

IN THE SUPREME COURT OF PENNSYLVANIA

In the Matter of : No. 1376 Disciplinary Docket No. 3
: :
: No. 191 DB 2006
STEVEN H. GRIFFITHS : :
: Attorney Registration No. 77754
: :
PETITION FOR REINSTATEMENT : (Delaware County)

ORDER

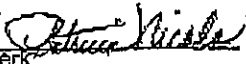
PER CURIAM:

AND NOW, this 16th day of March, 2012, upon consideration of the Report and Recommendations of the Disciplinary Board dated November 4, 2011, the Petition for Reinstatement is granted.

Pursuant to Rule 218(f), 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.

Mr. Justice McCaffery dissents.

A True Copy Patricia Nicola
As Of 3/16/2012

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

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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

On June 22, 2010, Steven H. Griffiths filed a Petition for Reinstatement to the bar of the Supreme Court of Pennsylvania following a suspension for one year and one day entered on August 29, 2008. Office of Disciplinary Counsel filed a Response to Petition on September 21, 2010 and stated its opposition to reinstatement.

A reinstatement hearing was held on December 3 and 9, 2010, before a District II Hearing Committee comprised of Chair Michael L. Korniczky, Esquire, and Members Gerald E. Burns, III, Esquire, and Joseph H. Foster, Esquire. Petitioner was represented by Stuart L. Haimowitz, Esquire. Petitioner presented testimony from one expert witness and four character witnesses and testified on his own behalf. He offered into evidence one exhibit. Office of Disciplinary Counsel introduced eight exhibits into evidence.

Following the submission of Briefs by the parties, as well as a Supplemental Report from Petitioner's medical expert, the Hearing Committee filed a Report on April 27, 2011, and recommended that the Petition for Reinstatement be granted.

No Briefs on Exceptions were filed by the parties.

This matter was adjudicated by the Disciplinary Board at the meeting on July 23, 2011.

II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner is Steven H. Griffiths. He was born in 1968 and was admitted to practice law in the Commonwealth in 1996. His current registered address is 903 Hollow Road, Wayne PA 19087. Petitioner is subject to the jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

2. Petitioner was admitted to the practice of law in New Jersey in 1996 and New York in 1997.

3. By Order of the Supreme Court of Pennsylvania dated August 29, 2008, effective September 28, 2008, Petitioner was suspended from the practice of law for a period of one year and one day.

4. The suspension resulted from Petitioner's unauthorized practice of law.

5. Petitioner was transferred to inactive status by Order of the Supreme Court dated November 14, 2003, effective December 14, 2003, for failure to satisfy Continuing Legal Education requirements for his compliance period.

6. While on inactive status, between December 14, 2003 and May 26, 2004, Petitioner engaged in the unauthorized practice of law by representing a party in not less than five civil actions and performing legal services in 45 matters.

7. At the May 7, 2007 hearing in Petitioner's underlying disciplinary matter, Petitioner presented the testimony of Steven Samuel, Ph.D. Dr. Samuel also testified at the December 3, 2010 hearing in the instant matter.

8. Dr. Samuel is a practicing psychologist and an associate clinical professor in the Department of Psychiatry at Jefferson Medical College.

9. At the May, 2007 hearing, Dr. Samuel testified credibly that Respondent suffered from a generalized anxiety disorder that caused the misconduct.

10. Dr. Samuel's testimony was credited by the Disciplinary Board in the underlying matter, and a majority of the Board found that Respondent had shown by clear and convincing evidence that he suffered from a mental disorder that caused the misconduct.

11. Dr. Samuel examined and evaluated Petitioner on October 14 and 25, 2010 in advance of the December 2010 hearing in the instant matter. Dr. Samuel administered clinical tests to Petitioner and spoke with Susan Baxter, a licensed psychologist who was treating Petitioner in couples therapy for marital issues.

12. Dr. Samuel testified credibly at the reinstatement hearing. As a result of his evaluation, Dr. Samuel concluded that Petitioner no longer suffers from a diagnosable anxiety disorder.

13. Dr. Samuel identified three factors that have aided Petitioner in dealing with anxiety. Petitioner takes an anti-anxiety medicine on an as-needed basis and he is committed to a regular exercise program. Lastly, Petitioner became a father to two adopted children with his second wife, although he was in the process of a divorce.

