

IN THE SUPREME COURT OF PENNSYLVANIA

In the Matter of : No. 283 Disciplinary Docket No. 1
: (No. 4 RST 2011)
:
FREDERICK C. STURM, III : No. 23 DB 1981
:
: Attorney Registration No. 17199
PETITION FOR REINSTATEMENT : (Philadelphia)

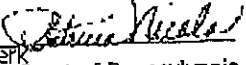
ORDER

PER CURIAM:

AND NOW, this 6th day of July, 2011, upon consideration of the Report and Recommendations of the Disciplinary Board dated February 8, 2011, the Petition for Review, the Objections to the Report and Recommendations and responses thereto, the Petition for Reinstatement is denied.

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.

A True Copy Patricia Nicola
As Of 7/6/2011

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 January 20, 2009, Frederick C. Sturm, III, filed a Petition for Reinstatement to the bar of the Commonwealth of Pennsylvania, following his disbarment on consent by Order of the Supreme Court of Pennsylvania dated October 18, 1982. Office of Disciplinary Counsel filed a Response to Petition for Reinstatement on June 22, 2009 and stated its opposition to reinstatement.

A reinstatement hearing was held on December 4, 2009, before a District I Hearing Committee comprised of Chair Michael B. Pullano, Esquire, and Members Alexandra C. Gaugler, Esquire, and Heather C. Giordanella, Esquire. Petitioner was represented by Dennis J. Cogan, Esquire.

Following the submission of briefs by the parties, the Hearing Committee filed a Report on April 20, 2010, and recommended that the Petition for Reinstatement be denied.

Petitioner filed a Brief on Exceptions on May 6, 2010 and requested oral argument before the Disciplinary Board.

Office of Disciplinary Counsel filed a Brief on Exceptions on May 10, 2010.

Both parties filed Briefs Opposing Exceptions. Oral argument was held before a three-member panel of the Disciplinary Board on September 29, 2010.

This matter was adjudicated by the Disciplinary Board at the meeting on October 11, 2010.

II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner is Frederick C. Sturm, III. He was born in 1948 and was admitted to practice law in the Commonwealth in 1973. His current business address is 387 Ring Road, Chadds Ford PA 19317. Petitioner is subject to the jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

2. On October 18, 1982, Petitioner was disbarred on consent by Order of the Supreme Court. The disbarment was based on Petitioner's criminal conviction for mail fraud and conspiracy to commit mail fraud.

3. Following Petitioner's admission to the bar in 1973, he worked as corporate counsel for two different companies. In 1978 he started Legal Insurance, Inc, which sold prepaid legal services to businesses. Petitioner was the President of Legal Insurance.

4. In 1979, Petitioner and Michael Drum, a client of Legal Insurance, decided to co-purchase an apartment complex, which they incorporated under the name of FCS Enterprises, Inc. The apartment complex, known as the Monterey Apartments, had four sections, each consisting of 48 separate apartments.

5. After purchasing this apartment complex, Petitioner and Mr. Drum considered making repairs to the buildings. The complex was in a state of deterioration, its tenants were not paying rent, and ultimately, the buildings were declared unfit for human habitation. FCS Enterprises was unsuccessful in evicting the tenants.

6. In order to improve the condition of the complex, Petitioner approached Anthony Marinucci, a contractor who was a client of Legal Insurance, about repairing the complex. FCS Enterprises was unable to obtain financing for repairs while the buildings were occupied.

7. Petitioner and Mr. Marinucci discussed ways in which to force the tenants out of the buildings. In particular, they talked about exposing the tenants to the elements by removing the roof of the complex, or bulldozing the buildings. Petitioner claims his conversations with Mr. Marinucci were not serious. (N.T. 80)

8. At some point, Mr. Marinucci introduced Petitioner to Michael Raffa, a roofer by trade. During the first meeting, Mr. Raffa asked Petitioner for legal assistance in vacating a prior conviction. Mr. Raffa then started visiting Petitioner at his office.

9. In January 1980, three fires were set at the apartment complex.

10. On January 4, 1980, the date of the first fire, Mr. Marinucci called Petitioner and told him that Mr. Raffa had set fire to the complex. Based on this information, Petitioner called Mr. Drum and asked him to assess whether there was any damage to the apartment buildings. Mr. Drum advised Petitioner that there was no damage, which Petitioner then relayed to Mr. Marinucci.

11. According to Petitioner, after the first fire, Petitioner learned that there was an insurance policy issued by Insurance Placement Facility (IPF) for the complex in Mr. Drum's name.

