

IN THE SUPREME COURT OF PENNSYLVANIA

In the Matter of : No. 1507 Disciplinary Docket No. 3
: :
ROBERT TOLAND, II : No. 104 DB 2009
: :
: Attorney Registration No. 57360
: :
PETITION FOR REINSTATEMENT : (Chester County)

ORDER

PER CURIAM

AND NOW, this 3rd day of December, 2019, the Petition for Reinstatement is granted. Petitioner is directed to pay the expenses incurred by the Board in the investigation and processing of the Petition for Reinstatement. See Pa.R.D.E. 218(f).

A True Copy Patricia Nicola
As Of 12/03/2019

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

By Order dated November 20, 2014, the Supreme Court of Pennsylvania suspended Petitioner, Robert Toland II, for three years on consent, retroactive to November 30, 2007. On October 22, 2018, Petitioner filed a Petition for Reinstatement to the bar, followed by a supplement to Petition filed on November 13, 2018. Office of

Disciplinary Counsel (“ODC”) filed a Response to Petition on January 17, 2019. On March 5, 2019, Petitioner filed a Reply to ODC’s Response and submitted a one-page document at the reinstatement hearing to amend two statements in his prior submissions.

Following a prehearing conference on March 14, 2019, a District II Hearing Committee (“Committee”) conducted a reinstatement hearing on April 24, 2019. The parties submitted a Stipulation of Uncontested Facts. Petitioner was represented by Kevin F. Berry, Esquire. Petitioner called nine witnesses, testified on his own behalf, and introduced Exhibits 1 through 41. ODC did not call any witnesses and did not introduce any exhibits.

On May 22, 2019, Petitioner filed a brief to the Committee in support of his reinstatement.

On June 10, 2019, ODC filed a letter in lieu of a brief and advised that it did not oppose the Petition.

On July 17, 2019, the Committee filed a Report and recommended that the Petition for Reinstatement be granted.

The parties did not take exception to the Committee’s recommendation.

The Board adjudicated this matter at the meeting on October 17, 2019.

II. FINDINGS OF FACT

The Board makes the following findings:

1. Petitioner is Robert Toland II, born in 1960 and admitted to the practice of law in the Commonwealth in 1989. Stipulation (“S”) 1. Petitioner’s registered

attorney address is O'Hagan Meyer LLP, 100 N. 18th St., Ste. 770, Philadelphia, PA 19103.

2. Following his admission to the bar, Petitioner served a one-year clerkship with the United States District Court for the Eastern District of Pennsylvania, then entered private practice with several firms in Philadelphia. N.T. 29-36.

Petitioner's Criminal History

3. Petitioner was arrested in 1982 and 1991 for Driving Under the Influence of Alcohol ("DUI") and received Accelerated Rehabilitative Disposition ("ARD") in both matters. S 4.

4. Petitioner was arrested in 1997 for DUI and other offenses. On February 17, 1998, Petitioner entered a plea of guilty to DUI in a negotiated plea; the remaining charges were nolle prossed. S 5.

5. On December 19, 2002, Petitioner was arrested and charged with driving while having a blood alcohol level of 0.08% (now repealed) pursuant to 75 Pa.C.S.A. § 3731 and other offenses. The other offenses were nolle prossed and Petitioner entered a plea of guilty to driving while having a blood alcohol level of 0.08% (now repealed) pursuant to 75 Pa.C.S.A. § 3131. S 6.

6. Pursuant to Petitioner's guilty plea, on April 9, 2003, Petitioner was sentenced to two days in prison and one year of probation, 80 hours of community service, a \$300 fine, and a variety of assessments and treatments for possible alcohol-related issues. S 7.

7. On September 14, 2006, Petitioner was arrested for DUI in Delaware County, Pennsylvania. He was convicted on October 24, 2008 of DUI: Highest Rate of Alcohol, 1st Offense, pursuant to 75 Pa.C.S.A. § 3802(c). S 8.

8. Petitioner was sentenced to 12 to 24 months in prison and fined \$2,500.00. Other conditions of his sentence included attending and successfully completing Alcohol Highway Safety School and undergoing Court Reporting Network evaluation. S 9.

