

IN THE SUPREME COURT OF PENNSYLVANIA

In the Matter of	:	No. 1595 Disciplinary Docket No. 3
	:	
	:	No. 33 DB 2010
BRIAN S. QUINN	:	
	:	Attorney Registration No. 17602
	:	
PETITION FOR REINSTATEMENT	:	(Delaware County)
	:	
	:	

ORDER

PER CURIAM:

AND NOW, this 7th day of August, 2015, upon consideration of the Report and Recommendations of the Disciplinary Board dated July 13, 2015, 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. Pa.R.D.E. 218(f).

A True Copy Patricia Nicola
As Of 8/7/2015

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 June 21, 2012, the Supreme Court of Pennsylvania granted the Joint Petition in Support of Discipline on Consent and suspended Brian S. Quinn for a period of five years, retroactive to May 17, 2010. Mr. Quinn filed a Petition for Reinstatement on August 27, 2014. Office of Disciplinary Counsel filed a Response to Petition on November 7, 2014. Petitioner filed a Supplement to Petition on November 12, 2014.

A reinstatement hearing was held on January 13, 2015, before a District II Hearing Committee comprised of Chair Raymond J. Santarelli, Esquire, and Members Diane Edbril, Esquire and Daniel J. Clifford, Esquire. Respondent appeared *pro se*. He presented the testimony of seven fact and character witnesses, an expert witness, and testified on his own behalf. Petitioner also introduced 23 Exhibits into evidence. Office of Disciplinary Counsel did not present any evidence at the hearing.

Following the submission of a brief by Petitioner, the Hearing Committee filed a Report on April 7, 2015 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 April 23, 2015.

II. FINDINGS OF FACT

The Board makes the following findings:

1. Respondent is Brian S. Quinn. He was born in 1948 and was admitted to practice law in Pennsylvania in 1973. His attorney registration address is 93 LeForge Ct., Wayne PA 19087. Petitioner is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

2. By Order dated May 17, 2010, the Pennsylvania Supreme Court placed Petitioner on temporary suspension as a result of a joint petition filed on March 19, 2010.

3. By Order of the Pennsylvania Supreme Court dated June 21, 2012, Petitioner was suspended on consent for a period of five years, retroactive to May 17, 2010.

4. Petitioner has no prior discipline other than the suspension on consent from which he seeks reinstatement.

5. The following acts of misconduct led to Petitioner's suspension.

a. On November 20, 2009, in the Delaware County Court of Common Pleas, Petitioner entered open guilty pleas to one count of driving under the influence of alcohol and drugs – 3rd offense refusal, a misdemeanor of the first degree and one count of use of/possession of paraphernalia, an ungraded misdemeanor.

b. On January 22, 2010, Petitioner was sentenced to imprisonment for 12 to 24 months on the charge of driving under the influence of alcohol and drugs – 3rd offense refusal, followed by two years of consecutive probation. Petitioner was sentenced to a one year concurrent probation on the charge of use of/possession of paraphernalia. Petitioner was ordered to be placed on immediate work release after serving three months of incarceration and ordered to complete the remaining six months of incarceration under the electronic home monitoring program. Petitioner was further ordered to refrain from consuming alcohol or drugs, pay a \$2,500 fine plus costs, and comply with other rules and regulations.

c. Pursuant to Rule 214(a), Pa.R.D.E. Petitioner reported his conviction to the Disciplinary Board on January 22, 2010.

d. On April 21, 2008, Petitioner entered a plea of guilty to disorderly conduct in the Delaware County Court of Common Pleas. He was sentenced to pay a \$300 fine.

e. On August 8, 2007, Petitioner entered a guilty plea to driving under the influence – refusal in Florida. He was sentenced to twelve months of probation, early termination, along with fines, costs, DUI school, license suspension, and community service.

f. On July 7, 2000, Petitioner entered a guilty plea to driving under the influence in New Jersey and was sentenced to pay fines, costs and a six month license suspension.

g. Petitioner has complied with all terms and conditions of each criminal case.

h. Petitioner represented Joseph Calderone as executor of the Estate of Sara Jane Calderone, who died on January 30, 2003.

