

IN THE SUPREME COURT OF PENNSYLVANIA

In the Matter of : No. 1177 Disciplinary Docket No. 3
:
MATTHEW C. BROWN : No. 112 DB 2006
:
: Attorney Registration No. 89740
PETITION FOR REINSTATEMENT :
: (Montgomery County)

ORDER

PER CURIAM

AND NOW, this 6th day of July, 2017, the Petition for Reinstatement is granted. Petitioner's request for expedited consideration is dismissed as moot. 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 7/6/2017

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 August 18, 2006, the Supreme Court of Pennsylvania disbarred Matthew C. Brown on consent, following Mr. Brown's filing of a resignation statement on June 11, 2006. Petitioner filed a Petition for Reinstatement on August 12, 2016. Office of Disciplinary Counsel filed a Response on October 11, 2016.

A reinstatement hearing was held on January 23, 2017, before a District II Hearing Committee comprised of Chair Daniel J. Rovner, Esquire, and Members Elizabeth A. Schneider, Esquire, and Cheryl L. Young, Esquire. Petitioner was represented by

Samuel Stretton, Esquire. Petitioner presented the testimony of five witnesses and testified on his own behalf. Petitioner introduced one exhibit, which was admitted into evidence.

Office of Disciplinary Counsel declined to submit a brief. Following the submission of Petitioner's brief, the Hearing Committee recommended that the Petition for Reinstatement be granted.

The parties did not file exceptions to the Hearing Committee's Report and recommendation.

The Disciplinary Board adjudicated this matter at the meeting on April 28, 2017.

II. FINDINGS OF FACT

The Board makes the following findings:

1. Petitioner is Matthew C. Brown. He was born in 1974 and was admitted to the practice of law in the Commonwealth in 2002. Mr. Brown is subject to the jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

2. Following Petitioner's admission to practice, he worked until his disbarment for the firm of Wisler Pearlstine LLC, in Montgomery County, Pennsylvania. Petitioner's supervisors were Joseph Bagley, Esquire, and Jim Garrity, Esquire. N.T. 67.

3. Petitioner primarily practiced municipal law, but at times he would handle cases in other areas, such as bankruptcy. N.T. 68.

4. In the course of his practice, Petitioner was asked to file objections on behalf of a firm's client in a bankruptcy petition. In April 2006, Mr. Bagley asked Petitioner the status of those objections. N.T. 68, 69.

5. Petitioner recalled preparing and filing the objections in November or December 2005, and unsuccessfully attempted to locate the objections on his computer. Petitioner telephoned the Bankruptcy Clerk's office to ascertain what happened to the objections and was informed there was no record of the filing. Petitioner credibly testified that he panicked at that point and believed he was going to be fired from his position at the firm. N.T. 70, 71.

6. Petitioner recreated the objections and fabricated the docket entries to make the docket appear as if the objections had been filed. Petitioner then provided the fabricated documents to Mr. Bagley. N.T. 71, 72.

7. Later that same day, when confronted by Mr. Bagley, Petitioner admitted his misconduct, accepted responsibility, and offered to resign from the law firm, which offer was accepted. N.T. 73.

8. Petitioner credibly testified that he acted like a "coward" because he was more concerned with his job than telling the truth. N.T. 71.

9. Petitioner offered restitution for out-of-pocket loss to the law firm and for any billable hours. The firm indicated it did not need restitution and declined Petitioner's offer. N.T. 74, 75.

10. After leaving the law firm, Petitioner cooperated with Office of Disciplinary Counsel, filed a verified Statement of Resignation on June 11, 2006, and was disbarred on consent by Order of the Supreme Court of Pennsylvania dated August 18, 2006. N.T. 75.

11. Petitioner decided to resign because he had already embarrassed himself, his family, and the Wisler law firm, and did not want to put people through a disciplinary hearing. N.T. 74.

12. Petitioner timely notified the United States District Court for the Eastern District of Pennsylvania and was disbarred on consent by reciprocal discipline by order dated October 12, 2006, retroactive to the August 18, 2006, Pennsylvania disbarment. N.T. 76.

13. Petitioner has not held himself out as a practicing lawyer since his disbarment. N.T. 76, 77.

14. Following disbarment, Petitioner's primary responsibility was raising his three young daughters, while his wife, a practicing attorney, worked full-time. N.T. 47, 48, 77, 78.

15. In 2008, Petitioner ran the successful election campaign of State Representative Matthew Bradford, who is an attorney and Petitioner's friend from law school. N.T. 77, 78.

16. Petitioner applied for a real estate license and revealed his disbarred status on the real estate referral service job application. Petitioner has never used his real estate license. N.T. 79-81.

17. In January 2016, Petitioner began employment with Representative Bradford as his legislative assistant in the Montgomery County office. N.T. 81.

