

IN THE SUPREME COURT OF PENNSYLVANIA

In the Matter of : No. 672 Disciplinary Docket No. 3
: :
: No. 37 DB 1999
MELVIN L. CARTER : :
: Attorney Registration No. 54333
: :
PETITION FOR REINSTATEMENT : (Formerly Dauphin County)

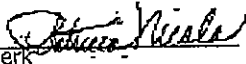
ORDER

PER CURIAM

AND NOW, this 9th day of August, 2012, upon consideration of the Report and Recommendations of the Disciplinary Board dated May 16, 2012, 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.

A True Copy Patricia Nicola
As Of 8/9/2012

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

In the Matter of : No. 672 Disciplinary Docket No. 3
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: No. 37 DB 1999
MELVIN L. CARTER : :
: Attorney Registration No. 54333
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PETITION FOR REINSTATEMENT : (Allegheny 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

By Order of May 17, 2001, the Supreme Court of Pennsylvania suspended Melvin L. Carter for a period of one year and one day. Mr. Carter filed a Petition for Reinstatement on March 21, 2011. Office of Disciplinary Counsel filed a Response to Petition on June 1, 2011.

A reinstatement hearing was held on August 3, 2011 before Chair Anthony R. Himes, Esquire, and Members Laura Cohen, Esquire, and Susan S. Shin, Esquire.

Petitioner was represented by Robert L. Simmons, Esquire. Petitioner introduced four exhibits and presented the testimony of one witness, in addition to his own testimony.

The Hearing Committee filed a Report on January 20, 2012 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 on March 21, 2012.

II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner is Melvin L. Carter. He was born in 1952 and was admitted to the practice of law in Pennsylvania in 1988. His current address is P.O. Box 438174, Chicago IL 60643. Petitioner is subject to the jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.
2. By Order of the Supreme Court of Pennsylvania dated May 17, 2001, Petitioner was suspended from the practice of law for a period of one year and one day.
3. Petitioner's suspension arose from his violations of Rules of Professional Conduct 8.4(b) and (c) relating to the criminal charges of insurance fraud and false reports to law enforcement, resulting in his placement in the Accelerated Rehabilitative Disposition (ARD) program in 1997.
4. Petitioner completed the conditions of ARD and the matter was discharged.

5. Respondent has a record of discipline consisting of a Private Reprimand imposed in 1999.

6. Prior to his suspension, Petitioner ran a solo law practice and experienced high levels of stress from operating his practice, as well as from marital problems.

7. Petitioner admitted to problems with alcohol before and around the time of his suspension, and for a brief period afterwards. Petitioner does not attribute his misconduct to problems with alcohol, and fully accepts responsibility for the misconduct.

8. Subsequent to his suspension in 2001, Petitioner sought counseling for stress related issues from Wilbert Hall, an Elder of the Faith Temple Church of God in Christ in Harrisburg. Elder Hall was also employed as a counselor at the Harrisburg State VA Hospital. This counseling continued until Elder Hall's death in 2010.

9. Dr. Greg Weinstead is Petitioner's primary care physician. Petitioner began seeing Dr. Weinstead in 2010 and raised the possibility of drug and alcohol concerns.

10. Dr. Weinstead referred Petitioner to Christian Community Health for a drug and alcohol screening and assessment evaluation. Petitioner underwent the drug and alcohol screening on July 18, 2011 and the assessment evaluation on July 27, 2011.

11. The screening tested negative for the presence of drugs and/or alcohol, and Petitioner was not informed that he was in need of alcohol counseling.

12. Petitioner is not an alcoholic and currently does not have problems related to alcohol.

13. Following his suspension, Petitioner worked briefly for the Harrisburg School District. He then moved to Illinois and obtained employment as Chief Deputy Clerk

and Compliance Officer for the Circuit Court of Cook County, Illinois. Petitioner informed the Circuit Court of his suspension. Petitioner was employed at the Circuit Court in 2002 and then from 2004 through 2007. Between 2002 and 2004 he worked for the Chicago Board of Education and VISTA in Washington, D.C.