i. On or about June 20, 2007, Respondent received and deposited a check from Merrill Lynch made payable to the Estate in the amount of \$34,449.54, into his Citizens Bank IOLTA.

j. Petitioner failed to distribute the money to Joseph Calderone and his siblings.

k. On July 2, 2007, Petitioner had a balance of \$30,386.29 in his IOLTA account. On March 31, 2009, Petitioner had a balance of \$15.27 in his IOLTA.

l. Petitioner converted the \$34,449.54 that was deposited into his IOLTA which belonged to the beneficiaries of the Calderone Estate.

m. On or about April 18, 2011, Petitioner made restitution to the Calderone Estate in the amount of \$30,000 with no conditions attached. Joint Petition in Support of Discipline on Consent, Nos. 8 – 32.

6. Petitioner has suffered from drug and alcohol problems since the 1990's. N.T. 227, 228-229.

7. Petitioner sought the assistance of a fellow attorney and friend, Arthur Donato, Esquire who contacted Lawyers Concerned for Lawyers ("LCL") and thereafter a long term plan for Petitioner's ongoing treatment and rehabilitation was developed. N.T. 234-246.

8. On September 18, 2008, Petitioner, under the guidance of LCL, began a 28-day inpatient treatment at Gaudenzia Common Ground in Harrisburg, Pennsylvania. N.T. 234-236, 237

9. On October 17, 2008, Petitioner began attending Alcoholics Anonymous ("AA") and Narcotics Anonymous ("NA") on a daily basis after discharge from inpatient treatment. Exh. P-23; N.T. 237-238.

10. On October 20, 2008, Petitioner began intensive outpatient treatment at Rehab After Work in Havertown, Pennsylvania. His treatment consisted of

several two-hour sessions per week, including random drug and alcohol testing. All tests were negative. Petitioner successfully completed treatment on January 8, 2009.

11. Petitioner has been a guest speaker at Gaudenzia Common Ground, has chaired several AA meetings as a result of attaining over one year of continuous sobriety, has participated in the LCL conferences for volunteers held in Harrisburg and has been a temporary sponsor for alcoholics and addicts in early recovery.

12. Petitioner has been sober since 2008 and has not experienced any relapses. He continues to be active in AA and LCL. N.T. 234, 237-240, 282

13. Petitioner offered Jessica Marie Cirillo as an expert witness in the field of relapse identification and relapse prevention as it relates to psychology and the treatment of drug and alcohol addiction. N.T. 198

14. Ms. Cirillo is employed by Mirmont Treatment Center, a facility within the Main Line Health hospital system, as a clinical supervisor and relapse prevention and identification specialist. N.T. 184

15. Ms. Cirillo reviewed the Joint Petition in Support of Discipline on Consent, Petitioner's history of inpatient and outpatient treatment and rehabilitation, as well as his recovery program for the period from September 2008 to the date of the reinstatement hearing. N.T. 201-202

16. Ms. Cirillo observed Petitioner at their mutual place of employment at Mirmont, where Petitioner has been employed as a clinical aide since April 2013. N.T. 203

17. Ms. Cirillo explained the characterization of both addiction and relapse, as well as the progression of various types of warning signs that precede relapse. N.T. 204-207

18. Ms. Cirillo opined that there are no current warning signs for relapse active in the life of Petitioner. N.T. 205-208

19. Petitioner is not currently at risk for relapse, based upon his history of treatment and recovery, including the diagnosis of full sustained remission after 15 months of sobriety, as well as his ability to tolerate and cope with significant facts involving loss and an increase in stress without reverting back to addictive behaviors and/or addictive use. N.T. 209

20. Ms. Cirillo opined that Petitioner's continued remission in excess of six years indicated that his risk for relapse has decreased or diminished. N.T. 210

21. Ms. Cirillo opined that Petitioner would not be at risk for relapse merely as a result of his return to the legal profession as a sole practitioner, because Petitioner has a very well-established network of support, and healthy and effective relationships where there is present accountability and the opportunity for people to intervene should warning signs occur. N.T. 213-214.

22. Ms. Cirillo also noted Petitioner's 12-step program, his active engagement in AA meeting attendance, as well as service and commitment to AA, and his demonstration of the ability to make amends to people who have been directly affected by his addiction as positive factors in his continued recovery. N.T. 215-216.