12. On January 13, 1980, another fire was set at the complex and Mr. Marinucci told Petitioner that Mr. Raffa had set this fire as well.

13. Despite being informed that Mr. Raffa had set two fires at the apartment complex, Petitioner subsequently prepared and signed an application for insurance proceeds. In this application, Petitioner claimed that he did not know the source of the fires.

14. On October 29, 1980, Petitioner was charged under Indictment No. 80-350 with five counts of mail fraud and one count of conspiracy to commit mail fraud. At this point in time, there was no federal arson statute in effect.

15. In the Indictment, the Grand Jury charged, among other things, that (1) Petitioner offered to pay Mr. Raffa and to provide free legal services to him in exchange for

setting fire to the complex; (2) on January 4, 1980, Mr. Raffa set fire to the complex, and on January 5, 1980, Petitioner directed Mr. Raffa to return and set another fire; (3) on January 13, 1980, Mr. Raffa and another individual set fire to the apartment complex again, thereby destroying the complex and causing its tenants to permanently vacate the building; (4) Petitioner paid Mr. Raffa for setting the fires; (5) Petitioner and Mr. Drum caused sworn statements in proof of loss to be submitted to counsel for IPF, claiming damages in the amount of \$189,604 and \$299,511 for the January 4, 1980 and January 13, 1980 fires, respectively; and (6) Petitioner represented that the loss and damage caused by the fires did not “originate by any act, design or procurement on the part” of Petitioner. (ODC 10-A)

16. During Petitioner’s trial, Mr. Marinucci, who appeared as a Government witness, testified that he hired Mr. Raffa as an arsonist for Petitioner.

17. Mr. Raffa admitted that he was an arsonist for hire, entered a plea of guilty, and testified against Petitioner. The Government presented testimony from Mr. Raffa that Petitioner agreed to pay Mr. Raffa \$8,000 and to provide free legal services in exchange for Mr. Raffa setting fire to the apartment complex.

18. The Government presented evidence that, on January 15, 1980, Petitioner paid Mr. Raffa a partial payment in the amount of \$1,500 for participating in the arson. Mr. Raffa also had made six tape recordings of conversations with Petitioner, which were introduced into evidence during Petitioner’s trial. Based on one of these tapes, the Government presented evidence that Petitioner had paid an additional \$1,000 to Mr. Raffa as further payment for participating in the arson.

19. A jury found Petitioner guilty on all counts under the Indictment.

20. On March 27, 1981, Petitioner was sentenced to a total of ten years of imprisonment and a fine in the amount of \$15,000.

21. During the sentencing hearing, United States District Court Judge Van Arsdale stated, among other things, that after learning that Mr. Raffa had set fire to the apartment complex, Petitioner "proceeded thereafter and...sign[ed] the document asking for payment of the insurance, and according to what I understand, there is a sworn statement to the effect that you knew nothing or had no knowledge as to the cause of the fire." (ODC-11) The Judge found Petitioner's version of events to be incredible, and stated that it was..."very difficult to come to any other conclusion than that you were deeply and directly and completely involved in this scheme to burn the apartment down." (ODC 11, pp. 54-55).

22. At the time of sentencing, Petitioner was ordered to surrender his passport to the Probation Office and travel restrictions were imposed upon Petitioner, which limited his travel to Pennsylvania, New York, New Jersey and Delaware.

23. On August 4, 1982, Petitioner was charged under Indictment No. 82-246 with making a false statement in an application for a passport.

24. While on bail pending appeal following his conviction for mail fraud and conspiracy to commit mail fraud, Petitioner applied for a passport in the name of Dominick Scioli and submitted proof by way of a birth certificate and driver's license.

25. Petitioner's application was processed and he was issued a passport bearing his photograph in the name of Dominick Scioli. Petitioner used this passport on May 4, 1982 to travel to the Bahamas. Petitioner testified that he used the fake passport "to test it out" and that he was considering leaving but came back. (N.T. 195-196).

26. On August 25, 1982, Petitioner entered a plea of guilty to the Indictment and was sentenced to incarceration of three years to run concurrent with the sentence imposed on Indictment No. 80-350.

27. On March 21, 1985, Petitioner was charged under Indictment No. 85-107 with two counts of filing false claims against the Government and one count of mail fraud.

28. The Grand Jury charged, among other things, that Petitioner submitted false tax returns to the Treasury Department of the United States containing false financial information and identified himself using false names, such as "Frank Sturm."