14. Petitioner's employment responsibilities with the Circuit Court did not require him to be a licensed attorney and did not involve the practice of law.

15. Petitioner became involved in community activities, in particular an organization called Real Men Cook, a non-profit devoted to healthy eating for youths.

16. Petitioner helped the local bar association by doing paper work.

17. Petitioner has been unemployed since 2007.

18. Petitioner fulfilled the Continuing Legal Education requirements necessary for reinstatement and reads the advance sheets and legal periodicals to keep apprised of current law.

19. If reinstated, Petitioner intends to practice law in Philadelphia in a general practice. He has also been offered a position with Robert L. Simmons, Esquire, his counsel in the instant matter.

20. Petitioner offered the testimony of David Fleming Taylor, Esquire, a licensed Pennsylvania attorney. Mr. Taylor has known Petitioner since 1995 and is aware of Petitioner's suspended status and the personal difficulties Petitioner experienced at the time of the suspension.

21. Mr. Taylor was surprised to hear of concerns regarding alcohol, as he never observed Petitioner abusing alcohol, even when Petitioner lived with Mr. Taylor and his wife for a short period of time.

22. Mr. Taylor strongly believes that Petitioner is highly competent and has good insight into legal matters. He does not believe that Petitioner's reinstatement would be detrimental to the bar.

23. Petitioner presented numerous letters of reference from a variety of individuals who worked with Petitioner in Illinois and who were involved in community endeavors with Petitioner. (P. Ex. 4)

24. Two letters are from judges for the Circuit Court of Cook County, Illinois. Judges are prohibited from providing character testimony, pursuant to the Judicial Code of Conduct of both Pennsylvania and Illinois, but the observations of Petitioner's competency and work habits are relevant. Judge Leonard Murray often sought out Petitioner when he had more difficult administrative matters. Judge Bernadette Freeman noted Petitioner's positive input as to operational improvements for the Court.

25. The balance of the letters supports Petitioner's reinstatement and describes him as a hard-working, moral, dependable person.

26. Petitioner testified on his own behalf. He expressed sincere remorse for the misconduct leading to his suspension. Petitioner feels that his time away from the practice of law has been productive, in that he has learned a lot about himself. He believes that making a difference in the lives of others is the key to having a good life.

27. Office of Disciplinary Counsel does not oppose reinstatement.

III. CONCLUSIONS OF LAW

Petitioner has met his burden by clear and convincing evidence that he has the moral qualifications, competency and learning in the law required for admission to

practice law in the Commonwealth and that the 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 from a suspension of one year and one day imposed on May 17, 2001. Pursuant to Rule 218(a), Pa.R.D.E., an attorney who is suspended for a period exceeding one year may not resume the practice of law until reinstated by the Supreme Court of Pennsylvania. Petitioner carries 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 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 administration of justice nor subversive of the public interest. Rule 218(c)(3), 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 that the sanction was imposed 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).

Petitioner was suspended in 2001 and seeks reinstatement some 12 years later. The record reflects that his years away from the practice of law have been

meaningful and productive, a time of self-reflection and learning about the community in which he lives. Petitioner believes his life has changed for the better. During his suspension, Petitioner explored better ways of handling stress and alcohol, with the help of a counselor and his primary care physician. Petitioner worked for the Circuit Court of Cook County in Illinois, building relationships with judges and attorneys as well as community members. He participated in a variety of community activities. If reinstated, Petitioner plans to move back to Pennsylvania, with a potential opportunity to work for Robert Simmons, his counsel in the instant matter.

Petitioner's live witness and the letters of reference support Petitioner's return to the practice of law. He is thought of in the community as moral, dependable and hard-working, and as such will be an asset to the legal community. Petitioner fulfilled his Continuing Legal Education requirements and kept apprised of the current state of the law by reviewing advance sheets and periodicals.

Petitioner has met his burden of proving his fitness to practice law. For these reasons, we recommend that Petitioner be reinstated to the practice of law.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that Petitioner, Melvin L. Carter, 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: 

R. Burke McEmore, Jr., Board Member

Date: May 16, 2012

Board Members Buchholz and Bevilacqua did not participate in the adjudication.