

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

In the Matter of : No. 11, Disciplinary Docket
: No. 3 - Supreme Court
:
: No. 80 DB 1994 - Disciplinary Board
[ANONYMOUS] :
: Attorney Registration No. []
:
PETITION FOR REINSTATEMENT : ([])

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

A Petition for Reinstatement was filed by Petitioner,
[], on July 9, 1998. Petitioner was suspended from the practice of law in Pennsylvania for a period
of two years by Order of the Supreme Court of Pennsylvania dated July 18, 1996. This suspension
was based on Petitioner's failure to disclose his previous arrests on his bar application.

A reinstatement hearing was held on October 7, 1998 before Hearing Committee []

comprised of Chair [], Esquire, and Members [], Esquire, and [], Esquire. Petitioner was represented by [], Esquire. Office of Disciplinary Counsel was represented by [], Esquire.

The Hearing Committee filed a Report on February 18, 1999 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 of May 12, 1999.

II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner was born in 1960 and was admitted to practice law in Pennsylvania in 1989. Petitioner currently resides at []. Petitioner is married and has two children. Petitioner is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court.

2. Between the years 1978 to 1985, Petitioner was arrested on six occasions. Two of these arrests resulted in convictions for driving while intoxicated in [].

3. In April 1986, Petitioner applied for admission to the [] Law School of [] University, at which time he failed to disclose his arrests in response to an inquiry on the

application.

4. In 1987, after his first year of law school, Petitioner was convicted of disorderly conduct in [].

5. In February 1989, Petitioner applied for admission to the bar of the Commonwealth of Pennsylvania.

6. Petitioner answered “no” to the question on that application which asked whether he had ever been arrested for any crime other than a summary motor vehicle violation.

7. In March 1989, Petitioner submitted an application to the bar of New Jersey.

8. Petitioner failed to disclose his arrest record in that application.

9. In December 1989, Petitioner was admitted to the bars of Pennsylvania and New Jersey.

10. In 1990, Petitioner applied for admission to the bar of Delaware. The Delaware Board of Bar Examiners discovered Petitioner’s arrests and convictions and precluded him from admission to the bar in that jurisdiction.

11. In March 1992, Petitioner revealed his prior arrests to the Board of Law

Examiners in Pennsylvania and New Jersey.

12. The State of New Jersey suspended Petitioner for six months by Order of the Supreme Court of New Jersey dated October 21, 1993.

13. Petitioner forwarded the Order of the Supreme Court of New Jersey to the Supreme Court of Pennsylvania for consideration pursuant to Pa.R.D.E. 216.

14. The Supreme Court referred the matter to the Disciplinary Board by Order dated August 16, 1994.

15. Formal proceedings were held and the Disciplinary Board recommended a period of suspension of one year and one day to the Supreme Court.

16. The Court ordered that Petitioner be suspended for two years by Order of July 18, 1996.

17. Prior to Petitioner's suspension, he had voluntarily ceased practicing law and had not practiced since 1992.

18. Since 1993, and during the period of his suspension, Petitioner was employed as a river pilot for the [A]. He currently holds this position.

19. In order to keep current in the law, Petitioner read various legal and financial periodicals and did some legal research at the [] County Courthouse. Petitioner also took 36.5 hours of Continuing Legal Education courses.

20. At the reinstatement hearing, Petitioner presented three character witnesses. [B] has known Petitioner in a personal capacity for approximately eight years. He testified that he has a very good reputation in the community as a decent and honest citizen.

21. [C], Esquire, has known Petitioner since 1986, when they were in law school together. [C] testified that Petitioner is a competent professional and would not be detrimental to the community or the legal profession if he would be allowed reinstatement.

22. [D] is a [] River pilot and has known Petitioner since 1989. He testified that Petitioner enjoys a reputation as an honest and truthful person.

23. Petitioner testified that he is very sorry that he lied on his bar applications, that it was a big mistake, and he understands the severity of his actions. (N.T. 15, 17, 19, 20)

24. Petitioner admits that he had problems with alcohol use in the past. Petitioner voluntarily checked himself into a rehabilitation center in 1995 and has been sober since that time. Petitioner is a member of Alcoholics Anonymous and attends meetings six times per week.