9. Petitioner began his prison sentence on January 17, 2009. S 10.

10. On January 17, 2011, Petitioner was paroled from prison and, following parole for the remainder of his prison sentence, was placed on probation for three years. S 11.

11. On September 26, 2011, while on probation following imprisonment for his October 24, 2008 conviction for DUI, Petitioner was arrested for DUI and other offenses in Delaware County, Pennsylvania. On October 7, 2011, Petitioner was returned to prison for violation of his probation for the October 24, 2008 conviction. S 12.

12. On February 28, 2012, Petitioner entered a plea of guilty and was convicted of DUI: Highest Rate of Alcohol, 3rd Offense, in violation of 75 Pa.C.S.A. § 3802(c). S 13.

13. Petitioner was sentenced to 14 to 36 months confinement for his February 28, 2012 conviction. Further, Petitioner was sentenced to undergo psychiatric and psychological evaluations, pay a \$300 assessment, comply with rules and regulations governing probation and parole, comply with directives of the court to continue any

substance abuse programs, pay a fine of \$2,500.00, and be in the probation system for two years. Petitioner was also sentenced to five years of consecutive probation to follow this sentence for violating his probation from the October 24, 2008 conviction. S 14.

14. On January 24, 2013, Petitioner was paroled from prison and placed on probation for two years, with an additional five years of consecutive probation. S 15.

15. Petitioner completed his prison term and two year probation term for the February 28, 2012 conviction. S 16.

16. The consecutive five year probation term imposed on Petitioner for violating probation continues through October 7, 2021. S 17.

17. Petitioner filed a motion for early termination of his probation; on April 1, 2019, the court denied the motion. S 18-22.

18. Petitioner is on a monitored level of supervision and is required to make one telephone call to his probation officer each year for the next two years, refrain from drinking alcohol, and not violate any laws. S 23.

19. In order to remain on this level of supervision, Petitioner has been required to comply with all conditions of his supervision, including but not limited to completion of a psychiatric evaluation, attendance at support groups, and completion of other required programs and treatment. S 24.

20. Petitioner has paid all the costs and fines associated with his criminal history. S 25.

Petitioner's Disciplinary History

21. In 1999, Petitioner received a private reprimand as a result of the 1997 conviction for DUI. S 26.

22. On October 22, 2004, Petitioner received a two year stayed suspension and was placed on probation as a result of his April 9, 2003 conviction for DUI. S 27.

23. One of the conditions of Petitioner's disciplinary probation was that he "shall abstain from using alcohol or any other mind altering chemical." S 28.

24. On several occasions between June 3, 2005, and September 8, 2006, Petitioner failed to meet with his Board-appointed sobriety monitor and appeared to be under the influence of alcohol or other mind altering chemical during a telephone conversation with the monitor. These were specific violations of the terms and conditions of Petitioner's disciplinary probation. S 29.

25. As a result of Petitioner's violation of the terms and conditions of his disciplinary probation, the probation was revoked on consent and Petitioner was suspended for one year and one day by Order of the Supreme Court of Pennsylvania dated November 28, 2006. The term of that suspension ended on November 29, 2007. S 30.

26. Petitioner did not seek reinstatement from that suspension.

27. On November 20, 2014, the Supreme Court suspended Petitioner on consent for three years, retroactive to November 30, 2007. This suspension addressed Petitioner's 2012 conviction for DUI. S 33-35.

28. Petitioner was a member of the bars of the United States Supreme Court, the United States Courts of Appeals for the Third, Fourth, Ninth and Eleventh Circuits, and the Eastern District of Pennsylvania. Notices of Petitioner's suspensions were provided to those courts. S 35.

29. All of the courts imposed reciprocal discipline on Petitioner. S 36.

30. All of the courts, except for the United States Supreme Court, noted that Petitioner's reciprocal discipline runs until he is reinstated to the bar in Pennsylvania and until he provides notice of such reinstatement to those courts. S 37.

31. The reciprocal discipline imposed by the United States Supreme Court expired on November 30, 2010 and Petitioner is a member in good standing in that court. S 38.