18. As a legislative staff member, Petitioner schedules appointments for Representative Bradford and handles constituent issues. N.T. 83, 84. Petitioner did not engage in the practice of law or in any law-related activities.

19. Petitioner began working full-time in 2016 because his children were older and because his wife had been diagnosed with a non-cancerous brain tumor that prevented her from working full-time. Ms. Brown's illness was a catalyst for Petitioner to seek reinstatement so he could financially support his family. N.T. 84, 85.

20. During his disbarment, Petitioner maintained his currency in the law by reading the Legal Intelligencer on a regular basis, discussing legal issues with his wife, staying on top of new laws in Pennsylvania through his work with Representative Bradford, and taking the required Continuing Legal Education courses for reinstatement. N.T. 85, 86; Exhibit P-2.

21. Petitioner is current on all tax filings and has paid all of his taxes. N.T. 87.

22. Petitioner has no judgments against him and has never been sued for legal malpractice. N.T. 87.

23. Petitioner has been active in the community by volunteering at his daughters' school, coaching youth soccer, and volunteering with the Girl Scouts. N.T. 100-102.

24. Petitioner accepts responsibility for his actions and is extremely remorseful. N.T. 73, 74.

25. Petitioner has learned from his experience and credibly testified that he would never again act in a deceitful fashion as he did in this case:

Well, you know, I'd like to think I do know better than most because I've experienced what can happen to you when you take...you try to lie and take the cowardly way out of something. I mean, there probably haven't been too many days in the last ten years where I haven't thought about what I did and you know, realizing what I did to my family, to my reputation. I loved working at that firm. They were terrific people and I let them down, to embarrass myself and my family like I did, I just feel as though I have a very good understanding of the seriousness of what the practice of law means, but that line where...you know, people make mistakes. Mistakes can be made. But to try to mislead and lie and cover things up like I did, you just can't cross that line. N.T. 90, 91.

26. If reinstated, Petitioner initially plans to continue working with Representative Bradford. Petitioner and his wife also have discussed working together. N.T. 88, 89.

27. Joseph Bagley, Esquire, testified on behalf of Petitioner. Mr. Bagley has practiced law in Pennsylvania for twenty-eight years and is a partner at Wisler Pearlstine LLP. Mr. Bagley supervised Petitioner from 2002 until Petitioner's resignation from the firm in April 2006.

28. According to Mr. Bagley, Petitioner admitted his misconduct, accepted full responsibility and expressed remorse. N.T. 20, 21.

29. The client whose case was involved was satisfied with the law firm's explanation. N.T. 27.

30. Mr. Bagley credibly testified that while employed at the Wisler firm, Petitioner was a very good attorney who was skillful and diligent and was well-liked by his colleagues. N.T. 21.

31. Mr. Bagley has no objection to Petitioner's reinstatement. N.T. 23.

32. According to Mr. Bagley, the Wisler firm would not refuse to meet with Petitioner or refuse to accept his resume if Petitioner applied for an open position. N.T. 27.

33. Nicole Mirarchi has been a friend of Petitioner and his wife for approximately twenty years. N.T. 29.

34. Ms. Mirarchi credibly testified that Petitioner accepted full responsibility for his misconduct and expressed a great deal of remorse. N.T. 31, 32.

35. According to Ms. Mirarchi, Petitioner has an excellent reputation in the community as a truthful and honest person and as a peaceful and law-abiding person. N.T.

33, 34. Ms. Mirarchi has no hesitation in recommending Petitioner's reinstatement to the practice of law. N.T. 34.

36. Matthew Bradford is a five-term state representative in the 70th District in Montgomery County and has known Petitioner since law school. Mr. Bradford is also a licensed Pennsylvania lawyer. N.T. 36.

37. Mr. Bradford confirmed that Petitioner helped run Mr. Bradford's legislative election campaign in 2008, when he was first elected. N.T. 40.

38. In April 2016, Mr. Bradford hired Petitioner as his legislative aide. Petitioner handles the constituent issues that come through the office, particularly with PennDOT, the Department of Revenue, and other government agencies. N.T. 37, 38.

39. Mr. Bradford credibly testified that Petitioner's performance as an employee is excellent and Petitioner is able to continue working for Mr. Bradford as long as he desires. N.T. 39.

40. Mr. Bradford confirmed that Petitioner has not held himself out as a practicing attorney and has not dispensed legal advice. N.T. 38, 39.

41. Mr. Bradford credibly testified that he is aware of the nature of Petitioner's misconduct and indicated that Petitioner expressed remorse for embarrassing not only his family, but the bar. N.T. 41.

42. Mr. Bradford credibly testified that Petitioner's reputation as a peaceful and law-abiding person and as a truthful and honest person was good. N.T. 41, 42. Mr. Bradford has no hesitation in recommending Petitioner for reinstatement to the practice of law. N.T. 42, 43.