29. On August 30, 1985, a jury found Petitioner guilty on all counts. He was sentenced to a period of 18 months incarceration to run consecutive to the sentence imposed on Indictment No. 80-350.

30. As a result of the conviction under Indictment No. 80-350, Petitioner was suspended from the practice of law by Order of the Court dated April 22, 1981.

31. On August 31, 1982, Petitioner signed a resignation statement, which the Supreme Court accepted and disbarred Petitioner on consent by Order of October 18, 1982. The Court further directed Petitioner to comply with Pa.R.D.E. 217.

32. By letter dated October 19, 1982, the Secretary of the Disciplinary Board notified Petitioner that he was disbarred on consent and he was instructed to comply with the Pennsylvania Rules of Disciplinary Enforcement. This letter was addressed to Petitioner at his place of incarceration.

33. Petitioner was incarcerated from August 2, 1982 until November 17, 1988.

34. Since approximately 1989, Petitioner has worked as a paralegal at the law firm of Cheryl Sturm, Attorney at Law, which is owned by his wife.

35. Petitioner's responsibilities are that of a paralegal. He drafts documents for review and approval regarding post-conviction matters, as well as immigration matters related to criminal convictions.

36. By letter dated May 7, 2008, pursuant to Pa.R.D.E. 217(j), Petitioner registered as a paralegal for Cheryl Sturm, Attorney at Law, and Mrs. Sturm registered as his supervising attorney.

37. Pa.R.D.E. 217(j) became effective January 1, 2001, for any "formerly admitted attorney" as of December 7, 2000. Thus, Petitioner failed to timely file the notice of engagement as required by Pa.R.D.E. 217(j).

38. According to Petitioner, he first learned about this registration requirement when he attended an ethics course and relayed the information to his wife, who was also unaware of the requirement.

39. Mrs. Sturm pays Petitioner approximately \$400 per week for the work he performs. Petitioner has no other income.

40. Prior to his suspension and subsequent disbarment, Petitioner had a record of prior discipline.

41. On April 16, 1980, Petitioner received an informal admonition for having a lengthy conversation with a represented party that Petitioner had named in a lawsuit filed in District Court.

42. On December 10, 1980, Petitioner received an informal admonition in connection with the filing of a motion in the District Court in New Jersey even though Petitioner was not licensed to practice law in New Jersey.

43. On February 17, 1981, Petitioner received an informal admonition in connection with his failure to appear at two status conferences, which led to the dismissal of a complaint that Petitioner had filed on behalf of a client.

44. On January 20, 2009, Petitioner filed a Petition for Reinstatement and a Reinstatement Questionnaire.

45. On July 8, 2009, Office of Disciplinary Counsel submitted a motion to strike the Petition arguing that Petitioner had failed to make restitution to the Pennsylvania Lawyers Fund for Client Security, as required by Pa.R.D.E. 531.

46. Petitioner opposed the motion to strike arguing that he did not represent the individuals who had received disbursements from the PA Lawyers Fund and that the claims were baseless.

47. On or about July 23, 2009, Petitioner paid the PA Lawyers Fund \$3,108. According to Petitioner, this payment was made under protest.

48. Petitioner's Reinstatement Questionnaire included several deficiencies.

49. Question 1(f) asks if Petitioner has ever used another name. Petitioner responded in the negative. However, he failed to specify that he applied for and received a passport in the name of Dominick Scioli.

50. Petitioner testified that he misunderstood Question 1(f) because he thought that his use of that name was covered in the conviction portion of the Questionnaire.

51. Question 2(c) asks if Petitioner has ever applied for admission to practice as an attorney before a federal court. Petitioner responded in the negative. However, he was admitted to practice in the United States District Court for the Eastern District.

52. Petitioner admitted that his answer to Question 2(c) was inaccurate.

53. Question 5(c) asks if the Pennsylvania Lawyers Fund for Client Security made any disbursements to Petitioner's former clients. Petitioner answered in the negative. Petitioner claims that the individuals who received disbursements from the PA Lawyers Fund were not his clients.

54. Question 7(a) asks if Petitioner was ever disciplined by a court in any jurisdiction, including any state, federal, or administrative agency. Petitioner answered in the negative. However, Petitioner was suspended and disbarred by the United States District Court for the Eastern District of Pennsylvania.

55. Petitioner claims he forgot he had been suspended and disbarred in federal court.

56. Question 8(a) asks, to the best of Petitioner's knowledge, if he has ever been the subject of a disciplinary complaint not otherwise revealed in the Petition for Reinstatement. Petitioner answered in the negative. However, he had received three informal admonitions.

