

IN THE SUPREME COURT OF PENNSYLVANIA

In the Matter of : No. 1024 Disciplinary Docket No. 3
: :
: No. 200 DB 2003
BRENT ERIC PECK : :
: Attorney Registration No. 65218
: :
PETITION FOR REINSTATEMENT : (Fayette County)

ORDER

PER CURIAM:

AND NOW, this 11th day of June, 2009, upon consideration of the Report and Recommendations of the Disciplinary Board dated April 15, 2009, the Petition for Reinstatement is granted.

Pursuant to Rule 218(e), Pa.R.D.E., petitioner is directed to pay the expenses incurred by the Board in the investigation and processing of the Petition for Reinstatement.

A True Copy Patricia Nicola

As of: June 11, 2009

Attest:

Chief Clerk

Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

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: Attorney Registration No. 65218
PETITION FOR REINSTATEMENT :
: (Fayette 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 of December 20, 2006, the Supreme Court of Pennsylvania suspended Brent Eric Peck from practicing law for a period of two years. On October 6, 2008, Mr. Peck filed a Petition for Reinstatement to the bar of the Supreme Court

of Pennsylvania. Office of Disciplinary Counsel filed a Response to Petition for Reinstatement on November 17, 2008 and did not oppose the reinstatement.

A reinstatement hearing was held on January 12, 2009, before a District IV Hearing Committee comprised of Chair T. Warren Jones, Esquire, and Members Thomas S. Talarico, Esquire, and Philip B. Hart, Jr., Esquire. Petitioner was represented by Craig E. Simpson, Esquire. Petitioner presented the testimony of seven witnesses and testified on his own behalf. He presented two character letters.

The Hearing Committee filed a Report on March 13, 2009, and recommended that the Petition for Reinstatement be granted.

No Briefs on Exception were filed by the parties.

This matter was adjudicated by the Disciplinary Board at the meeting on March 31, 2009.

II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner is Brent Eric Peck. He was born in 1966 and was admitted to practice law in Pennsylvania in 1992. His current business address is Fayette County Courthouse, 12 Court Street, Uniontown PA 15401.

2. By Order of the Supreme Court of Pennsylvania dated December 20, 2006, Petitioner was suspended from the practice of law for a period of two years.

3. The underlying misconduct involved one client. Petitioner was entrusted with a sum of money on behalf of his client, which was to be used to make restitution to a third person. Petitioner misrepresented to his client that the money was held in trust, when in fact Petitioner used the money to purchase cocaine. Petitioner did not make timely distribution of the funds, as he was required to do. Petitioner did not surrender the funds to his client until approximately one year later.

4. In addition to the client misconduct, Petitioner was convicted of DUI in 2005, which provided an independent basis for discipline.

5. In the underlying disciplinary proceeding, Petitioner proved that his misconduct was caused by his addiction to alcohol and drugs which factor was considered in mitigation.

6. At the reinstatement hearing, Petitioner provided credible testimony that he is a recovering alcoholic and recovering drug addict, and has been in recovery since June 13, 2004.

7. Since his sobriety date Petitioner has engaged in treatment with a psychologist and has participated in Narcotics Anonymous (NA) and Alcoholics Anonymous (AA) meetings. The treatment sessions gradually tapered off as Petitioner became stable in his recovery.

8. Petitioner currently attends AA and NA meetings several times a week and keeps in contact with his sponsor to guarantee that he stays sober.

9. Petitioner's purpose at meetings is to serve other recovering addicts and to be an example of someone who was able to stop using alcohol and drugs.

10. Petitioner's recovery affects every aspect of his lifestyle. He understands that even one drink will hurt him so he uses that knowledge to help him through situations where alcohol is present.

11. Petitioner serves as a volunteer for Lawyers Concerned for Lawyers. He is available as a resource for attorneys who are struggling with substance abuse in the Fayette County area.

12. Petitioner's AA sponsor is William C, so named to guard confidentiality. Mr. C testified at the reinstatement hearing and was a credible witness. Mr. C described Petitioner as being very committed to his recovery, which is the center of Petitioner's life.

13. Petitioner acts as a sponsor to David R, so named to guard confidentiality. Mr. R testified at the reinstatement hearing and was a credible witness. Petitioner is very supportive of Mr. R's recovery and is available to Mr. R at any time to help him.

14. Petitioner is extremely remorseful for his prior acts of misconduct.

15. Petitioner is in a stable relationship with his wife, with whom he has a two year old daughter. Mrs. Peck is an attorney in recovery for addiction issues and is very supportive of her husband and his circumstances. Petitioner is party to a child support order for his older child to a previous relationship. Petitioner is current with all child support payments.

16. Since his suspension, Petitioner has worked as a law clerk for Judge John F. Wagner of the Fayette County Court of Common Pleas.

17. Petitioner's responsibilities are legal research, writing and review of case law.

18. At the time of the reinstatement hearing, Petitioner had been employed by Judge Wagner for approximately 18 months.

19. Judge Wagner gave credible testimony that Petitioner is competent and learned in the law to be a practicing attorney, based on his observations of Petitioner's work.

20. Judge Wagner was aware of Petitioner's addiction problem at the time of hiring. He was satisfied that Petitioner was in recovery and would be a good employee.

21. Judge Wagner has not observed any signs to indicate that Petitioner is not sober. Petitioner is always on time and responsible.