Petitioner's Rehabilitation

32. Petitioner is an admitted alcoholic. N.T. 41. He has been sober and in recovery since October 7, 2011. N.T. 43.

33. Petitioner testified that during the many years of his alcoholism, he experienced downward spirals, resulting in his arrests and conviction, along with periods of sobriety, but not recovery, because he had not embraced the concept that he was an alcoholic. N.T. 40 - 41.

34. Petitioner acknowledged that in 2011, he "hit bottom" with his last conviction. N.T. 39.

35. Petitioner realized that he was powerless over alcohol, that his life was unmanageable and that he needed sobriety to move forward. N.T. 42-43.

36. Petitioner acknowledged losses in his life due to his alcoholism and described missing a great deal of his children's lives because he was in inpatient treatment and in prison for a long period of time. N.T. 59 -60.

37. Since his parole on January 24, 2013, Petitioner has been an active participant in Alcoholics Anonymous ("AA"). At present, his home group is based at Trinity Church in Swarthmore on Tuesday nights. Petitioner and his sponsor run the meeting and Petitioner is treasurer of the group. Petitioner also attends meetings on Saturday nights with a different group. N.T. 53 -54.

38. Petitioner has had an AA sponsor since his release from prison in 2013. He has had his current sponsor for approximately 18 months. N.T. 54 -55.

39. Petitioner spends time with his family, including his two adult children and elderly mother, regularly exercises, and engages in woodworking in his free time. He believes that these activities support his commitment to recovery and contribute to his confidence that he will not relapse. N.T. 58-60, 100 -102.

40. Petitioner is an active member of Trinity Church. He attends Sunday services, is a lector and Eucharistic minister, and served a term on the vestry. N.T. 60-61.

41. From September 2014 to July 2015, Petitioner worked as an independent contractor for George Spaeder, a real estate developer. Exhibit 5; N.T. 63. Petitioner advised Mr. Spaeder that he was a recovering alcoholic and had been suspended from the practice of law. Mr. Spaeder and his attorney, Sean Bellew, Esquire,

employed Petitioner to organize documents and create spreadsheets in anticipation of litigation. Exhibits 86-99; N.T. 64-67.

42. While performing work for Mr. Spaeder, Petitioner did not have a supervising attorney. N.T. 104. Petitioner did not believe that the work he performed for Mr. Spaeder involved law-related activities in violation of Rule 217(j), Pa.R.D.E., Exhibit 65.

43. From July 2015 to June 2018, Petitioner was employed by Nason Construction as Director of Risk Management. He had previously worked for the company from February 2014 through approximately September 2014 as an independent contractor. Exhibit 5; N.T. 63, 68. Thomas Nason II is the president of the company and was aware of Petitioner's suspension from the practice of law.

44. During Petitioner's employment with Nason Construction, he worked as the project manager for the track renovation at the University of Maryland; participated in weekly meetings with project managers to discuss safety and other project management issues; completed contract forms with owners and subcontractors; forwarded legal papers that were served on the company to outside counsel; gathered information for legal cases; met with the insurance broker to discuss coverage and safety issues; provided responses to two bond claims by a subcontractor; and sent a letter to Liberty Mutual about a water leak claim at a job. N.T. 69-71, 76-80, 80-84.

45. Petitioner was also involved in reviewing changes to subcontracts that were proposed by subcontractors, and he prepared two sublease agreements based

on documents he found on Google, into which he inserted monthly rents. N.T. 73-75, 130-136; Exhibits 105,106.

46. Petitioner did not conduct any legal research or draft transactional documents, pleadings, briefs, or legal memoranda while employed by Nason Construction. He assembled data for outside counsel. N.T. 80-81.

47. While employed by Nason Construction, Petitioner did not have a supervising attorney overseeing his work. N.T. 106-107.

48. Petitioner did not believe that the work he performed for Nason Construction involved law-related activities in violation of Rule 217(j), Pa.R.D.E. Exhibit 65.