57. Petitioner testified that “you’ve shown me three informal admonitions for basically nothing. If you consider them disciplinary complaints, I guess then [the answer to Question 8(a)] would be inaccurate.”

58. Question 10 asks if Petitioner has ever been involved in a civil action as a party or as one who claimed an interest. Petitioner answered in the negative. However, Petitioner had filed pro se complaints against several individuals, including former Disciplinary Counsel John Herron. Petitioner also filed post-conviction petitions under U.S.C. Section 2255.

59. Petitioner admitted that his answer to Question 10 was inaccurate, and that he had filed several petitions for habeas corpus.

60. Petitioner claims he does not owe any large sums of money and that he pays his taxes, but did not provide copies of any documents regarding his financial obligations or tax returns because his wife would not consent to the release of the information.

61. While incarcerated, Petitioner read criminal law books. Since his release he has continued to develop his knowledge and expertise in the areas of criminal defense and immigration law

62. Petitioner reviews the Federal Reporter in the areas of criminal habeas corpus and immigration.

63. Petitioner fulfilled 36 credit hours of Continuing Legal Education.

64. Petitioner presented four character witnesses.

65. Arnold Silverstein, Esquire, has been a lawyer since 1973 and has known Petitioner since 1971 while in law school at Temple University. Mr. Silverstein has

been in contact with Petitioner about once a week since 1990. He knows Petitioner to be an exceptionally able lawyer.

66. Mr. Silverstein opined that Petitioner has the competence, learning and moral qualifications to practice law.

67. Sonia Silverstein, Esquire, has been admitted to the bar since 1985 and practices law with her husband, Arnold Silverstein. She has known Petitioner since approximately 1978. She has had interaction with Petitioner on a regular basis since 1990.

68. Mrs. Silverstein opined that Petitioner's reputation in the community as an honest person and a competent practitioner is excellent.

69. Anthony Petrone, Esquire, was admitted as a lawyer in 1982 and has known Petitioner since the early to mid-1990s. Over the course of the past 15 years, he has called Petitioner to ask for insight on various complex legal issues.

70. Mr. Petrone opined that Petitioner is highly regarded as a knowledgeable person in the area of criminal defense law.

71. Cheryl Sturm, Esquire, is the wife of Petitioner. She opined that Petitioner is honest and morally qualified to resume the practice of law. She believes he is sorry for committing mail fraud, but "he will continue to deny and has always denied that he had anything to do with putting the arson into action." (N.T. 161, 163).

72. Four character letters were introduced in support of Petitioner's reinstatement.

73. Petitioner testified on his own behalf.

74. Petitioner did not express genuine remorse for his misconduct. He expressed embarrassment for what happened and sorrow that his parents died while he was “under a cloud” (N.T. 212-213), but he never said he was sorry.

75. Petitioner stated that it took 15 years for him to admit to himself that he actually committed the crime of mail fraud. (N.T. 190)

76. Petitioner’s position on the tax fraud conviction is that he never mailed the tax returns. (N.T. 204)

77. Petitioner’s version of events concerning his conviction for mail fraud and conspiracy is not credible.

III. CONCLUSIONS OF LAW

1. Petitioner’s misconduct consisting of his criminal convictions is so egregious that he should not be reinstated at this time. Office of Disciplinary Counsel v. Keller, 506 A.2d 872 (Pa. 1986).

2. Petitioner has not engaged in a qualitative period of rehabilitation during his disbarment. In re Verlin, 731 A.2d 600 (Pa. 1999).

3. Petitioner has not met his burden of proving that he has the moral qualifications required for admission to practice law in the Commonwealth. Pa.R.D.E. 218(c)(3).

4. Petitioner has not met his burden of proving that his resumption of the practice of law within the Commonwealth will be neither detrimental to the integrity and

standing of the bar or the administration of justice nor subversive of the public interest.
Pa.R.D.E. 218(c)(3).

IV. DISCUSSION

Petitioner seeks reinstatement to the bar following his disbarment on October 18, 1982. Petitioner's request for readmission is initially governed by the standard set forth by the Supreme Court of Pennsylvania in Office of Disciplinary Counsel v. Keller, 506 A.2d 872 (Pa. 1986). The Keller standard states that when reinstatement is sought by a disbarred attorney, the threshold question must be whether the magnitude of the breach of trust would permit resumption of practice without a detrimental effect upon the integrity and standing of the bar or the administration of justice nor subversive of the public interest.¹ This inquiry recognizes that some forms of misconduct are so egregious that they will bar the attorney from successfully gaining reinstatement. As a threshold matter, therefore, the Board must determine whether Petitioner's breach of trust was so egregious as to preclude his reinstatement. See In re Verlin, 731 A.2d 600 (Pa. 1999); Office of Disciplinary Counsel v. Costigan, 664 A.2d 518 (PA. 1995).