23. Ms. Cirillo stated that she has never seen a case where an individual has actively engaged in a 12 step program of recovery such as Petitioner.

N.T. 216

24. Petitioner presented the testimony of his former wife, two adult children, attorneys and friends, all of whom credibly testified concerning Petitioner's addiction, acts and omissions, the consequences and ramifications of his conduct, and the steps he has taken to confront his addiction and redress his transgressions, as well as his ongoing recovery.

25. Wendy Ann Koning is Petitioner's former wife and has known Petitioner since they were in high school. Before Petitioner's addiction, Ms. Koning observed that Petitioner was very involved with his clients, community and civic affairs, and dedicated to his family. After he began to abuse alcohol and drugs, he became more secretive and less available to family and clients. N.T. 23-24

26. Petitioner left the family residence in 1992 and from that time until 2008, Ms. Koning and Petitioner had a relationship that was distant and cold. Since Petitioner went into recovery in 2008, Ms. Koning observed a total change, wherein Petitioner expressed care and concern for not only her, but her current family with her new husband. Petitioner has helped Ms. Koning understand and learn to work with her own sister, who suffers from addiction. N.T. 26-27

27. Ms. Koning is certain that Petitioner presently possesses the characteristics necessary to be a fit attorney. N.T. 27-28

28. Christopher Quinn and Nicholas Quinn are Petitioner's adult sons. They are both fully aware of Petitioner's transgressions and his history of addiction,

having witnessed it as they grew up. N.T. 34-35, Exh. P-1. These witnesses described Petitioner as secretive, aggressive, angry, dishonest and in denial during the time frame of his drinking. N.T. 36-37, 54-55.

29. Christopher and Nicholas Quinn have observed a complete transformation since their father entered recovery, and describe Petitioner now as one of the most honest and open people they know, caring and thoughtful of others and more of a father figure. N.T. 38, 56-59.

30. Christopher Quinn credibly testified that Petitioner is remorseful, has accepted responsibility for his actions, and not once has he tried to blame anyone else. N.T. 39, 41-42

31. When Petitioner visits Christopher's family in Chicago, he spends time going to AA meetings when not with family. N.T. 39-41.

32. Christopher is in contact with his father multiple times per week and often multiple times per day. He visually observes his father using "FaceTime" and has not noticed any relapses by his father. N.T. 42, 46, 49

33. Nicholas Quinn credibly testified that Petitioner has shown remorse for his actions and has accepted full responsibility. N.T. 64-65.

34. Nicholas currently sees his father at least once per week and speaks to him on the telephone several times per week. N.T. 58-59. He is not aware of any changes in his father's behavior that would indicate Petitioner has resumed consumption of alcohol or drugs. N.T. 60-61.

35. Robert Donatoni, Esquire is a Pennsylvania attorney since 1979 and has known Petitioner for many years. N.T. 66-67

36. Mr. Donatoni is fully apprised of the facts of Petitioner's conduct that led to his suspension, through his representation of Petitioner in the underlying criminal cases in Delaware County. N.T. 71

37. Mr. Donatoni is familiar with Petitioner's recovery from active addiction. N.T. 71-72, 247-248.

38. Mr. Donatoni opined that Petitioner possesses tenacity, integrity and character, and he believes that Petitioner's reinstatement would not be a threat to the profession but rather an asset. N.T. 73-74.

39. Mr. Donatoni is among a circle of Petitioner's support group and friends, and knows that Petitioner's reputation in that circle of people is excellent. N.T. 80-81.

40. Arthur T. Donato, Jr., Esquire has been a member of the Pennsylvania bar since 1980 and has known Petitioner since 1973 or 1974. N.T. 84-85.

41. Mr. Donato is familiar with Petitioner's disciplinary history, having represented Petitioner in his disciplinary hearing. He did not represent Petitioner in the instant reinstatement hearing because he believed Petitioner was capable of representing himself. N.T. 92.

42. Petitioner came to Mr. Donato's office in 2008 and admitted his need for help with alcohol and drugs, and this ultimately resulted in Petitioner's inpatient admission to Gaudenzia Common Ground in Harrisburg. N.T. 93-94.