49. From July 2018 through the present, Petitioner has been employed as a paralegal by O'Hagan Meyer LLP in Philadelphia. Exhibit 5; N.T. 84-86. Petitioner obtained this employment through his acquaintance with Kevin F. Berry, Esquire. Petitioner advised Mr. Berry that he was a recovering alcoholic and suspended from the practice of law. He also explained that he wanted to be reinstated and return to practice. As a paralegal, Petitioner organizes documents, assembles appendices for appeals to the Third Circuit Court of Appeals, and performs legal research. N.T. 85-97.

50. Petitioner filed a notice of employment with the Board. Exhibit 3; N.T. 86.

51. If reinstated, Petitioner intends to work as an attorney at O'Hagan Meyer. N.T. 98.

Petitioner's Witnesses

52. Petitioner presented the credible testimony of nine witnesses.

53. William J. Conroy, Esquire has practiced law in Pennsylvania since 1982 and has known Petitioner since they worked together at White and Williams in the 1990s. Mr. Conroy left White and Williams in 1999 and Petitioner joined him in a new law firm. N.T. 182-184.

54. In approximately 2005, Petitioner advised Mr. Conroy that he had an alcohol issue and needed help. Petitioner went to a facility for treatment and returned to the firm. Mr. Conroy learned later that Petitioner had relapsed, which ultimately led to Petitioner's separation from the firm in 2006. N.T. 185-189.

55. During the time that they worked together, Mr. Conroy viewed Petitioner as a hard worker whose work product was first-rate and of high quality. N.T. 184-187.

56. Mr. Conroy has talked to Petitioner recently and is aware of Petitioner's activities, recovery, employment, and desire to regain his license. N.T. 189-193.

57. Mr. Conroy believes that Petitioner has the qualifications, competency and learning in the law to be an attorney and that reinstatement of Petitioner's license would not be detrimental to the bar or subversive of the public interest. N.T. 192.

58. George Spaeder is a real estate developer. He was introduced to Petitioner in 2013 by a business partner who thought Petitioner might be able to assist Mr. Spaeder in organizing bank records. N.T. 163-164.

59. Petitioner advised Mr. Spaeder that he was a recovering alcoholic and that his law license was suspended. N.T. 165.

60. Mr. Spaeder testified that Petitioner did not perform any legal work for him, such as drafting documents, performing legal research or providing legal advice. N.T. 167-168.

61. Mr. Spaeder testified that Petitioner was a diligent worker who was ethical, and whose work was helpful to Mr. Spaeder. N.T. 168.

62. Mr. Spaeder believes that Petitioner has the moral qualifications to be an attorney and that his reinstatement would not be detrimental to the integrity and standing of the bar. N.T. 168-169.

63. Sean Bellew, Esquire is an attorney at Duane Morris LLP, who met Petitioner through their work for Mr. Spaeder. Mr. Bellew was aware that Petitioner was a suspended attorney with a history of alcoholism. N.T. 170-174, 175, 177-178.

64. Mr. Bellew testified that Petitioner did not perform any legal work in connection with Petitioner's work for Mr. Spaeder. N.T. 175-176.

65. Thomas W. Nason II runs Nason Construction, Inc., and has known Petitioner for four decades. N.T. 195.

66. Mr. Nason has known about Petitioner's alcoholism for a long time and was aware that Petitioner had been suspended from the practice of law. N.T. 196.

67. Mr. Nason testified that Nason Construction had hired Petitioner in different capacities at different times. The most recent occasion was from 2015 through 2018, when Petitioner was employed as Director of Risk Management, which position included safety issues, project management, and dealing with owners and subcontractors. N.T. 196-197.

68. Petitioner did not engage in law-related activities for Nason Construction. N.T. 198. Mr. Nason testified that Nason Construction had outside counsel. N.T. 198-199.

69. Mr. Nason testified that Petitioner did not perform any projects that would have been referred to outside counsel, and there was nothing that Petitioner did that another non-attorney employee could not have done if Petitioner was not there. N.T. 205-206.

70. Mr. Nason testified that Petitioner's work product was as good as he has seen, stating that Petitioner made it easy for others to understand the issues. N.T. 201-202.

71. Mr. Nason testified that Petitioner arrived early, stayed late, and worked weekends. *Id.*

72. Mr. Nason has known Petitioner during his alcoholism and during his sobriety, and described the difference in Petitioner as "night and day." N.T. 202.