The breach of trust in this case arose from Petitioner's criminal convictions of mail fraud and conspiracy to commit mail fraud; making a false statement in an application for a passport; and false claims against the United States. These were three separate convictions occurring at different periods of time.

¹ As noted by the Court in In re Verlin, 731 A. 2d 600 (Pa. 1999), this threshold inquiry overlaps somewhat with the requirements of Rule 218(c)(3), Pa.R.D.E.

It is helpful for the Board to examine the circumstances which resulted in Petitioner's convictions in making the critical determination under Keller. Petitioner was convicted of mail fraud and conspiracy in the United States District Court for the Eastern District of Pennsylvania on March 27, 1981, and was sentenced to a period of ten years incarceration. The conduct which gave rise to the charges included an arson for hire scheme in which an apartment complex owned by Petitioner, occupied by more than 60 tenants, was burned to the ground. Petitioner was involved in two separate acts of arson in the course of this conspiracy. The government's evidence against Petitioner included the testimony of two cooperating co-defendants/co-conspirators, who testified to Petitioner's involvement in the arson for hire scheme. Petitioner then submitted a false insurance claim for the insurance proceeds.

Petitioner was convicted of passport fraud in 1982 and sentenced to imprisonment for three years to run concurrently with the sentence in the arson matter. The facts which gave rise to this conviction involve Petitioner's applying for a passport in a false name of "Dominick Scioli", by using false documents and thereafter obtaining the passport in that false name with his photograph on it. At the time of this offense, Petitioner was out on bail pending appeal in the mail fraud/arson matter. He used the passport to travel to the Bahamas and considered fleeing the jurisdiction, but returned to face incarceration.

During the course of Petitioner's incarceration, in 1985 he was convicted of knowingly filing false tax returns with the government. Petitioner filed tax returns containing false financial information and identified himself using false names, such as "Frank Sturm."

Petitioner received a sentence of 18 months incarceration to run consecutive to the sentence imposed in the arson matter.

The latter two convictions were not included in Petitioner's resignation statement that served as the basis for the Order of disbarment in 1982, as they occurred later in time. However, they must be considered as part and parcel of Petitioner's misconduct in the instant proceeding, especially as the passport fraud was directly related to Petitioner's conviction in the mail fraud matter.

The facts and circumstances of these convictions lead to the conclusion that Petitioner's misconduct was reprehensible. Most deplorably, Petitioner's actions in the mail fraud/arson matter placed lives in jeopardy. There is no other reinstatement matter of record in Pennsylvania that has involved such a degree of catastrophe. Other Keller issues have involved some form of dishonesty and greed. In the Matter of Perrone, 777 A.2d 413 (Pa. 2001); In the Matter of Greenberg, 749 A.2d 434 (Pa. 2000).

In the sole matter wherein the Court "forever barred" an attorney, that attorney had been convicted of conspiracy to participate in the affairs of an enterprise through a pattern of racketeering activity. Office of Disciplinary Counsel v. Romaine Phillips, 25 DB 1988, 611 Disciplinary Docket No. 2 (Pa. June 19, 2002). Mr. Phillips was sentenced to five years imprisonment and subsequently disbarred by the Court. The conspiracy was orchestrated by a judge who used his power and influence to direct attorneys and others to perform illegal acts which provided pecuniary benefit to the judge. The Supreme Court rightfully determined that Mr. Phillips should not ever practice law in Pennsylvania in the future.

Petitioner's participation in the mail fraud/arson matter, standing alone, is highly egregious. Viewed in conjunction with the other convictions, we must conclude that Petitioner's acts are so egregious, and the breach of trust so great, as to prevent reinstatement at this time.

Though our conclusion is that Petitioner has not passed the Keller threshold question as to the magnitude of his underlying misconduct, in the interest of setting forth a clear record of our findings and conclusions in this entire matter, we further consider whether Petitioner has met his burden of proving by clear and convincing evidence that his current resumption of the practice of law would not have a detrimental impact on the integrity and standing of the bar, the administration of justice, or the public interest; and that he has the moral qualifications, competency and learning in the law required for admission to practice law in this Commonwealth. Office of Disciplinary Counsel v, Keller, 506 A.2d 872 (Pa. 1986); Pa.R.D.E. 218(c)(3).

