

IN THE SUPREME COURT OF PENNSYLVANIA

In the Matter of : No. 1668 Disciplinary Docket No. 3
: :
HARRY VINCENT CARDONI : No. 210 DB 2010
: :
: Attorney Registration No. 33985
: :
PETITION FOR REINSTATEMENT : (Luzerne County)

ORDER

PER CURIAM

AND NOW, this 12th day of March, 2020, 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 03/12/2020


Attest:
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

In the Matter of : No. 1668 Disciplinary Docket No. 3
: :
: No. 210 DB 2010
HARRY VINCENT CARDONI : :
: Attorney Registration No. 33985
: :
PETITION FOR REINSTATEMENT : (Luzerne 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 dated July 13, 2017, retroactive to December 28, 2010, the Supreme Court of Pennsylvania suspended Petitioner, Harry Vincent Cardoni, on consent for a period of five years. By Petition filed on November 6, 2018, Petitioner seeks reinstatement to the bar of the Supreme Court of Pennsylvania. Office of Disciplinary Counsel filed a Response to Petition on March 6, 2019.

Following a prehearing conference on May 28, 2019, a District III Hearing Committee (“the Committee”) conducted a reinstatement hearing on July 2, 2019. Petitioner testified on his own behalf and presented the testimony of one witness. Petitioner introduced Petitioner’s Exhibits 1 through 15 and the Joint Stipulation of Fact. Office of Disciplinary Counsel did not offer any witnesses or introduce any exhibits.

On August 14, 2019, Petitioner submitted a brief to the Committee and requested that the Petition for Reinstatement be granted.

On August 19, 2019, Office of Disciplinary Counsel filed a letter advising that it did not oppose Petitioner’s reinstatement.

By Report filed on October 16, 2019, the Committee recommended that the Petition for Reinstatement be granted.

The Board adjudicated this matter at the meeting on January 16, 2020.

II. FINDINGS OF FACT

The Board makes the following findings:

1. Petitioner is Harry Vincent Cardoni, born in 1950 and admitted to practice law in the Commonwealth in 1981. Petitioner’s attorney registration address is 340 Market Street, Kingston (Luzerne County), Pennsylvania 18704. Petitioner is subject to the jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

2. For the bulk of his career, Petitioner engaged in a personal injury law practice in northeastern Pennsylvania. N.T. 14.

3. In 2010, Petitioner reported to Office of Disciplinary Counsel that he engaged in conduct that violated the Rules of Professional Conduct. Joint Stipulation of Fact (“Stip.”) 1.

4. On December 28, 2010, the Court issued an order granting the parties’ Joint Petition to Temporarily Suspend an Attorney pursuant to Rule 208(f), Pa.R.D.E. Stip. 8.

5. On May 5, 2017, Petitioner and Office of Disciplinary Counsel filed a Joint Petition in Support of Discipline on Consent for a five-year suspension retroactive to the date of the temporary suspension. Stip. 9.

6. By Order dated July 13, 2017, the Court granted the Joint Petition and suspended Petitioner for five years, retroactive to December 28, 2010. Petitioner’s Exhibit (“PE”) 1; Stips. 9, 10.

7. In the Joint Petition, Petitioner admitted that he violated Rule of Professional Conduct 3.5, which states, “A lawyer shall not: (a) seek to influence a judge, juror, prospective juror or other official by means prohibited by law.” PE 1; Stip. 1.

8. In the Joint Petition, Petitioner admitted that prior to 2010, he furnished certain items of value to Luzerne County Court of Common Pleas Judge Michael T. Toole, in exchange for Judge Toole’s appointment of a favorable arbitrator. The items included allowing Judge Toole to use Petitioner’s New Jersey beach house free of charge. PE 1; N.T. 14, 71.

9. Some years after Judge Toole used Petitioner's beach house, Petitioner had an insurance arbitration case. Judge Toole appointed an arbitrator favorable to Petitioner's case. PE 1; N.T. 14, 30-31, 72.

