

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

In the Matter of : No. 193, Disciplinary Docket
: No. 3 - Supreme Court
[Anonymous] :
: No. 41 DB 96 - Disciplinary Board
: 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

On November 5, 1997, Petitioner, [] filed a Petition for Reinstatement. Petitioner was suspended from practice in Pennsylvania for a period of eighteen months retroactive to April 24, 1996 pursuant to the Order of the Supreme Court of Pennsylvania dated July 15, 1997. Petitioner was suspended for

his criminal conviction of one count of mail fraud. This matter was referred to Hearing Committee [] comprised of Chair [], Esquire, and Members [], Esquire and [], Esquire. A reinstatement hearing was held on January 13, 1998. Petitioner represented himself. Office of Disciplinary Counsel was represented by [], Esquire. The Committee filed a Report on February 26, 1998 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 of April 30, 1998.

II. FINDINGS OF FACT

The Board makes the findings of fact:

1. Petitioner was born on April 5, 1959. He was admitted to practice law in Pennsylvania on December 8, 1993. He was admitted to practice law in New Jersey in 1994. He currently resides at []. Petitioner is married and has one child.

2. Petitioner was suspended from the practice of law in Pennsylvania for eighteen months by Order of the Supreme Court dated July 15, 1997. This suspension was retroactive to April 24, 1996.

3. Petitioner was suspended for eighteen months in New Jersey on May 16, 1995. He was reinstated in New Jersey on December 30, 1996.

4. Petitioner was suspended as a result of his conviction of one count of mail fraud in January 1995. The underlying facts of this conviction are as follows:

- a. Petitioner was involved in a minor car accident in May 1989, prior to his admission to the bar.
- b. Petitioner received medical treatment from Dr. [A] on one occasion in June 1989.
- c. Medical bills and records submitted to [B] Insurance reflected that Petitioner received thirty-five treatments.
- d. Petitioner was aware that the medical bills and records submitted were false and inaccurate.
- e. On the basis of the documents [B] issued a check in the amount of \$5,500 payable to Petitioner. Petitioner received \$4,500 from that amount for his participation in the scheme.
- f. Petitioner was sentenced to three years of probation, restitution of \$5,500 and a fine of \$1,000.

5. With respect to Petitioner's criminal sentence, he has made timely restitution payments and has adhered to the requirements of his probation, which was due to expire on April 24, 1998. Petitioner has not paid his \$1,000 fine as of yet, but he plans to do so in the near future.

6. During Petitioner's suspension, he has not engaged in the practice of law in Pennsylvania, nor have any disciplinary complaints or other complaints been filed against Petitioner.

7. Petitioner is currently able to practice in New Jersey. His practice consists primarily of family law matters.

8. During his suspension, Petitioner held down odd jobs such as house painting and delivery services to support himself.

9. While suspended, Petitioner participated in some community services associated with his church.

10. Petitioner has fulfilled his CLE requirements necessary for reinstatement, and he reviewed the [] to keep apprised of legal developments. Petitioner fulfilled all CLE requirements in New Jersey as well.

11. Four character witnesses testified on behalf of Petitioner. These witnesses did not hesitate to recommend Petitioner for reinstatement and believed he had learned an important lesson through his experiences.

12. Petitioner expressed his sincere remorse for his misconduct. Petitioner stressed that the misconduct was an

isolated incident and if permitted to practice again he would be very careful never to engage in unethical behavior.

13. Office of Disciplinary Counsel does not oppose Petitioner's reinstatement.

III. CONCLUSIONS OF LAW

1. 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.

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

IV. DISCUSSION

The sole question to be determined in this matter is whether Petitioner's request for reinstatement to the bar of the Supreme Court of Pennsylvania should be granted. In order for Petitioner to gain reinstatement to the practice of law he has the burden of proving, by clear and convincing evidence, that he has both 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 the administration of justice, nor subversive to the public interest. 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 convicted of one count of mail fraud stemming from his participation in a scheme to defraud an insurance company. This scheme consisted of submitting medical bills and records indicating that Petitioner received thirty-five medical treatments from his doctor, when in fact he received only one such treatment. Although the medical visits were fraudulent, Petitioner in fact was involved in a car accident. Petitioner received probation of three years, and must pay restitution and a fine.

Petitioner's license to practice law was suspended for eighteen months in Pennsylvania on July 15, 1997, retroactive to April 24, 1996, the date of his temporary suspension. Petitioner's license to practice in New Jersey was suspended for eighteen months in May 1995. During Petitioner's suspension he worked odd jobs as a painter and delivery person. He was reinstated to the practice of law in New Jersey in December 1996, and at that time he started practicing in New Jersey, although this practice was not extensive. Petitioner did not engage in the practice of law in Pennsylvania at any time during his suspension.

Petitioner presented the testimony of four character witnesses. Three of these witnesses were attorneys and one was a professor at [] University. Each witness had known Petitioner for a period of time of at least five years and was familiar with Petitioner's misconduct as well as his attempts at rehabilitation during suspension. Each witness believed that Petitioner was very remorseful and would be a welcome addition to the legal community in Pennsylvania.

Petitioner has shown substantial remorse for his misconduct. There is no question that he recognizes the severity of his criminal conduct and its impact on the legal profession. The Hearing Committee readily concluded that Petitioner was morally qualified to resume practice, and the Board concurs with this opinion.

Petitioner demonstrated by clear and convincing evidence that he has the competency and learning in the law required for reinstatement. He completed the required CLE courses and has reviewed legal periodicals. Additionally, he has been practicing in New Jersey and is familiar with the law based on that experience.

Petitioner engaged in criminal conduct which was appropriately addressed by the Supreme Court with an eighteen month period of suspension of his license to practice law. Petitioner

has fulfilled the term of his suspension and has rehabilitated himself and demonstrated by clear and convincing evidence that he has the requisite moral character, competency and learning in the law required for reinstatement. It is equally clear that Petitioner's resumption of the practice of law will not be detrimental to the profession or the public interest. Petitioner is eager to practice law again and is aware of his ethical obligations as an attorney.

The Board recommends that the Petition for Reinstatement be granted.

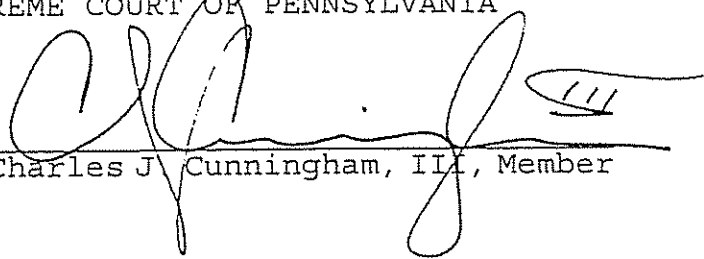
V. RECOMMENDATION

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: 
Charles J. Cunningham, III, Member

Date: June 30, 1998

Board Members Marroletti, Miller and Stewart did not participate in the April 30, 1998 adjudication.

O R D E R

AND NOW, this 20th day of August, 1998, upon consideration of the Report and Recommendations of the Disciplinary Board of the Supreme Court of Pennsylvania dated June 30, 1998, 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.