

IN THE SUPREME COURT OF PENNSYLVANIA

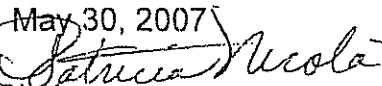
In the Matter of	:	No. 1035 Disciplinary Docket No. 3
	:	
DAVID FERLEGER	:	No. 104 DB 2004
	:	
	:	Attorney Registration No. 15699
	:	
PETITION FOR REINSTATEMENT	:	(Philadelphia)

ORDER

PER CURIAM:

AND NOW, this 30th day of May, 2007, upon consideration of the Report and Recommendations of the Disciplinary Board dated April 12, 2007, 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 May 30, 2007
Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

In the Matter of : No. 1035 Disciplinary Docket 3
: :
DAVID FERLEGER : No. 104 DB 2004
: :
: Attorney Registration No. 15699
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PETITION FOR REINSTATEMENT : (Philadelphia)
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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

This matter is before the Disciplinary Board on a Petition for Reinstatement to the Supreme Court of Pennsylvania filed by David Ferleger on July 6, 2006. Office of Disciplinary Counsel filed a Response to the Petition for Reinstatement on August 31, 2006, stating it did not oppose reinstatement.

On March 2, 2004, Petitioner filed a Petition for Reinstatement from Inactive Status. On July 15, 2004, a Joint Stipulation in Lieu of Petition for Discipline was filed by Office of Disciplinary Counsel and Petitioner. The Supreme Court of Pennsylvania, by Order of August 3, 2005, denied the Petition for Reinstatement and ordered that Petitioner be suspended for one year and one day due to his unauthorized practice of law while on inactive status. The instant Petition for Reinstatement requests readmission from the suspension.

A reinstatement hearing was held on October 11, 2006, before a District I Hearing Committee comprised of Chair Martin N. Lisman, Esquire, and Members Stephen Ching, Esquire, and Bruce Bikin, Esquire. Petitioner appeared pro se and presented three character witnesses. He testified on his own behalf and presented documentary evidence.

The Hearing Committee filed a Report on February 26, 2007, recommending that 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 20, 2007.

II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner is David Ferleger. He was born in 1948 and was admitted to the practice of law in Pennsylvania in 1972. His current business address is 10 Presidential Blvd., Suite 115, Bala Cynwyd PA 19004.

2. Petitioner was placed on inactive status in August 1997 for failure to maintain his required Continuing Legal Education credits.

3. Petitioner subsequently sought reinstatement from inactive status by way of a Petition for Reinstatement filed with the Disciplinary Board on March 2, 2004.

4. Upon investigation of the Petition by Office of Disciplinary Counsel, Petitioner acknowledged that during his inactive status, he engaged in the practice of law. Petitioner acknowledged that he acted inappropriately.

5. Between February 1999 and January 2001, five cases were filed in the Chester County Court of Common Pleas against defendant Byron Braid, M.D. In two of the cases, claims were also filed against two additional defendants.

6. Petitioner entered his appearance in a suit captioned Lohman v. Braid on April 18, 2000.

7. Petitioner filed complaints in four more suits against Dr. Braid. All of these cases were filed within a six month time period. Litigation continued in the cases thereafter; three of the cases ended in 2001, with an appeal in one decided in 2003, and two of the cases ended in 2002.

8. During the course of the Lohman case, Petitioner filed approximately 25 discovery and substantive motions and responses to motions and took an appeal to the Superior Court.

9. Likewise, in each of the other four cases, Petitioner filed numerous motions, letters, pleadings, and briefs.

10. At the time of the filing and pendency of the Chester County Court cases, Petitioner did not notify his clients, defense counsel, or the court that he was ineligible to practice in Pennsylvania state court.

11. In addition to the five state court cases, Petitioner filed two cases in the Eastern District of Pennsylvania.

12. While Petitioner was eligible to practice in federal court, he was unaware of what effect his inactive status had on his ability to practice law in federal court.

13. The Supreme Court suspended Petitioner for one year and one day as a result of his unauthorized practice of law. Petitioner's original Petition for Reinstatement from Inactive Status filed on March 2, 2004 was denied.

14. During his suspension, Petitioner engaged in real estate management and family investment management for his mother.

15. Petitioner served as a Special Master in the United States District Court in Connecticut for approximately eight months. A Special Master does not need to be a licensed attorney. Judge Ellen Bree Burns of that court consented to Petitioner's presenting to the Hearing Committee her reference letter on the high quality of Petitioner's work.

16. Currently, Petitioner is self-employed in a consulting capacity.

17. If reinstated Petitioner intends to practice law as a solo practitioner from his office in Bala Cynwyd. He plans to resume public interest and disability work, as well as real estate and business law.

18. Prior to his suspension, Petitioner enjoyed an unblemished career concentrated on representation of people with disabilities, largely in class action suits. He argued five times before the Supreme Court of the United States. He taught at the University of Pennsylvania Law School and New York University Law School. He has written law review articles, book chapters and other writings in the disabilities field. He was an invited speaker to a United Nations conference in Iceland on disabilities.

19. Petitioner presented three character witnesses, each of whom testified to familiarity with Petitioner and his community.

20. Rabbi Leonard Gordon is the religious leader at the Germantown Jewish Center in Philadelphia, where Petitioner is a congregant. Rabbi Gordon is aware of the importance of CLE credits; he teaches a monthly course in Jewish Affects that has CLE ethics credits attached to it.

21 Rabbi Gordon credibly testified to his opinion that Petitioner has a good reputation in the community as someone of exemplary moral character who is respected by his peers.