73. Mr. Nason testified that not only would Petitioner's readmission as lawyer not be detrimental to the integrity of the practice of law, but it would be a huge improvement. N.T. 203.

74. George Pallas, Esquire is the managing partner of Cohen, Seglias, Pallas, Greenhall & Furman, and specializes in construction law. He has represented Nason Construction for approximately 20 years. N.T. 154 -155.

75. Mr. Pallas did not witness Petitioner performing any legal work, and he never relied on Petitioner to perform any legal work. Petitioner did not prepare any pleadings, briefs or similar documents that Mr. Pallas reviewed. N.T.156-157.

76. In his interactions with Petitioner, Mr. Pallas testified that he found him to be credible, hardworking and honest, as well as responsive, cooperative and sincere. N.T. 157-158.

77. Reverend Joyce Ulrich Tompkins is the Director of Religious and Spiritual Life at Swarthmore College and a part-time associate pastor at Trinity Church in Swarthmore. She has known Petitioner for approximately 19 years. N.T. 218-219.

78. Reverend Tompkins is aware of Petitioner's alcoholism. N.T. 221-221, 224-225.

79. Reverend Tompkins testified as to Petitioner's active participation in the spiritual life of the church and believes that his spirituality is genuine. N.T. 220-225.

80. Reverend Tompkins testified that it would not be detrimental to the integrity of the practice of law for Petitioner to be readmitted to practice, and that Petitioner is a man of excellent character, deep thoughtfulness and moral rectitude who would carry those qualities into his legal practice. N.T. 225-226.

81. William Moore is a retired executive search consultant who worked in the printing industry. N.T 228.

82. Mr. Moore has been a member of AA for 14 years, has known Petitioner for approximately six years, and has been Petitioner's sponsor for about 18 months. N.T. 228, 230.

83. Mr. Moore described Petitioner's recovery as "amazing and gratifying," and testified that Petitioner is working hard at his sobriety, and is consistent, open and honest with himself and others. N.T. 230 231.

84. Mr. Moore is aware that Petitioner was suspended from the practice of law, that Petitioner felt tremendous remorse, and that his suspension has weighed heavily on Petitioner. N.T. 231.

85. Mr. Moore testified that Petitioner is a man of intelligence, honesty and good moral character, which are the attributes the public wants for a lawyer. N.T. 231-232.

86. Margaret Toland Kingham is Petitioner's sister. She credibly testified how Petitioner became withdrawn and uncommunicative when he was drinking heavily. She further testified that after Petitioner was released from prison in 2013, he was different in that he had taken responsibility for his sobriety and recovery. Ms. Kingham personally witnessed Petitioner recovering, becoming an active part of his family once again, and being committed to recovery. N.T. 234-241.

87. Joseph E. Vaughan, Esquire is the managing member of the O'Hagan Meyer law office in the tri-state area. N.T. 243-244.

88. Mr. Vaughan became aware of Petitioner's situation through Mr. Berry and after talking to others who spoke highly of Petitioner, was interested in hiring

Petitioner as a paralegal, which he did. Mr. Vaughan testified that he has been extremely impressed with Petitioner's work product and described Petitioner as extraordinarily bright and a good writer who brings insight to the work. N.T. 244-245.

89. Mr. Vaughan believes that Petitioner has the competency and learning to practice law, and that he is morally qualified to practice law. Furthermore, he believes that Petitioner's readmission would not be detrimental to the bar nor subversive of the public interest. N.T. 245-246.

Miscellaneous Findings

90. Petitioner complied with all of the requirements of his probation. Exhibits 67, 68.

91. Petitioner completed the required 36 credits of continuing legal education credits for reinstatement. Exhibits 36-49.

92. Petitioner kept current in the law by reading the Legal Intelligencer and numerous legal books. N.T. 93-94; Exhibit 5.

93. Petitioner misses the practice of law and is motivated to return to practice. N.T. 89.

94. Petitioner's misconduct was a personal issue resulting from his alcohol abuse and did not involve client misconduct.

95. Petitioner credibly testified on his own behalf and expressed sincere and substantial remorse for the conduct that resulted in his suspension. N.T. 40-43, 230-231.

