

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

In the Matter of : No. 255, Disciplinary Docket
: No. 3 - Supreme Court
:
[ANONYMOUS] : No. 113 DB 1996 - Disciplinary Board
:
: Attorney Registration No. []
:
PETITION FOR REINSTATEMENT : ([] 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

Petitioner, [], filed a Petition for Reinstatement to the bar of Pennsylvania on September 19, 2000. Petitioner was suspended from the practice of law in Pennsylvania for three years retroactive to August 27, 1996 by Order of the Supreme Court of Pennsylvania dated July 17, 2000.

A reinstatement hearing was held on December 13, 2000, before Hearing Committee [] comprised of Chair [], Esquire, and Members [], Esquire, and [], Esquire, Alternate. Petitioner was represented by [], Esquire. Office of Disciplinary Counsel was represented by [], Esquire.

The Committee filed a Report on April 5, 2001 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 May 23, 2001.

II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner was born in 1966 and was admitted to practice law in Pennsylvania in 1991. His address is [].

2. Petitioner was suspended from the practice of law by Order of the Supreme Court of Pennsylvania dated July 17, 2000. This suspension was for a period of three years retroactive to August 27, 1996, the date of Petitioner's temporary suspension.

3. The misconduct underlying Petitioner's suspension was his conviction in the State of [] in 1996 of two counts of reckless homicide and one count of failure to do duty at a fatal accident. Petitioner was driving at an excessive rate of speed, while under the influence of alcohol, and collided with another car. The two occupants of the other car were killed. Immediately following the accident Petitioner left the scene.

4. As a result of the conviction, Petitioner was sentenced to eight years incarceration, concurrent, on each of the reckless homicide counts, with two years suspended on each count, and

three years incarceration for the failure to do duty count, consecutive to the other counts, which was suspended in full.

5. Petitioner was incarcerated in [] from June of 1996 until June of 1999. Petitioner is currently on probation, which will end in June of 2004. This probation is supervised by the Pennsylvania Board of Probation and Parole. Petitioner has thus far met all of the requirements.

6. Prior to Petitioner's incarceration in [], he requested treatment from a psychiatrist, who directed him to [A], a certified addictions counselor. [A] found that Petitioner was traumatized and depressed by his experience of causing the death of two people through his reckless actions. Petitioner completed a 21-day in-patient alcohol treatment at [] rehabilitation center and began attending AA meetings.

7. During his incarceration in [], Petitioner continued to attend AA meetings and had a clean record of conduct.

8. After his release from prison, Petitioner took individual counseling sessions with [A] every two weeks for one year and currently sees her once per month.

9. Petitioner attends AA meetings at least twice per week.

10. Petitioner is currently employed as a law clerk at his father's law office in []. In this capacity he has researched and briefed a wide variety of legal issues.

11. Petitioner fulfilled his required Continuing Legal Education courses for reinstatement and maintained his knowledge in the law by reviewing legal periodicals and case reporters.

12. A total of seven witnesses testified regarding Petitioner's present reputation and character in the community. All of these witnesses unequivocally indicated that Petitioner was

trustworthy and of good character and all witnesses had no hesitation in recommending Petitioner's reinstatement to the practice of law.

13. [A], Petitioner's counselor, testified that Petitioner has been fully cooperative at every stage of treatment. His prognosis for continued abstinence from the use of alcohol is excellent.

14. Witnesses [B], [C], [D] and [E] testified of their knowledge of a large number of persons in [] and in surrounding communities who know Petitioner and further testified that the reaction to the news that [Petitioner] was seeking reinstatement was positive.

15. Petitioner testified that his time of incarceration provided a period of self-reflection during which he realized that alcohol was a big problem in his life. Prior to the conviction, Petitioner had been arrested for drunk driving while in college and was placed on ARD.

16. Petitioner expressed his remorse for the accident and the subsequent deaths of two individuals, his full acceptance of the consequences of his actions, his extensive efforts to recognize and treat his alcoholism, and his efforts to maintain his competency in the law.

17. If reinstated Petitioner plans to engage in the general practice of law with his father.

III. CONCLUSIONS OF LAW

1. Petitioner proved that he has the moral qualifications, competency and learning in the law required to practice law in Pennsylvania.
2. Petitioner's resumption of the practice of law will be neither detrimental to the integrity and standing of the bar or 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 Petitioner, []. By Order of the Supreme Court of Pennsylvania dated July 17, 2000, Petitioner was suspended for three years retroactive to August 27, 1996.

Pursuant to Rule 218(a), Pa.R.D.E., an attorney who is suspended for a period exceeding one year may not resume practice until reinstated by the Supreme Court of Pennsylvania. 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 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 the administration of justice, nor 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 rehabilitation 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, 468 Pa. 382, 363 A.2d 779 (1976).

Petitioner was convicted of two counts of reckless homicide and one count of failure to do duty at a fatal accident after he drove a car at an excessive rate of speed after consuming alcohol and collided with another vehicle, killing two persons. He then left the scene of the accident. Petitioner served three years in prison and is currently on probation.

Petitioner presented conclusive evidence that he has rehabilitated himself. After the fatal accident, Petitioner realized that his alcohol consumption was causing problems in his life. He voluntarily sought counseling, entered a rehabilitation program and began attending AA. He has not had a drink since the night of the accident in August of 1995. Petitioner remains active in AA, attending meetings at least twice per week. He also continues to see his counselor on a monthly basis. Petitioner is committed to his sobriety.

Petitioner maintained his competence in the law by fulfilling his required CLE credits and reviewing legal journals and cases. During the period from October 1999 to the date of the reinstatement hearing, December 2000, Petitioner completed 74 hours of CLE courses. He works as a law clerk for his father conducting research and drafting legal documents.

Seven character witnesses testified to Petitioner's high integrity and good reputation in the community for truth and honesty. These witnesses were all very familiar with the details of Petitioner's conviction and subsequent rehabilitative efforts and did not believe that Petitioner's reinstatement would harm the public interest.

Petitioner expressed genuine remorse for his misconduct. It is clear that the tragic events have forever changed Petitioner. He is well aware of the course his life must take in order for him to avoid repetition of his actions.

The record shows that Petitioner has met with clear and convincing evidence his burden of proving that he is morally qualified, competent and learned in the law. Furthermore, Petitioner has demonstrated that his readmission will not be detrimental to the bar or to the public. For these reasons 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: _____
C. Eugene McLaughlin, Member

Date: September 7, 2001

Board Member Rudnitsky recused himself.

PER CURIAM:

AND NOW, this 28th day of December, 2001, a Rule having been issued upon respondent on October 11, 2001, to show cause why an order denying reinstatement should not be entered and, upon consideration of the response filed, it is hereby

ORDERED that the Rule is discharged and 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 Disciplinary Board in the investigation and processing of the Petition for Reinstatement.

Mr. Justice Castille dissents.