14. Dr. Samuel observed that although Petitioner was going through a stressful situation with his divorce, Petitioner was able to control his anxiety.

15. Dr. Samuel described the major differences between what he observed in 2007 and 2010. In 2007, he saw "irritability, scattered and distracted thinking, withdrawal, anger, hyperactivity, and a general sense of malaise." In 2010, he saw "resignation over being divorced, some anxiety and worry over money, but not preoccupation and withdrawal." (N.T. 52-53)

16. Dr. Samuel recommended a continuing course of treatment with Ms. Baxter until such time as the divorce was complete.

17. In a Supplemental Report dated January 24, 2011, submitted to the Hearing Committee, Dr. Samuel noted that Petitioner and his second wife signed a divorce

agreement, and after consulting with Ms. Baxter regarding Petitioner's current psychological state, Dr. Samuel concluded Petitioner did not require any additional individual mental health counseling.

18. Office of Disciplinary Counsel did not call any witnesses to rebut Dr. Samuel's conclusions.

19. Petitioner presented testimony from his parents, MaryAnne and Harry Griffiths.

20. Mrs. Griffiths testified credibly that Petitioner is a changed, mature and focused man since the adoption of his two children. She believes that counseling has helped him in a positive way.

21. Mr. Griffiths testified credibly that Petitioner has changed for the better over the last three years. He observes that Petitioner is more relaxed and balanced in the way he handles things, and reacts better to stress. Mr. Griffiths is prepared to support Petitioner both emotionally and financially in Petitioner's planned law practice.

22. Petitioner presented testimony from two friends, Sheila Bommentre and James McAndrew, Esquire. These witnesses testified credibly that Petitioner has matured and has become a more balanced person.

23. Petitioner testified credibly on his own behalf.

24. Since his suspension from the practice of law in Pennsylvania, Petitioner has worked in sales jobs, first for a company selling security systems and then with Comcast.

25. On Petitioner's Comcast employment application, he identified one occasion on which he was arrested and convicted of a minor offense in college, but failed to identify a second occasion.

26. Petitioner credibly explained that he forgot to identify the second incident due to the hurried nature of the application process and setting, which took place at a hotel in a mass application process. This testimony is supported by the fact that Petitioner identified both college arrests on his Reinstatement Questionnaire.

27. Petitioner testified credibly as to his improved psychiatric condition.

28. At the time of the hearing in December 2010, Petitioner was in the process of finalizing his divorce from his second wife, with whom he has two adopted children.

29. Petitioner feels he is handling things well in that he is making the best of the situation. He intends to provide a good life for his children and is optimistic that his situation will improve.

30. Petitioner takes the anti-anxiety medication Librium on an as-needed basis, as prescribed by his doctor, David Capuzzi. He finds it helpful at times of high stress.

31. Petitioner exercises on a regular basis to help reduce stress.

32. Petitioner is admitted to practice law in New Jersey. Upon receiving his suspension in Pennsylvania, Petitioner informed the disciplinary authorities in New Jersey. He was censured by the New Jersey Supreme Court, but not suspended from

practice. Petitioner chose not to practice in New Jersey for fear of harming his opportunity for reinstatement in Pennsylvania.

33. Petitioner was admitted to practice law in New York; however, he handled very few matters in that jurisdiction.

34. By Order dated January 8, 2004, Petitioner was suspended from the practice of law in New York for failing to file a registration statement and pay the required fees.

35. Petitioner did not learn of the suspension in 2004, as the Order was mailed to a home address at which Petitioner no longer resided. Upon learning of the suspension in 2008, Petitioner paid the fees that were owed.

36. In January 2008, Petitioner was admitted pro hac vice in the Delaware Court of Chancery in a litigation matter.

37. The original Certification that Petitioner filed in support of his application for pro hac vice didn't disclose his New York suspension, and stated that Petitioner had not been suspended in any jurisdiction.

38. Petitioner admitted in his testimony at the hearing in the instant matter that the Certification was incorrect, and that he should have disclosed the New York matter.