25. If reinstated, Petitioner plans to engage in a general practice of law in the [] County area.

III. CONCLUSIONS OF LAW

Petitioner has demonstrated, with clear and convincing evidence, that he possesses the moral qualifications, competency and learning in the law necessary to practice law in Pennsylvania.

Petitioner's resumption of the practice of law will not be detrimental to the integrity of the bar nor subversive of the interests of the public.

IV. DISCUSSION

This matter is before the Disciplinary Board for consideration of a Petition for Reinstatement from suspension. An attorney who is suspended from the practice of law for a period exceeding one year may not resume practice until reinstated by order of 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, and that the resumption of the practice of law will neither be detrimental to the integrity of the bar or administration of justice, nor subversive of the public interests. Pa.R.D.E. 218(c)(3)(i).

In determining whether Petitioner clearly demonstrated his present fitness to practice law, the Board considers the nature of Petitioner's misconduct, his present competence and

legal abilities, his character, rehabilitation and the degree of remorse expressed. *Philadelphia News, Inc., v. Disciplinary Board of the Supreme Court*, 468 Pa. 382, 363 A.2d 779 (1976).

Petitioner was suspended for two years for failing to disclose his involvement with the criminal justice system on his application to the bars of three states; Pennsylvania, New Jersey and Delaware. On each application, Petitioner was asked if he had any prior arrests. Petitioner stated that he had never been arrested. In fact, Petitioner had been arrested numerous times and convicted three times between 1978 and 1987. Petitioner ultimately disclosed all of the arrests to the bars of each of the three states where he applied for admission, but this disclosure was not made until after two of his arrests were discovered by the Delaware bar.

Prior to Petitioner's encounter with the disciplinary system, he worked as an associate at [E] in [] from 1989 to 1992. Petitioner voluntarily ceased practicing law in 1992 in order to become a full-time river pilot. Since 1992 he has worked as a river pilot for the [A]. He keeps current in the law by reading various legal and financial periodicals and doing legal research at the [] County Courthouse library. Petitioner attended Continuing Legal Education seminars and received the required 36 credits for reinstatement. If reinstated, Petitioner would like to engage in a general practice of law. He envisions becoming associated with an office or individual and starting out slowly.

Character witnesses testified on behalf of Petitioner as to his good reputation in the community for honesty and truthfulness. One witness, [C], Esquire, testified that Petitioner is an intelligent and competent professional who would not cause harm to the public by being reinstated.

Petitioner testified to the changes in his life since his disciplinary proceedings and subsequent suspension. Petitioner acknowledged that he had a problem with alcohol in the past which impacted his professional and personal life. Petitioner and his wife were separated for a short period of time but are now reconciled. Petitioner has not used alcohol since 1995 and attends Alcoholics Anonymous approximately six times per week. Petitioner demonstrated sincere remorse for his actions. He has had the opportunity to examine the misconduct in the light of his sobriety and understands that he made a big mistake in concealing his arrests. He believes that his alcohol problems and his embarrassment at having been arrested caused him to make misrepresentations on the bar applications. Petitioner does not feel that any acts of dishonesty on his part would surface in the future. Petitioner believes that he is morally fit and legally competent to practice law again.

Petitioner engaged in serious misconduct which resulted in a suspension of his license to practice law for a period of two years. Petitioner has served his term of suspension and has rehabilitated himself and demonstrated by clear and convincing evidence that he has the requisite moral qualifications, competency and learning in the law necessary for reinstatement. It is equally clear that Petitioner's resumption of the practice of law will not be detrimental to the profession or to 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, [], 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: _____
Duke George, Jr., Member

Date: June 15, 1999

PER CURIAM:

AND NOW, this 9th day of August, 1999, upon consideration of the Report and Recommendations of the Disciplinary Board of the Supreme Court of Pennsylvania dated June 15, 1999, 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.