counselor at Revolution Recovery and the Malvern Institute. Petitioner did not engage in the unauthorized practice of law and fulfilled his Continuing Legal Education requirements for reinstatement. If reinstated, Petitioner intends to practice law in the fields of immigration and social justice. As well, Petitioner is contemplating continuing his work in the attorney recovery field.

In support of his reinstatement, Petitioner's character witnesses testified credibly to Petitioner's rehabilitation since his addiction period and disbarment. The compelling testimony of these character witnesses confirms Petitioner's current excellent

reputation and the support he enjoys as he seeks reinstatement. The witnesses extolled Petitioner's dedication to his recovery from addiction and his active participation and high level of commitment in helping other individuals engaged in the process of addiction recovery, as well as his commitment to his community. These witnesses observed that Petitioner has been candid about his misconduct and his addiction and sincere in his efforts to make amends for his previous bad acts.

The testimony of the character witnesses and Petitioner's own statements provide ample evidence that Petitioner possesses the character traits necessary for the resumption of the practice of law and that there will be no detriment to the bar or the public interest if he is reinstated.

The evidence of record demonstrates that Petitioner's ten years of disbarment have been a time of genuine rehabilitation and personal achievement. *See In the Matter of Robert Eric Hall*, 176 DB 2006 (D. Bd. Rpt. 2/19/2015) (S. Ct. Order 3/17/2015); *In the Matter of Robert S. Teti*, 30 DB 1999 (D. Bd. Rpt. 12/13/2012) (S. Ct. Order 2/28/2013). Petitioner has met his reinstatement burden by clear and convincing evidence that he is morally qualified, competent and learned in the law, and of equal importance, that his reinstatement will not be detrimental to the public or to the profession. Petitioner is fit to resume the practice of law. For all of the above reasons, we recommend that the Petition for Reinstatement be granted.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that Petitioner, Philip G. Gentile, 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: _____


Stefanie B. Porges, MD, Member

Date: _____

2.20.18