43. Mr. Donato confirmed that during the first six months of recovery, Petitioner made an unbelievable commitment to his recovery and accepted responsibility for the problems he caused by his addiction. N.T. 95-96.

44. Mr. Donato confirmed his knowledge of Petitioner's dedication to attendance at AA meetings, despite physical problems and the lack of a driver's license. 96.

45. Mr. Donato has represented persons addicted to drugs and alcohol and has never seen a recovery effort to rival Petitioner. N.T. 99.

46. Mr. Donato is confident that Petitioner will properly manage a law practice and maintain balance with his program of recovery. N.T. 104-105.

47. Mr. Donato opined that Petitioner's reputation in the community for being an honest, law-abiding person is excellent, and Petitioner's reinstatement would not threaten the public interest. N.T. 106-107.

48. Thomas J. Stapleton, Jr., Esquire is a licensed Pennsylvania attorney since 1973 and has known Petitioner since that time. N.T. 120-13.

49. Attorney Stapleton is familiar with alcohol addiction and recovery and has nearly 32 years of personal sobriety. N.T. 121.

50. After Petitioner was released from Common Ground in September 2008, Mr. Stapleton advised Petitioner concerning the Delaware County Lawyers Alcoholics Anonymous group, and Petitioner came to a meeting the first week following his release. N.T. 127-128.

51. Petitioner has remained a strong component of the Delaware County Lawyers group since 2008, being especially helpful to newcomers. N.T. 128.

52. Mr. Stapleton confirmed that Petitioner has participated in the annual LCL volunteers' conference for a number of years since 2008. N.T. 130.

53. Mr. Stapleton speaks to Petitioner by telephone once per month and due to his experience with attorneys in recovery, he is confident that Petitioner has not had any problems or relapses. N.T. 142-144.

54. Mr. Stapleton opined that Petitioner would be an asset to the legal profession and would be a better lawyer as a result of his recovery. N.T. 135-136.

55. Mr. Stapleton recommended Petitioner to work at Mirmont Treatment Center and would not have done so if he did not think Petitioner had a great insight into the disease of alcoholism and drug addiction. N.T. 148.

56. Steven Brzoska is Petitioner's AA sponsor. He met Petitioner six years ago when Petitioner attended an AA meeting at Mr. Brzoska's home group. N.T. 150-151. He has a strong relationship with Petitioner. N.T. 152-153.

57. Mr. Brzoska sees Petitioner at least every other day and speaks with him daily. N.T. 156. He has never observed any signs of relapse by Petitioner. N.T. 167-168.

58. Mr. Brzoska is familiar with Petitioner's acts of misconduct and has never heard Petitioner assign blame or refuse to accept responsibility for his actions. N.T. 158.

59. Mr. Brzoska has observed that Petitioner puts his sobriety ahead of family and the practice of law because Petitioner knows that if he relapses he will lose those things. N.T. 154, 183.

60. Petitioner submitted letters from individuals who support his reinstatement.

61. Margaret M. Costello is the Clinical Director of Mirmont Treatment Center and has professional experience of 30 years in the addiction and behavioral health field. As an employee, she finds Petitioner to be "highly engaged" and "outstanding" and as a person in recovery refers to Petitioner as "steadfast in his commitment to sobriety, for himself, his family, community and to those he mentors and serves." Exh P-2

62. Five letters are from attorneys who chose to break their anonymity as alcoholics in order to endorse Petitioner's reinstatement. Exh. P6-10.

63. Petitioner credibly testified on his own behalf.

64. Petitioner accepts full responsibility for his actions and misconduct, admitting that his actions were criminal and unethical and expressing sincere remorse. N.T. 249, 251.

65. Despite the fact that his actions resulted in a great number of negative consequences in his life, such as alienation from family, incarceration, health problems, financial issues and suspension from the legal profession, Petitioner considers himself lucky because he has been given the gift of sobriety as a result. N.T. 252-253.

66. Petitioner regrets the harm that resulted from his actions, and accepts it as being the necessary consequence of the misconduct. N.T. 260.

67. Concerning the matter involving the client estate from which he converted funds, Petitioner sought to contact the executor, who is a Catholic priest and longtime friend of Petitioner, and expressed remorse for his actions and a willingness to make restitution. N.T. 283-285.