10. The case resulted in an approximately \$1 million award in favor of Petitioner's client. N.T. 17.

11. Petitioner paid back \$700,000 of the award, which was the amount agreed upon with Erie Insurance Company as satisfaction of any claim Erie had. N.T. 33-34.

12. Petitioner fully cooperated with the federal government in its investigation of Judge Toole, which resulted in Judge Toole's conviction of one count of Subscribing and Filing Materially False Tax Return, under 26 U.S.C. § 7206(1), and one count of Corrupt Receipt of Reward for Official Action Concerning Programs Receiving Federal Funds, under 18 U.S.C. § 666(a)(1)(b). Stips. 3, 4, 5, 7; N.T. 33-34.

13. Respondent was not criminally prosecuted along with Judge Toole. Stip. 6.

14. At the reinstatement hearing, Petitioner credibly testified on his own behalf.

15. During the investigation of the underlying misconduct, Petitioner instructed his attorney to cooperate fully with the United States Attorney's Office and with the Office of Disciplinary Counsel. N.T. 15-16.

16. After reporting his misconduct and being suspended, Petitioner disbanded his law firm and engaged the services of Rosenn, Jenkins & Greenwald, LLP,

to wind down his law practice and to handle his clients, who had become unrepresented.

Stip. 12; N.T. 17-18.

17. Petitioner's former law firm of Cardoni & Associates was identified as an operating business in 2017 in the *Times Leader* Attorney Guide advertisement supplement. Stip. 13.

18. Petitioner explained that inclusion in the advertisement supplement was an error on the part of the publication. Stip. 14.

19. Petitioner's five year term of suspension expired on December 28, 2015. Stip. 11.

20. During his suspension, Petitioner completed 55 hours of Continuing Legal Education, including 15 hours of ethics, and completed the Bridge the Gap course within one year preceding the filing of the Petition for Reinstatement. Petitioner completed an additional 40 hours of Continuing Legal Education between August 31, 2016 and December 2016, for a total of 95 hours of Continuing Legal Education within the past three years. PE 15; N.T. 20.

21. Petitioner maintained his knowledge in the law by reading various legal periodicals, such as the *Luzerne Legal Register*, *PA Find Law*, *PA Law Weekly*, and *PA Bar Institute* publications. Reinstatement Questionnaire ("RQ") No. 19(b); N.T. 21, 45.

22. During his suspension, Petitioner did not engage in the practice of law. N.T. 17-18.

23. If reinstated, Petitioner plans to practice law in Luzerne County, but intends to refer matters to other counsel and to perform pro bono work for past clients. RQ No. 18; N.T. 29, 47.

24. Petitioner's suspension caused him to lose his primary source of income from his law practice. While suspended, he collected Social Security benefits and used funds from his retirement account to meet his financial obligations. Petitioner sold his beach house, which generated funds for his living expenses. N.T. 19, 32.

25. Petitioner received some referral fees from cases that were generated prior to his suspension. He has not referred any matters to other attorneys since the date of his suspension. N.T. 25-26.

26. Petitioner has business interests in three different companies: Carnar Realty, which owns rental units; Cargazen; and Pyrah Corporation. None of these businesses involve the practice of law, and Petitioner has not provided legal counsel to these businesses in any regard. RQ No. 20; N.T. 21-23.

27. While suspended, Petitioner spent time with his wife, children, and grandchildren, and helped care for elderly members of his extended family. RQ No. 20; N.T. 19-20, 34.

28. Petitioner expressed sincere and genuine remorse for his misconduct. RQ No. 20; N.T. 29, 32.

29. Petitioner admitted that he made "the most egregious error in my life" by allowing former Judge Toole to use his home and then allowing Judge Toole to appoint an arbitrator who was favorable to Petitioner. N.T. 29.

30. Petitioner explained that he worked hard to obtain his law license and would “love to get it back.” He acknowledged that he displaced people when he shut down his firm, and he apologized to many of them. N.T. 29-30.

