

IN THE SUPREME COURT OF PENNSYLVANIA

In the Matter of : No. 888 Disciplinary Docket  
: No. 2 - Supreme Court  
: :  
: :  
GAIL FULLER : No. 55 DB 1993 - Disciplinary Board  
: :  
: :  
: :  
PETITION FOR REINSTATEMENT : Attorney Registration No. 47374  
: :  
: :  
: (Philadelphia)

ORDER

PER CURIAM:

AND NOW, this 29th day of April, 2003, upon consideration of the Report and Recommendations of the Disciplinary Board of the Supreme Court of Pennsylvania dated January 31, 2003, the Petition for Reinstatement is DENIED.

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.

A true copy Patricia Nicola

As of: *April 29, 2003*

Attest: *Patricia Nicola*

Chief Clerk

Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

In the Matter of	:	No. 888, Disciplinary Docket
	:	No. 2 - Supreme Court
GAIL FULLER	:	No. 55 DB 1993 - Disciplinary Board
	:	Attorney Registration No. 47374
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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

Petitioner, Gail Fuller, filed a Petition for Reinstatement to the bar of Pennsylvania on February 5, 2001. Petitioner was disbarred on consent, retroactive to June 30, 1993, by Order of the Supreme Court of Pennsylvania on April 3, 1997.

A reinstatement hearing was held on October 30, 2001 before Hearing Committee 1.15 comprised of Chair Michael T. Scott, Esquire, and Members Howard J. Kaufman, Esquire, and Christopher R. Booth, Jr., Esquire. Petitioner appeared pro se.

The Hearing Committee filed a Report on May 6, 2002 and recommended that the Petition for Reinstatement be denied.

Petitioner filed a Brief on Exceptions and a Request for Oral Argument on May 28, 2002. Office of Disciplinary Counsel filed a Brief Opposing Exceptions on June 17, 2002.

Oral Argument was held before a three-member panel consisting of Board Members Cunningham, Morris and Watkins on August 1, 2002.

This matter was adjudicated by the Disciplinary Board at the meeting of August 7, 2002.

II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner was born in 1953 and was admitted to practice law in Pennsylvania in 1986. She resides at 4814 Jay St., N.E., Washington, D.C. 20019.

2. Petitioner was disbarred on consent after her criminal conviction in the United States District Court for the Eastern District of Virginia in March 1992, on the offenses of conspiracy to defraud, aiding and abetting false statements, suborning perjury, harboring aliens, and aiding and abetting the use of false Social Security numbers.

3. Petitioner was sentenced in 1992 to serve a term of imprisonment of 72 months, followed by supervised release for three years and a fine of \$7,500. Petitioner's probation ended on March 29, 2000.

4. Petitioner's conviction involved a scheme in which Petitioner, while representing Nigerian citizens, submitted fraudulent applications to the Immigration and Naturalization Service (INS) to obtain for her clients certain benefits, namely, permanent resident status. Petitioner filed fraudulent documents and caused the aliens to commit perjury and to testify falsely under oath at the hearings by claiming that the information contained in the false applications and supporting documentation was true. Petitioner obtained blank letterhead stationery from entities such as the University of the District of Columbia in order to prepare the false and fraudulent letters of employment and school

records to support the false applications of immigration benefits. Petitioner also caused notaries public to falsely notarize forged documents. Petitioner and her co-conspirators charged the aliens between \$1,500 and \$3,500 for their services.