22. Petitioner has fulfilled his Continuing Legal Education credits necessary for reinstatement. He has kept himself apprised of the law through his work as a law clerk.

23. If reinstated, Petitioner plans to continue his work for Judge Wagner until such time as he is able to reestablish a practice.

24. In addition to the testimony of Judge Wagner, Mr. C and Mr. R, Petitioner presented the testimony of his wife, two attorneys, and a deputy sheriff. These witnesses provided credible testimony that Petitioner is not under the influence of

controlled substances or alcohol and is a changed person for the better since his sobriety.

These witnesses support Petitioner's reinstatement to the practice of law.

25. Petitioner presented two character letters in support of his reinstatement.

26. Office of Disciplinary Counsel does not oppose reinstatement.

III. CONCLUSIONS OF LAW

1. Petitioner has proven by clear and convincing evidence that he has the moral qualifications, competency and learning in the law required for admission to practice law in the Commonwealth. Pa.R.D.E. 218(c)(3)(i).

2. Petitioner has proven by clear and convincing evidence that the resumption of the practice of law within the Commonwealth will be neither detrimental to the integrity and standing of the bar or the administration of justice nor subversive of the public interest. Pa.R.D.E. 218(c)(3)(i).

IV. DISCUSSION

Petitioner is a suspended attorney who seeks readmission to the practice of law in Pennsylvania. In support of his reinstatement he has filed a Reinstatement Questionnaire. He has testified at a hearing and has provided the testimony of seven witnesses.

Petitioner was suspended for a period of two years by Order of the Supreme Court of Pennsylvania dated December 20, 2006. Pursuant to Rule 218(a), Pa.R.D.E., an attorney who is suspended for a period exceeding one year may not resume the practice of law until reinstated by the Supreme Court. In order for Petitioner to gain reinstatement, he has the burden of proving by clear and convincing evidence that he possesses the moral qualifications, competency and learning in the law required for admission to practice law in this Commonwealth. In addition, Petitioner has the burden of demonstrating that his resumption of the practice of law will not be detrimental to the integrity and standing of the bar or administration of justice, nor be subversive of the public interest. Rule 218(c)(3)(i), Pa.R.D.E.

A reinstatement proceeding is a searching inquiry into a lawyer's present professional and moral fitness to resume the practice of law. The object of concern is not solely the transgressions which gave rise to the lawyer's suspension, but rather the nature and extent of the rehabilitative efforts the lawyer has made since the time the sanction was imposed, and the degree of success achieved in the rehabilitative process. Philadelphia News, Inc. v. Disciplinary Board of the Supreme Court, 363 A.2d 779 (Pa. 1976).

Petitioner's suspension was a result of his misconduct involving failure to hold his client's property separate from his own, misrepresentations to his client, and his failure to promptly deliver his client's funds to him. In addition, Petitioner was convicted of DUI, a serious crime pursuant to the Rules of Disciplinary Enforcement and an independent basis for discipline. Petitioner did prove with clear and convincing evidence that his cocaine and

alcohol addiction caused his misconduct pursuant to Office of Disciplinary Counsel v. Braun, 553 A.2d 894 (Pa. 1989), and was afforded mitigation.

Petitioner's recovery from his addiction to alcohol and drugs was the principal issue at the reinstatement hearing, as such efforts go directly to his rehabilitation and fitness. Petitioner presented sufficient evidence that he is currently sober, has been sober since June 13, 2004, and is dedicated to his recovery. Petitioner called numerous witnesses who provided compelling testimony as to his recovery efforts. These witnesses included his AA sponsor; an individual in recovery who is sponsored by Petitioner; attorneys in the community; a deputy sheriff; Judge Wagner of the Court of Common Pleas of Fayette County; and Petitioner's wife, herself an attorney in recovery for addiction issues. These witnesses also provided evidence as to Petitioner's good character and reputation in the community. In addition to live witnesses, Petitioner presented two character letters in support of his reinstatement.

One of the most persuasive witnesses was Judge Wagner, who has employed Petitioner as a law clerk for approximately 18 months. In that capacity, he has seen and observed Petitioner five days a week for eight hours a day. He has never seen Petitioner other than sober. Judge Wagner has been very satisfied with Petitioner's legal research and writing and believes Petitioner's reinstatement will not be detrimental to the profession.

John Perrott, Esquire, was another compelling witness. He believes that Petitioner's readmission to the bar would be an excellent example to others, both within

and outside the legal profession, who have addiction problems, as to what can be accomplished once the problems are overcome.

Petitioner demonstrated his competence and learning in the law by fulfilling the requirements for Continuing Legal Education and keeping apprised of the current state of the law through his responsibilities as a law clerk.

Petitioner demonstrated his moral qualifications by the credible character testimony given and by evidence of his hard work and responsible behavior since his suspension.

The record supports the conclusion that Petitioner has met the requirements of Rule 218(c)(3)(i) and should be reinstated to the practice of law in Pennsylvania.

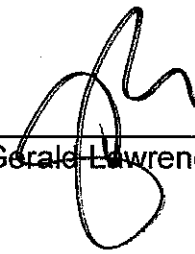
V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that Petitioner, Brent Eric Peck, be reinstated to the practice of law.

The Board further recommends that, pursuant to Rule 218(e), 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: 
Gerald Lawrence, Jr., Board Member

Date: April 15, 2009

Board Member Jefferies was absent and did not participate in the adjudication.

Board Member Gentile did not participate in the adjudication.