96. ODC does not oppose Petitioner's reinstatement.

III. CONCLUSIONS OF LAW

1. Petitioner demonstrated by clear and convincing evidence that he has the moral qualifications, competency and learning in the law required for admission to the practice of law in this Commonwealth. Rule 218(c)(3), Pa.R.D.E.

2. Petitioner demonstrated by clear and convincing evidence that his resumption of the practice of law will be neither detrimental to the integrity and standing of the bar or the administration of justice nor subversive of the public interest. Rule 218(c)(3), Pa.R.D.E.

IV. DISCUSSION

Petitioner seeks readmission to the practice of law in Pennsylvania following his suspension on consent for a period of three years, imposed by the Supreme Court of Pennsylvania on November 20, 2014, retroactive to November 30, 2007. Pursuant to Rule 218(a)(1), 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 bears the burden of proving by evidence that is clear and convincing, that he is morally qualified, competent and learned in the law and 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. Pa.R.D.E. 218(c)(3). 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 that gave rise to the lawyer's suspension, but rather, the nature and extent of the rehabilitative efforts 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 of Pennsylvania***, 363 A.2d 779, 780-781 (Pa. 1976).

We conclude from the evidence of record that Petitioner has met his reinstatement burden and we recommend that the Petition for Reinstatement be granted.

Petitioner is an admitted alcoholic whose alcoholism has taken a heavy toll on his life's endeavors, both personally and professionally. He was arrested and charged with DUI in 1982, at the age of 22, followed by arrests in 1991, 1997, 2002, 2006 and 2011. He received ARD for the first two offenses, entered a plea of guilty to the third, fourth and sixth offenses, and was found guilty on the fifth offense. Sentencing for the fourth, fifth and sixth offenses resulted in sentences of imprisonment. Petitioner served his time in prison, paid all costs and fines imposed, and complied with conditions of his criminal probation

Petitioner's multiple DUIs resulted in an extensive disciplinary history. In 1999, he received a private reprimand as a result of the 1997 incident. In 2004, he received a two-year stayed suspension and was placed on probation as a result of the 2002 incident. In 2006, Petitioner's disciplinary probation was revoked on consent because he had violated the requirement that he abstain from drinking alcohol. This violation resulted in his suspension for one year and one day. In 2014, the Court granted a joint petition for consent discipline and ordered Petitioner's suspension for three years,

retroactive to November 30, 2007, as a result of the 2011 incident. Petitioner's license has remained in suspended status since 2006 and he has not practiced law since that time.

Petitioner presented credible and substantial evidence to show his remorse, rehabilitation, good character, competency and learning in the law. Throughout the reinstatement process, Petitioner expressed his sincere regret and remorse for his misconduct, accepted full responsibility for his actions, and made credible assurances that his misconduct would not be repeated in the future.

Petitioner has spent the past seven or more years rehabilitating himself and putting his life back together. Petitioner acknowledged that he "hit bottom" in 2011, when he was sentenced to imprisonment for 14 to 36 months for his sixth DUI. Although Petitioner had experienced some periods of sobriety during his lengthy years of alcoholism, he had never embraced the concept of recovery because he could not accept that he was an alcoholic. Fortunately for Petitioner, he finally was able to acknowledge his alcoholism and the damage it had done to his life and seek help to address his problems. Petitioner has been sober and in recovery since 2011. He actively maintains his sobriety by attending twice weekly AA meetings, one of which he runs with his sponsor. In addition, Petitioner keeps busy with his family, with whom he renewed close relationships; his church, where he volunteers extensively; exercise; and hobbies. All of this demonstrates Petitioner's commitment to his recovery and a renewed stability in his life, which diminishes the chances of relapse.

Petitioner has maintained stable employment since at least 2015, and since July 2018 has been employed as a paralegal for O'Hagan Meyer LLP in Philadelphia. In that capacity, Petitioner performs document organization and legal research. Mr. Vaughan, the managing member of the firm in the tri-state area, testified credibly that he has been very impressed with Petitioner's work and finds him competent and learned in the law. In addition to his paralegal work, Petitioner has demonstrated his competence and learning in the law by taking the required 36 credits of continuing legal education and reading numerous legal periodicals and books. If reinstated, Petitioner intends to practice law with the O'Hagan Meyer firm.