5. In response to Question 9 in her Reinstatement Questionnaire, which asked "have you ever been investigated, arrested, or prosecuted for any crime (other than a summary motor vehicle violation), which is not set forth in paragraph 4 hereinabove?" Petitioner responded "No." Petitioner failed to disclose anywhere on the Questionnaire her prior involvement in the criminal system, consisting of the following:

- a. December 16, 1977, Washington D.C.: charged with unauthorized use of auto and false pretense; case dismissed on December 31, 1979;
- b. November 6, 1978, Washington D.C.: charged with taking property without right; case dismissed on April 23, 1979;
- c. September 20, 1983, Prince Georges County, Maryland: charged with assault; Stet Docket, October 21, 1983;
- d. September 26, 1983, Prince Georges County, Maryland; charged with false pretenses; case *nolle prossed* on October 27, 1983;
- e. October 14, 1983, Rockville, Maryland: charged with forgery; case *nolle prossed* on January 13, 1984;

- f. January 18, 1984, Prince Georges County, Maryland: charged with welfare perjury and welfare fraud; on March 13, 1985 welfare perjury charge *nolle prossed*; on welfare fraud charge: sentenced to three years suspended sentence and five years probation; ordered to pay \$7,202.49 in restitution to Department of Social Services;
  - g. November 7, 1984, Prince Georges County, Maryland: charged with two counts of bad checks; both counts *nolle prossed*
  - h. May 31, 1986, Washington, D.C.: charged with welfare fraud; on December 4, 1990, sentenced to six months suspended sentence, five years probation; restitution of \$4,114, and 200 hours of community service;
  - i. July 7, 1991, Prince Georges County, Maryland: charged with assault, case *nolle prossed* on September 30, 1991; and
  - j. October 11, 1991, Prince Georges County, Maryland: charged with unauthorized practice of law and aggravated theft; case resolved.
6. In September 1989 Petitioner was charged with violating her probation on her March 1985 conviction of welfare fraud.
7. Petitioner's explanation for failing to properly respond to Question 9 was that she misunderstood the question. (N.T. 143-144)

8. In response to Question 15 on the Reinstatement Questionnaire, which asked "As of the date of the within answers, do you have any fixed financial obligations or other notable requirements for payments, such as alimony or support?" Petitioner responded in the affirmative and listed seven obligations. Petitioner failed to list her financial obligation of \$4,114 for the restitution she had been ordered to pay on her 1990 welfare fraud conviction, which was outstanding.

9. Petitioner's explanation for her failure to disclose the restitution obligation was that she had "forgotten" about that obligation. (N.T. 157)

10. Petitioner believes that the cause of her criminal activities was mental and physical abuse at the hands of her former husband, David Fuller. Petitioner blames each of her arrests on a marital event in which her former husband was culpable.

### III. CONCLUSIONS OF LAW

The misconduct for which Petitioner was disbarred is not so egregious to preclude her reinstatement.

Petitioner has failed to demonstrate, with clear and convincing evidence, that she possesses the moral qualifications, competency and learning in the law necessary to practice law in the Commonwealth of Pennsylvania.

Petitioner has failed to demonstrate, with clear and convincing evidence, that her resumption of the practice of law will not be detrimental to the integrity of the bar nor subversive of the interests of the public.

IV. DISCUSSION

Petitioner's request for reinstatement to the bar after disbarment 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 opinion articulates a threshold question which must be met before the requirements of Pa.R.D.E. 218(c)(3)(i) are considered. This threshold inquiry is whether the magnitude of the breach of trust would permit the resumption of practice without a detrimental effect upon the integrity and standing of the bar or the administration of justice nor be subversive of the public interest. Keller thus requires a determination that the original misconduct was not so offensive as to preclude reinstatement.

Petitioner was disbarred on consent because of her participation in a scheme whereby Petitioner submitted fraudulent applications to the INS to obtain permanent resident status for her clients. Petitioner's motive was solely pecuniary.