22. Petitioner expressed his regret to Rabbi Gordon for the events leading to the disciplinary proceedings. Rabbi Gordon is of the opinion that the suspension and reinstatement process has been a time of challenge and growth for Petitioner.

23. Rabbi David Teutsh is a professor and Director of the Center of Ethics at the Reconstructionist Rabbinical College in Wyncote, Pennsylvania. Rabbi Teutsh has known Petitioner for ten years, during which time he sat on the Board of the Rabbinical College with Petitioner.

24. Rabbi Teutsh opined that Petitioner has high ethical standards.

25. Rabbi Miriam Klotz is the director of movement practices and regional retreats for the Institute for Jewish Spirituality in New York. She has known Petitioner for a decade in community and personal friendship contexts.

26. Rabbi Klotz opined that Petitioner has good moral qualities and personal integrity.

27. During his suspension Petitioner continued to support his synagogue and other community causes, both materially and otherwise.

28. Petitioner fulfilled, and significantly exceeded, the minimum number of Continuing Legal Education credits required for reinstatement.

29. In addition to his CLE credits, Petitioner kept abreast of developments in the law through his Westlaw subscription, presiding over hearings as a special master, and through extensive legal research with regard to his non-legal and personal work.

30. Petitioner fully and credibly accepts responsibility for his actions and the resulting discipline. Petitioner is deeply remorseful.

III. CONCLUSIONS OF LAW

1. Petitioner has demonstrated 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 of Pennsylvania.

2. Petitioner has demonstrated by clear and convincing evidence that his resumption of the practice of law within the Commonwealth of Pennsylvania will be neither detrimental to the integrity and standing of the bar or the administration of justice nor subversive of the public interest.

IV. DISCUSSION

This matter is before the Disciplinary Board on a Petition for Reinstatement filed by David Ferleger. Petitioner was suspended for one year and one day by Order of the Supreme Court dated August 3, 2005. An attorney who is suspended from the practice of law for a period exceeding one year may not resume practice until reinstated by the Supreme Court of Pennsylvania. Pa.R.D.E. 218(a). 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.

In determining whether Petitioner clearly demonstrated his present fitness to practice law, the Board considered the nature of his misconduct, his present competence and legal abilities, his character, rehabilitation and degree of remorse expressed. Philadelphia News, Inc., v. Disciplinary Board of the Supreme Court, 363 A.2d 779 (PA. 1976).

The basis for Petitioner's suspension was his unauthorized practice of law while on inactive status in Pennsylvania. Subsequent to his transfer to inactive status for failure to fulfill CLE requirements, Petitioner continued to practice law in several matters. Petitioner has admitted the inappropriateness of his actions and has expressed sincere remorse. This time of suspension was a time of personal difficulties for Petitioner due to his embarrassment and his feelings of letting others down, particularly his family. Nevertheless, Petitioner continued to work, to be active in his community and to openly discuss the nature of his problems with others whose advice he sought. Petitioner used the disciplinary process and his time of suspension to assess and refine his appreciation of the need to scrupulously comply with all ethical standards.

Petitioner presented three credible character witnesses, all of whom are rabbis. Their testimony was persuasive as to the respect that Petitioner has in his community as an ethical person. The testimony also revealed the seriousness with which

Petitioner treated his suspension from the legal profession. Petitioner clearly did not slough off his misconduct and simply move on with his life. He thoughtfully considered his actions and their impact on others. This testimony is compelling.

Petitioner's own testimony demonstrates that he is fit and ready to resume the practice of law. He fulfilled his CLE credits and kept apprised of the law through his work as a Special Master in Connecticut. He has shown sincere remorse and demonstrated his intent to comply with all ethical standards of the profession. Petitioner has behind him a 34 year career of public service that has been devoted to representation of people with disabilities. His reinstatement would benefit this segment of society and thus would be positive for the public interest.

For the above reasons, the Board finds that Petitioner has met his burden of proof that he is morally qualified, competent and learned in the law, and his reinstatement would not be detrimental to the integrity of the bar nor be subversive of the public interest. The Board recommends that the Petition for Reinstatement be granted.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that Petitioner, David Ferleger, 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: 
Marc S. Raspanti, Board Member

Date: April 12, 2007



THE DISCIPLINARY BOARD
OF THE
SUPREME COURT OF PENNSYLVANIA

First Floor
Two Lemoine Drive
Lemoine, PA 17043-1226
(717) 731-7073

April 12, 2007

In the Matter of	:	No. 1034 Disciplinary Docket No. 3
	:	
	:	No. 104 DB 2004
DAVID FERLEGER	:	
	:	Attorney Registration No. 15699
	:	
PETITION FOR REINSTATEMENT	:	(Philadelphia)

**Expenses Incurred in the Investigation and Processing
of the above Petition for Reinstatement***

08-03-2005	16 copies of Supreme Court Order of August 3, 2005	\$ 16.00
07-06-2006	16 copies of Petition for Reinstatement and Reinstatement Questionnaire	272.00
08-31-2006	16 copies of ODC's Response to Petition for Reinstatement	8.00
10-13-2006	16 copies of Petitioner's Brief to Hearing Committee	224.00
02-26-2007	16 copies of Hearing Committee Report	176.00
11-07-2006	Transcript of Hearing held on October 11, 2006	<u>1,384.00</u>

TOTAL AMOUNT DUE \$ 2,080.00

**Make Check Payable to PA Disciplinary Board
PAYMENT IS REQUIRED UPON RECEIPT OF ORDER**

* Submitted pursuant to Rule 208(g) of the Pa.R.D.E. and §93.111 of the Disciplinary Board Rules.