Although ODC does not oppose reinstatement, it questioned whether Petitioner may have violated ethical rules by engaging in law-related work for George Spaeder and Nason Construction. The work in question for Mr. Spaeder involved organizing bank records and creating spreadsheets. The work for Nason Construction involved gathering facts for outside counsel when a lawsuit was filed, filling in form construction contracts, and filling in a form sublease with a rental amount. While expressing concern, ODC indicated that such concern is of a low level.

The record demonstrates that Mr. Spaeder, Mr. Nason, Mr. Bellew, and Mr. Pallas were aware of Petitioner's status as a suspended lawyer and assigned him projects that observed the limitations imposed by his suspended status. Each of these witnesses credibly testified that they never sought Petitioner's legal opinion or requested that he perform legal work. All of these individuals firmly held the belief that the work Petitioner performed was not law-related work such that it would violate his suspension, and that if

Petitioner had not performed the work another non-lawyer would have done it. Further, the record demonstrates that Petitioner did not consider the work he performed to be law-related and he never held himself out as an attorney authorized to practice law. Upon our review of the record, we conclude that Petitioner did not violate ethical rules governing activities of a suspended attorney.

Petitioner's many witnesses provided trustworthy and favorable insight into the quality of Petitioner's character, describing him as honest, hardworking, thoughtful, and moral. These witnesses included lawyers with decades of experience practicing law, individuals who had known Petitioner since he was a young man, Petitioner's AA sponsor, and his minister. These witnesses were aware of the details of Petitioner's misconduct and his struggle with alcoholism and offered credible testimony as to his genuine expressions of remorse, acknowledgment of wrongdoing and acceptance of responsibility, and his efforts to maintain sobriety. In particular, Mr. Nason, who has known Petitioner for four decades, shed light on the difference between Petitioner as an alcoholic and as a sober individual, credibly testifying that it was "night and day." Similarly, Ms. Kingham offered credible observations on the difference she has witnessed in her brother since he stopped abusing alcohol. All of the witnesses support Petitioner's reinstatement as a benefit to the public and the legal community.

Under similar circumstances, attorneys have been reinstated to practice law in this Commonwealth. See, *In the Matter of Chrystyna M. Fenchen*, No. 9 DB 2014 (D. Bd. Rpt. 11/23/2016) (S. Ct. Order 12/28/2016) (petitioner reinstated from suspension for one year and one day for DUI convictions that resulted in 18 months imprisonment;

demonstrated rehabilitation by addressing alcoholism); ***In the Matter of Ashly Mae Guernaccini a/k/a Ashly Mae Wisher***, No. 118 DB 2005 (D. Bd. Rpt. 8/5/2015) (S. Ct. Order 8/21/2015) (petitioner reinstated following suspension for a period of two years based upon conviction of possession of controlled substances; demonstrated successful completion of treatment and rehabilitation for drug addiction); ***In the Matter of Laurie Jill Besden***, No. 190 DB 2005 (D. Bd. Rpt. 10/21/2009) (S. Ct. Rpt. 12/4/2009) (petitioner reinstated from suspension for three years based upon criminal convictions for violating various drug and identify theft laws; offenses committed in support of petitioner's drug addiction; compelling evidence of rehabilitation; sincere remorse and acceptance of responsibility).

Similar to the above petitioners who gained reinstatement after discipline for misconduct caused by addiction issues, Petitioner has accepted responsibility for his actions, demonstrated commitment to long-term recovery from alcoholism, and maintained his sobriety.

Upon this record, we conclude that Petitioner has successfully met his reinstatement burden under Pa.R.D.E. 218(c)(3), and is morally qualified, competent and learned in the law. His reinstatement will not be detrimental to the public or to the profession. For all of the above 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, Robert Toland II, 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: 
Andrew J. Trevelise, Chair

Date: 11/1/2019