31. Petitioner presented the credible testimony of Marc Raspanti, Esquire. Mr. Raspanti has practiced law since 1984 and is a former member of the Disciplinary Board. Mr. Raspanti has known Petitioner since approximately 2009, when he represented Petitioner in the investigation conducted by the U.S. Attorney’s Office for the Middle District of Pennsylvania and before the Disciplinary Board. N.T. 57-59.

32. Mr. Raspanti credibly testified that Petitioner instructed him to provide “complete and unabashed” cooperation to Office of Disciplinary Counsel. N.T. 59.

33. During his representation of Petitioner, Mr. Raspanti had occasion to discuss legal matters and issues with Petitioner and was able to observe Petitioner’s acumen for the law and ability to focus on intricate legal details. Based on these observations, Mr. Raspanti believes Petitioner has the legal skill sufficient to provide competent representation to clients. N.T. 62-65.

34. Petitioner introduced letters in support of his reinstatement. P-5 through P-13.

35. Gordon Zubrod, Esquire, is a former special assistant U.S. Attorney for the Middle District of Pennsylvania. By letter dated December 22, 2016, Mr. Zubrod outlined the significant cooperation and substantial assistance Petitioner provided to the U.S. Attorney’s Office in its investigation, prosecution, and sentencing of Judge Toole. Mr. Zubrod described Petitioner’s full and complete cooperation with his office, his

genuine remorse for his conduct, and his meetings with the investigative team on at least seven occasions over a period of 18 months. Mr. Zubrod offered the opinion that Petitioner's assistance was a substantial factor leading to Judge Toole's guilty plea and concluded that Petitioner's full and complete cooperation and assistance were substantial factors in a prosecution that was important to protecting the integrity of the judiciary in Pennsylvania. PE 5.

36. Michael R. Mey, Esquire, has practiced law since 1984 and has known Petitioner since that time as a colleague and adversary. Mr. Mey described Petitioner as a "top-notch" attorney, competent in practice and learned in the law. Mr. Mey stated that when Petitioner "gave you his word, you could count on it." While Mr. Mey was shocked by Petitioner's suspension, he believes the conduct to be out of character. Mr. Mey believes that Petitioner's reinstatement would lead him to be an asset in the local community. PE 6.

37. James V. Pyrah, Esquire, has practiced law since 1992 and has known Petitioner for twenty-five years, having worked directly with him and as a colleague. Mr. Pyrah stated that Petitioner is a talented attorney and a man who works hard and possesses integrity, generosity and good humor. While shocked and saddened by Petitioner's suspension, Mr. Pyrah believes Petitioner's conduct is not typical of his behavior and noted that Petitioner has shouldered responsibility for his actions and has accepted the penalty for them. Mr. Pyrah has observed contrition in Petitioner and believes that the contrition is genuine. PE 8.

38. David W. Saba, Esquire, has practiced law since 1974 and has known Petitioner since they were children, having grown up in the same community. Mr. Saba described Petitioner as dedicated to his family and community. It is Mr. Saba's belief that Petitioner's traits of empathy, loyalty, and concern for others would again be on display if Petitioner regains his license. PE 7.

39. Lauren E. Dobrowalski, Esquire, has practiced law since 1995 and has known Petitioner for approximately twenty-two years, having worked for him and been trained by him. Ms. Dobrowalski described Petitioner as an honest practitioner. PE 9.

40. Four other attorneys submitted letters describing their longstanding relationships with Petitioner. Lewis W. Wetzel, Esquire; Timothy G. Lenahan, Esquire; Michael R. Kostelansky, Esquire; and Joseph J. Musto, Esquire noted Petitioner's regret for the events that led to his suspension and his acceptance of responsibility for his conduct. These attorneys believe that Petitioner's reinstatement would advance the integrity of the legal profession. PE 10 through PE 13.

41. Office of Disciplinary Counsel 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 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 following his suspension on consent for a period of five years, imposed by the Supreme Court of Pennsylvania on July 13, 2017, retroactive to December 28, 2010. 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 Court.