In order to make this determination, we must consider the amount of time that has passed since Petitioner was disbarred, as well as his efforts at rehabilitation. Matter of Verlin, 731 A.2d 600 (Pa. 1999).

In the instant case, Petitioner has been disbarred since 1982.² Certainly this is a lengthy amount of time for a lawyer to be removed from the practice of law; however, the mere passage of time cannot be considered in a vacuum. Petitioner's rehabilitative activities must be scrutinized.

Since Petitioner's release from incarceration, he has been a paralegal for his wife's law firm. He introduced several character witnesses and character letters attesting to

² As noted above, Petitioner's involvement with the criminal system continued post-disbarment with his convictions in 1982 and 1985.

his legal skills, which appear to be excellent. Other than this evidence of legal competency and learning in the law, the record is silent as to any substantial efforts made toward meaningful rehabilitation. Petitioner did not express genuine remorse for his misconduct, although his wife testified that he was sorry. Petitioner admitted that it took him a long time to accept the fact that he committed the crime of mail fraud. He continues to deny involvement in the arson for hire scheme. He showed no evidence of any involvement in community or charitable activities as a way to give back to the public.

This slim record stands in stark contrast to that of previously disbarred attorneys seeking reinstatement who have shown sufficient qualitative rehabilitation. In the Verlin matter, the Court noted the extensive character testimony provided on Mr. Verlin's behalf that demonstrated the high regard and reputation that he had enjoyed, and which suggested that the serious misconduct which resulted in disbarment had been an aberration. The record convinced the Court that Mr. Verlin understood firsthand the damage his unethical practice of law had inflicted on others, and the Court was satisfied that Mr. Verlin was prepared to accept the responsibility to conduct himself with integrity in the future.

Likewise, in the recent case of Office of Disciplinary Counsel v. Milton Raiford, 50 DB 1994, 42 Disciplinary Docket No. 3 (Pa. April 16, 2010) the petitioner provided an exemplary record of rehabilitation after initially seeking reinstatement and being denied. He offered compelling character testimony and showed true remorse.

Considering all of the foregoing facts, we believe that Petitioner has not shown he is sufficiently rehabilitated. He has not demonstrated that he understands the nature of his wrongdoing and that he has changed. Nor has he convinced this Board that

he is prepared to conduct himself in such a manner as to protect and cultivate the integrity and standing of the bar in the eyes of the public, and to facilitate the proper administration of justice.

Petitioner has not met his burden pursuant to Pa.R.D.E. 218(c)(3). The requirements pursuant to this Rule go to the overarching concept of Petitioner's fitness to practice law. While Petitioner has shown learning in the law and competence based on his paralegal responsibilities through the years, he has not shown that he is morally qualified. His lack of genuine remorse, as discussed above, is one area in which he failed to meet his burden. Additionally, Petitioner submitted a Reinstatement Questionnaire that contained several false statements and omissions. When cross-examined, Petitioner offered as an excuse that he misunderstood the questions, did not recall or forgot the information. With respect to several questions, including the PA Lawyers Fund issue, Petitioner maintained that his answer was accurate despite overwhelming evidence to the contrary. From the time Petitioner was advised that the PA Lawyers Fund records showed that he owed the fund in excess of \$3,000, Petitioner did nothing to confirm this. He eventually paid the PA Lawyers Fund, and while under oath continued to deny the accuracy of the PA Lawyers Fund records.

Petitioner's trustworthiness and credibility are at issue in this proceeding. The Hearing Committee found that Petitioner was not credible. The record supports this finding, as Petitioner continued to deny participation in the arson for hire scheme despite evidence to the contrary.

The totality of the record demonstrates that Petitioner's misconduct gravely damaged the legal system. The Board respectfully recommends that the Petition for

Reinstatement be denied due to the egregiousness of the misdeeds. In the event that the Court is not persuaded by this position, we further recommend that the Petition for Reinstatement be denied for the reasons that Petitioner has failed to show he is sufficiently rehabilitated and morally qualified for the practice of law in this Commonwealth, and that his resumption of the practice of law will not be detrimental to the bar, the administration of justice, nor subversive of the public interest.


V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that the reinstatement of Petitioner, Frederick C. Sturm, III, be denied.

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: 
Gabriel L. Bevilacqua, Board Member

Date: February 8, 2011

Board Member Baer did not participate in the adjudication.