43. Jean Brown, Esquire, is Petitioner's wife. Ms. Brown has been a licensed Pennsylvania lawyer since 2002. N.T. 46, 47.

44. Ms. Brown credibly testified that she believes Petitioner's misconduct was an aberration, he has accepted full responsibility, and would not make the same mistake again. N.T. 50, 55, 56.

45. According to Ms. Brown, Petitioner has gained insights over the time period of his disbarment, with his first priority being to always be honest and own up to mistakes. N.T. 55.

46. Ms. Brown credibly testified that Petitioner has an excellent reputation in the community as a peaceful and law abiding person and as a truthful and honest person. N.T. 54, 55.

47. Thomas Bond, Esquire is Petitioner's father-in-law. He has practiced law in Pennsylvania since 1973. N.T. 57, 58.

48. Mr. Bond credibly testified that Petitioner accepted full responsibility for his misconduct, expressed great remorse, and never made any excuses for what he did. N.T. 58.

49. Mr. Bond confirmed Petitioner's good reputation in the community as a peaceful and law-abiding citizen and as a truthful and honest person. N.T. 61.

50. Office of Disciplinary Counsel does not oppose reinstatement.

III. CONCLUSIONS OF LAW

1. The misconduct for which Petitioner was disbarred is not so egregious as to preclude reinstatement. *Office of Disciplinary Counsel v. John J. Keller*, 506 A.2d 872 (Pa. 1986).

2. Petitioner demonstrated by clear and convincing evidence that a sufficient period of time has passed since the misconduct, during which he engaged in a qualitative period of rehabilitation. *In re Jerome J. Verlin*, 731 A.2d 600 (Pa. 1999).

3. Petitioner demonstrated by clear and convincing evidence that he possesses the moral qualifications, competency and learning in the law required to practice law in the Commonwealth, and his 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. Pa.R.D.E. 218(c)(3).

IV. DISCUSSION

Petitioner seeks readmission to the practice of law in Pennsylvania following his disbarment on consent by Order of the Supreme Court of Pennsylvania dated August 18, 2006. The misconduct giving rise to Petitioner's resignation was his fabrication of documents and docket entries, which he used in an attempt to mislead his supervisor. Petitioner's misconduct occurred in the course of one day, after his law firm supervisor questioned him about whether objections had been filed in a matter to which Petitioner was assigned. After being unable to locate the objections, Petitioner created the documents, including docket entries, and presented them to his supervisor. When confronted later that day, Petitioner admitted the documents were false and resigned from the firm.

Petitioner's burden of proof with respect to his request for reinstatement from disbarment is heavier than the burden of proof following a suspension. As the Supreme Court of Pennsylvania held in **Keller**, "[i]n the case of disbarment, there is no basis for an expectation by the disbarred attorney of the right to resume practice at some future point in time." *Id* at 875. The threshold issue in a disbarment matter is whether the misconduct that resulted in Petitioner's disbarment was of such magnitude so as to preclude the Board's consideration of his reinstatement. *Id*.

In light of the Supreme Court's previous holdings, we cannot say Petitioner's misconduct was so great that his reinstatement is precluded. There are numerous examples where the threshold question has been met in cases involving dishonest conduct. See *In re Lawrence D. Greenberg*, 749 A.2d 434 (Pa. 2000) (misappropriation of two million dollars and commission of perjury in bankruptcy proceeding); *In the Matter of William James Perrone*, 899 A.2d 1108 (Pa. 2006) (improperly obtained public funds allocated for indigent legal representation by filing false fee petitions); *In the Matter of Milton E. Raiford*, 50 DB 1994 (D. Bd. Rpt. 2/16/2010) (S. Ct. Order 4/16/2010) (perpetration of fraud on the criminal justice system of Allegheny County by knowingly and intentionally allowing a client to misrepresent herself as another client, who had been charged with narcotics offenses).

The above-cited cases are examples of serious and deplorable acts by Pennsylvania lawyers, all of whom were able to meet the threshold standard for reinstatement. The Board concludes that Petitioner's acts of misconduct, while serious and a breach of his ethical responsibilities, are not so egregious as to prevent reinstatement.

Following our analysis of the *Keller* threshold, we next consider whether Petitioner has established that he has the moral qualifications, competency and learning in the law required for admission to practice law in Pennsylvania and that his readmission would not have a detrimental impact on the integrity and standing of the bar, the administration of justice or be subversive of the public interest. Pa.R.D.E. 218(c)(3). Petitioner must prove that his post-disbarment conduct and efforts at qualitative rehabilitation were sufficient to dissipate the detrimental impact of his conduct on the public trust. *Verlin* at 602.

Following a careful examination of the record and the report and recommendation of the Hearing Committee, we conclude that Petitioner has met his reinstatement burden.