39. Petitioner credibly testified that he believed the suspension was administrative in nature and thus did not need to be disclosed, and in reaching this conclusion he relied on the advice of counsel and of a representative of the New York disciplinary authority.

40. On July 2, 2008, Petitioner submitted a Supplemental Certification in further support of his pro hac vice admission in the Delaware matter. This Supplemental Certification contained the same misstatements as did Petitioner's original Certification.

41. The Court of Chancery subsequently learned of Petitioner's New York suspension after the conclusion of the Delaware matter. The Court of Chancery, by Order dated July 18, 2008, revoked Petitioner's pro hac vice admission. The court of Chancery did not refer the matter to the Delaware Office of Disciplinary Counsel.

42. The Delaware Office of Disciplinary Counsel later learned of these events and initiated an investigation. The result was that Petitioner received a private admonition with conditions. Petitioner accepted this punishment.

43. The Delaware ODC cited as the basis for imposing private discipline the fact that Petitioner had acknowledged the wrongfulness of his conduct and cooperated with the investigation.

44. When submitting his 2009 tax returns, Petitioner listed his occupation as "attorney." Petitioner credibly testified that this resulted from his accountant transferring information from a prior return, and that Petitioner had focused on the financial information in the return and had not noticed the error.

45. When the error was brought to his attention, Petitioner filed amended tax returns at his own expense.

46. Petitioner fulfilled his Continuing Legal Education requirements for reinstatement.

47. If reinstated, Petitioner plans to practice law in Philadelphia and the surrounding counties, as he had in his previous career.

48. Petitioner showed sincere remorse and regret for his prior misconduct.

III. CONCLUSIONS OF LAW

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

2. Petitioner has met his burden of proof by clear and convincing evidence that his resumption of the practice of law in this Commonwealth will be neither detrimental to the integrity and standing of the bar of the administration of justice nor subversive of the public interest. Pa.R.D.E. 218(c)(3)

IV. DISCUSSION

Petitioner seeks reinstatement from a suspension of one year and one day imposed by the Supreme Court of Pennsylvania on August 29, 2008. In order to gain reinstatement, Petitioner bears the burden of proving by clear and convincing evidence that he possesses the moral qualifications, competency and learning in the law required to practice law in the Commonwealth of Pennsylvania. He must also demonstrate by clear and convincing evidence that his resumption of the practice of law will be neither detrimental to the integrity and standing of the bar or the administration of justice nor

subversive of the public interest. Rule 218(c)(3), Pa.R.D.E. Careful review of the record persuades the Board that Petitioner has met his burden.

The Supreme Court has held that a reinstatement proceeding is a searching inquiry into a formerly admitted attorney'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 underlying suspension, but rather the nature and extent of the rehabilitative efforts undertaken, 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).

The underlying misconduct which gave rise to Petitioner's suspension was that he failed to comply with the Supreme Court's November 2003 Order transferring him to inactive status for failing to comply with Continuing Legal Education requirements. More specifically, while on inactive status, between December 14, 2003 and May 26, 2004, Petitioner engaged in the unauthorized practice of law by representing a party in not less than five civil actions and performing legal services in 45 matters.

At the disciplinary hearing in 2007 on the underlying misconduct, Petitioner introduced evidence that he suffered from a psychiatric disorder which caused his misconduct. Dr. Steven E. Samuel diagnosed Petitioner with a generalized anxiety disorder which he opined caused the misconduct. Based on this expert testimony, the Disciplinary Board concluded that Petitioner met his burden of proof pursuant to Office of Disciplinary Counsel v. Braun, 553 A.2d 894 (Pa. 1989), and afforded him mitigation.

The current question before the Board is whether Petitioner has rehabilitated himself from that disorder and is fit to practice law. Dr. Samuel examined and evaluated

Petitioner on October 14 and 25, 2010 in advance of the December 2010 hearing in the instant matter. Dr. Samuel administered clinical tests and also had conversations with Susan Baxter, a therapist who was treating Petitioner in couples therapy. Dr. Samuel concluded that Petitioner no longer suffers from generalized anxiety disorder. He noted the differences between Petitioner in 2007 and at the time of the hearing, stating that although Petitioner had worries and had some anxiety about his divorce and financial issues, he did not exhibit the symptoms of the disorder. Due to the impending divorce, Dr. Samuel advised that Petitioner continue seeing Ms. Baxter, which Petitioner did. The divorce was finalized and after speaking to Ms. Baxter, Dr. Samuel submitted a Supplemental Report on January 24, 2011, in which he concluded that Petitioner did not require any additional individual mental health counseling at that time. This evidence is uncontroverted, as no witnesses rebutted or contradicted Dr. Samuel's testimony.