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). This burden is not light, and reinstatement is not automatic. 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 spent his suspension period engaged in genuine rehabilitation. See ***In the Matter of Robert Langston Williams***, No. 7 DB 2013 (D. Bd. Rpt. 12/11//2019) (S. Ct. Order 1/21/2020). Petitioner met the requirements of Rule 218(c)(3), Pa.R.D.E., by presenting credible evidence of his moral qualifications, competency and learning in the law. Although Petitioner's original misconduct caused his lengthy suspension, he has demonstrated via his own testimony, the testimony of his witness, and his character letters, that his reinstatement will not harm the public or be detrimental to the integrity of the profession.

Petitioner's suspension was predicated upon his provision of certain items of value to Judge Toole, including use of Petitioner's New Jersey beach house. In return, Judge Toole appointed a favorable arbitrator in a case wherein Petitioner represented the plaintiff. Petitioner fully cooperated with law enforcement authorities in the investigation of Judge Toole. Petitioner himself was not criminally prosecuted, but substantially assisted the government in its case against Judge Toole, which assistance helped secure Judge Toole's conviction. The letter submitted in the instant proceeding by former U.S. Attorney Zubrod was particularly compelling in its detailed description of Petitioner's cooperation. With regard to his disciplinary proceedings, Petitioner admitted that he violated RPC 3.5, which prohibits a lawyer from seeking to influence a judge by means

prohibited by law. Petitioner took responsibility for his actions by self-reporting his violation, consenting to his temporary suspension in 2010, and thereafter consenting to a five-year period of suspension, which cooperative actions saved prosecutorial resources by eliminating the necessity of a disciplinary hearing. All the while, Petitioner expressed sincere and genuine remorse for his actions.

Following his temporary suspension, Petitioner complied with all rules governing suspended attorneys, closed his law office, and retained another law firm to assist and take over his clients' cases so they would not be unrepresented. Thereafter, Petitioner ceased practicing law and undertook no further legal representations. He met his financial obligations during his suspension through referral fees, Social Security distributions, and retirement savings. Petitioner is a co-owner in three businesses and maintained involvement in these on-going concerns during his suspension. None of these businesses involved the practice of law. During his suspension, Petitioner spent time with family and assisted several elderly members of his family in various capacities.

Petitioner maintained his currency in the law by completing 55 CLE credits in the year preceding the filing of his reinstatement petition, well over the 36 credits required for reinstatement. He completed another 40 credits prior to that time, for a total of 95 credits. Petitioner kept abreast of legal news both local and state-wide by reading various periodicals. In addition to this evidence of competence and learning in the law, Mr. Raspanti, Petitioner's former counsel, credibly testified and confirmed that through his discussions with Petitioner during representation in the government's investigation of Judge Toole and in the underlying disciplinary proceedings, he found that Petitioner has

a level of legal knowledge and skill sufficient to represent clients in a competent manner. Petitioner has considered his plans for the future and while he does not intend to open a full-fledged legal practice, he plans to refer cases and concentrate on pro bono matters.

Petitioner demonstrated that he has the moral qualifications necessary for reinstatement. In addition to the credible evidence that Petitioner has accepted full responsibility for his serious conduct and is remorseful, his numerous character letters confirm that Petitioner's misconduct was out of character for a lawyer who had practiced law for many years with a good reputation for being honest, competent, and hard-working. The attorneys who submitted character letters have known Petitioner for decades and all were fully aware of his misconduct, yet all stated that Petitioner's return to the practice of law will benefit the community.

Upon this record, we conclude that Petitioner has met his reinstatement burden that he is morally qualified, competent, and learned in the law, and that his resumption of the practice of law within the Commonwealth will be neither detrimental to the integrity and standing of the bar nor subversive of the public interest. Petitioner has demonstrated clearly and convincingly that he is fit to practice law. The Board recommends that the Petition for Reinstatement be granted.

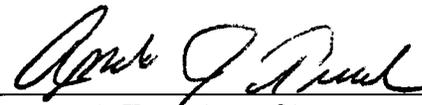
V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that Petitioner, Harry Vincent Cardoni, 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. Trelise, Chair

Date: 2/5/2020