In considering this Petition for Reinstatement, the Board finds that Petitioner's misconduct, while extremely serious, is not so repellant to the integrity of the bar and opposite to the interests of the public as to prohibit reinstatement. The case law supports this conclusion. In a recent case, an attorney sought reinstatement after she was disbarred as a result of her criminal conviction for conspiracy and bribery arising out of her immigration law practice in which she bribed INS officials over a six month period. In re Anonymous No. 141 DB 1991, No. 845 Disciplinary Docket No. 2 (Pa. July 23, 1999). The Board found that the conduct was not so egregious as to preclude immediate consideration of her petition for reinstatement, although she was denied reinstatement at that time on other grounds. In the matter at In re Anonymous No 17 DB 1990, 29 Pa. D. & C. 4<sup>th</sup> 124 (1995), an attorney sought reinstatement after he was convicted of kicking back money to a roofer's union from legal fees paid by the union to the attorney's law firm. This misconduct was found to be not so egregious as to preclude consideration of the reinstatement petition.

Having concluded that Petitioner's misconduct is not so egregious as to preclude the Board from considering her petition, the Board must now determine whether Petitioner has met her burden of proving by clear and convincing evidence that she has the moral qualifications, competency and learning in the law required for admission to practice law in Pennsylvania, and that her 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. Pa.R.D.E 218(c)(3)(i). In order to make this determination the Board must consider Petitioner's efforts at rehabilitation and the amount of time that has passed since she was disbarred.

More than nine years have passed since Petitioner's retroactive disbarment in 1993. However, review of the record persuades the Board that Petitioner has not been rehabilitated during this time.

Throughout her testimony and her written submissions, Petitioner attempts to minimize her criminal activity and fails to accept full responsibility for her own conduct. Petitioner continues to blame her former husband for her conviction of immigration fraud. Petitioner disregards the fact that it was her conduct that was unlawful and that it occurred while she was a member of this Bar. Petitioner has served her time and fulfilled her obligations to the criminal authorities, yet it is apparent that she has not come to terms with her actions and has not demonstrated sincere remorse for them. Petitioner's attitude does not demonstrate a commitment to rehabilitation.

At least as significant is Petitioner's failure to take responsibility for nine other arrests, two of which resulted in convictions, that occurred prior to the instant conviction. She failed to list such arrests and convictions on her reinstatement questionnaire, as required, and later explained that she was confused by the question. When questioned

about this criminal history, Petitioner attributed her arrests and convictions to events engineered by her former husband.

Petitioner failed to list a restitution obligation to the probation department on her questionnaire. Petitioner explained that she had forgotten about it, but the inference is raised that she wanted to conceal her prior arrests and convictions, and did not list the restitution obligation as it would have led to the conviction. Petitioner denies any subterfuge, but in any regard, it is clear that Petitioner did not understand or value the importance of accurately completing her reinstatement questionnaire.

Petitioner contends that mistakes on her application should not prevent her reinstatement. It is true that other petitioners have successfully been reinstated in spite of mistakes or omissions on their applications. In the matter of In re Anonymous No. 19 DB 1981, 4 Pa. D. & C. 4<sup>th</sup> 155 (1989), the Board noted that it should not be assumed that every mistaken response or oversight in answering the questionnaire will automatically disqualify a petitioner, especially where an omission is explained or is of little consequence to the substance of the reinstatement petition. However, Petitioner's questionnaire is replete with mistakes and omissions, such that it was difficult for the Hearing Committee and the Board to achieve a full and true picture of Petitioner's history. These omissions were more than inconsequential inaccuracies, and Petitioner's explanation for her failure to include certain pieces of information did little to dispel the Committee's and the Board's

concerns. Petitioner's questionnaire became a hindrance to her goal of achieving reinstatement.

At this time, Petitioner does not have the requisite moral qualifications, competency and learning in the law. Further, Petitioner's readmission to the bar would be detrimental to the integrity and standing of the bar and the administration of justice, and subversive of the public interest.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania recommends that the Petition for Reinstatement of Gail Fuller be denied.

It is further recommended that the expenses incurred in the investigation and prosecution of this matter are to be paid by the Petitioner.

Respectfully submitted,

THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

By: 

Charles J. Cunningham, III, Vice-Chair

Date: January 31, 2003