Office of Disciplinary Counsel raised several points regarding Dr. Samuel's testimony, but we do not find these points to be persuasive. While we recognize that Dr. Samuel did not know the name of the doctor who prescribed the anti-anxiety medication to Petitioner or the exact length of Petitioner's psychiatric treatment in 2007, these facts are insufficient to undermine the reliability of Dr. Samuel's opinion. The evidence is clear and convincing that Petitioner has overcome the disorder from which he suffered and which the Board found was the cause of his prior misconduct.

The testimony of Petitioner's other witnesses is consistent with Dr. Samuel's testimony, in that these witnesses have observed positive changes and improvements in Petitioner's behavior in the past three years.

Petitioner testified credibly in this matter. Following his suspension in 2008, he found employment in sales jobs and currently works for Comcast as a salesman. Shortly after the reinstatement hearing, Petitioner signed a divorce agreement with his second wife. Petitioner is now concentrating on supporting his two young children from that marriage. He deals with stress and anxiety today by exercising on a regular basis. He has been prescribed the anti-anxiety medication Librium by his doctor and takes it on an as-needed basis at times of high stress. Petitioner demonstrated sincere remorse for his prior conduct and placed the blame squarely upon himself for his past disciplinary problems. Petitioner was eligible to petition for reinstatement in August 2009, but chose to wait an additional year in order to ensure that he was fully fit and ready to apply for readmission.

Office of Disciplinary Counsel raised several arguments before the Hearing Committee that Petitioner lacks the requisite qualifications under Pa.R.D.E. 218(c)(3). More specifically, Disciplinary Counsel refers to Petitioner's failure to identify one of two youthful arrests and convictions on his Comcast job application, the fact that Petitioner listed his occupation as "attorney" on his 2009 federal tax return, and Petitioner's misstatements on two Certifications that were filed with the Delaware Chancery Court in connection with a pro hac vice admission.

As to the conviction, Petitioner credibly testified that the hectic nature of the application process caused him to neglect listing the conviction. More importantly to this process, Petitioner disclosed both incidents on his Reinstatement Questionnaire, and never

attempted to hide his background from Office of Disciplinary Counsel, the Board, or the Supreme Court.

When Petitioner was informed that his occupation was listed incorrectly on his 2009 tax return, he immediately filed amended returns at his own expense. His actions demonstrate that he did not intend to deceive the tax authorities concerning his status.

Finally, although we recognize that Petitioner's Certifications were incorrect as they related to his suspension in New York, Petitioner testified credibly and without contradiction, that he relied on advice he received from counsel and from a representative of the New York State disciplinary authority in determining whether to disclose the New York suspension on his Delaware Certification. Petitioner did not dispute the nature of his misconduct, cooperated with Delaware disciplinary authorities, and accepted the Delaware discipline of a private admonition.

The totality of the record supports the conclusion that Petitioner established, through his testimony and that of his witnesses, that he possesses the moral qualifications, competency and learning in the law necessary to practice law in Pennsylvania. Petitioner fulfilled his Continuing Legal Education requirements, put forth credible character evidence, and demonstrated that he has rehabilitated himself and is currently fit to practice law.

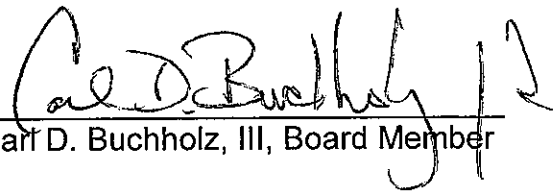
V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that Petitioner, Steven H. Griffith, 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: 
Carl D. Buchholz, III, Board Member

Date: November 4, 2011

Board Member Momjian did not participate in the adjudication.