Petitioner has been removed from the practice of law for more than ten years. Whether a sufficient period of time has passed must be determined by the circumstances of each reinstatement case. *In the Matter of Lisa Reo Jenkins*, 81 DB 2006 (D. Bd. Rpt. 11/4/15) (S. Ct. Order 12/10/15) (reinstatement from disbarment after eight years; conviction of forgery and tampering with public records); *In the Matter of Robert Eric Hall*, 171 DB 2006 (D. Bd. Rpt. 2/19/15) (S. Ct. Order 3/17/15) (reinstatement from disbarment after seven and one-half years; conviction for homicide by vehicle, DUI related); *In the Matter of Mark Allan Kovler*, 172 DB 2002 (D. Bd. Rpt. 5/15/09) (S. Ct. Order 7/24/09) (reinstatement from disbarment after five years and eleven months; fraudulent conveyance of home to insulate from judgment in a pending malpractice action); *In the Matter of Gerard Emmett Evans*, No. 10 DB 2001 (D. Bd. Rpt. 10/3/08) (S. Ct. Order 12/15/08) (reinstatement from disbarment after seven years; mail and wire fraud conviction). The

record in this case convincingly demonstrates that the period of disbarment has been qualitative and meaningful to Petitioner's rehabilitation and has dissipated the impact of the original misconduct on the public trust.

The record indicates that in 2006, Petitioner was a young attorney who experienced a moment of panic after he realized he had made a mistake. That panic caused Petitioner to engage in deceitful conduct to cover his errors. Petitioner admitted that he chose his course of action because he was afraid of losing his employment, but quickly came to realize that he had made a terrible mistake. Petitioner's actions following his fabrication of documents and attempt to mislead his supervisor demonstrate his understanding that he committed wrongdoing, as he immediately resigned from the firm, cooperated with Office of Disciplinary Counsel, and accepted disbarment as punishment for his acts.

Petitioner expressed genuine remorse for his misconduct, which he described as an act of cowardice to cover his mistakes and to prevent his termination from the law firm. Petitioner regrets his action and his lengthy period of disbarment has afforded him the opportunity to reflect on these acts.

During his disbarment, Petitioner was the primary caregiver for his three young daughters, while his wife, also an attorney, practiced law full-time. Unfortunately, Ms. Brown has experienced serious health issues that have prevented her from working full-time since March 2016. This situation was the primary motivation for Petitioner to seek reinstatement, in order that he can financially support his family. Petitioner has been employed full time as a legislative aide to State Representative Matthew Bradford since 2016 and is assured of continued employment in that capacity upon reinstatement.

Petitioner and his wife have discussed combining their legal skills and practicing together at a future time.

Petitioner engaged in community activities such as coaching youth soccer and volunteering for Girl Scouts and at his children's school, while maintaining his competency in the law by attending Continuing Legal Education courses, reading legal periodicals, and discussing legal issues with his wife. He obtained his real estate license, but has not used it.

The credible and compelling testimony of Petitioner's character witnesses confirms Petitioner's current excellent reputation and the support he enjoys as he seeks reinstatement. In particular, we find the testimony of Attorney Bagley to be persuasive, as he was directly involved in Petitioner's misconduct. Mr. Bagley described Petitioner as a very good lawyer, who was skillful, diligent, and well-liked by colleagues at the Wisler firm. He confirmed Petitioner's sincere regret and remorse, and supports Petitioner's reinstatement.

The evidence of record demonstrates that Petitioner's ten years of disbarment have been a time of genuine rehabilitation. See *In the Matter of Robert Eric Hall*, 176 DB 2006 (D. Bd. Rpt. 2/19/15) (S. Ct. Order 3/17/15); *In the Matter of Robert S. Teti*, 30 DB 1999 (D. Bd. Rpt. 12/13/12) (S. Ct. Order 2/28/13). Petitioner has met his reinstatement burden by clear and convincing evidence that he is morally qualified, competent and learned in the law, and of equal importance, that his reinstatement will not be detrimental to the public or to the profession. Petitioner is fit to resume the practice of law. For all of the above reasons, we recommend that the Petition for Reinstatement be granted.

V. RECOMMENDATION

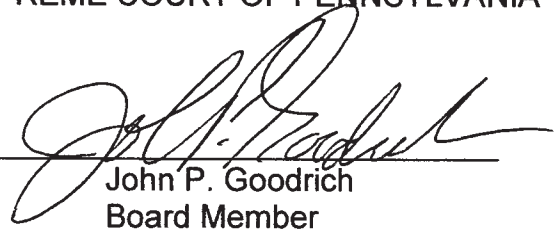
The Disciplinary Board of the Supreme Court of Pennsylvania recommends that Petitioner, Matthew C. Brown, be reinstated to the practice of law.

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: _____


John P. Goodrich
Board Member

Date: _____

6/9/17