68. Petitioner's alcoholism has caused health problems, such as irreversible alcoholic neuropathy, which is a total numbness in his feet and lower legs that resulted in his walking a hole in the bottom of his foot. N.T. 275-277.

69. In September 2014, Petitioner was diagnosed with lymphoma of the spleen and bone marrow and currently receives chemotherapy. N.T. 272-275.

70. During his suspension, Petitioner performed administrative assistance and clerical work for three attorneys: Richard J. Emhof, Esquire from May 2010 to April 2012; Frank J. Williams, Esquire from April 2012 to July 2014; David J. Henry, Esquire, commencing July 2014. Exh. P-3, 4, 5.

71. Petitioner complied with notice requirements pursuant to Rule 217(j)(5), Pa.R.D.E. N.T. 271

72. Petitioner has not engaged in the practice of law or held himself out as a lawyer since the date of his suspension. N.T. 269

73. Petitioner currently works in the field of alcohol and drug addiction treatment and has taken courses towards his state certification as an addictions counselor. During his suspension, Petitioner completed the Villanova University Continuing Education Program for Drug and Alcohol Counseling. N.T. 242

74. Petitioner is employed part-time at Mirmont Treatment Center as a clinical aide in order to accumulate clinical hours towards his certification. He works an average of 16 to 24 hours per week and works directly with approximately 100 inpatients being treated for alcohol and drug addictions. N.T. 241-242, Reinstatement Questionnaire Nos. 20, 21

75. Petitioner intends to continue his work at Mirmont upon reinstatement. He is interested in pursuing a law practice that will allow him to use both his law license and his current work experience in addiction counseling. Reinstatement Questionnaire No. 18.

76. Petitioner fulfilled the requisite Continuing Legal Education courses in support of reinstatement and has reviewed legal periodicals and legal journals to maintain his currency in the law. He performed legal research between 2010 and 2014 in his capacity as a law clerk. Reinstatement Questionnaire No. 19(a), (b), (e).

77. Office of Disciplinary Counsel does not oppose reinstatement.

III. CONCLUSIONS OF LAW

Petitioner has demonstrated 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 of Pennsylvania and that Petitioner's 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. Rule 218(c)(3), Pa.R.D.E.

IV. DISCUSSION

Petitioner seeks readmission to the practice of law in Pennsylvania following suspension for a period of five years, retroactive to May 17, 2010. A reinstatement hearing is an 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 rehabilitative efforts made since the time the sanction was imposed and the degree of success achieved in the rehabilitative process. *Philadelphia Newspapers, Inc. v. Disciplinary Board of the Supreme Court*, 363 A.2d 779 (Pa. 1976).

We conclude from the evidence of record that Petitioner has met his burden and we recommend that he be reinstated to the practice of law.

The underlying misconduct for which Petitioner agreed to a five-year suspension involved three criminal convictions for driving under the influence of alcohol or drugs, a summary conviction for disorderly conduct, and the conversion of \$34,449.54 from his IOLTA account, which belonged to the beneficiaries of the Estate of Sara Calderone. The misconduct occurred during a time in Petitioner's life when he was addicted to alcohol and drugs. Petitioner has fully acknowledged his misconduct and is extremely remorseful.

By all accounts, Petitioner has been tireless and unwavering in his efforts to address his addiction and regain control of his life. The record is replete with evidence of Petitioner's significant progress, starting from the time he sought assistance from LCL in 2008 and continuing to the time of the reinstatement hearing. Petitioner has actively participated in inpatient and outpatient treatment, and has displayed consistent and continued attendance at and involvement in AA and LCL.

Petitioner's testimony is very persuasive as to his readiness to resume the practice of law. He credibly described his transformation from addict to recovering addict. Not only has Petitioner actively worked his own recovery, he has transitioned to a place where he is able to assist other addicts. Petitioner is so dedicated to helping

others achieve recovery that he was inspired to pursue a new life's work in the field of addiction counseling. His work at Mirmont Treatment Center is extremely important to him and will remain so after reinstatement, as he hopes to combine his legal expertise with his counseling work.

Petitioner has accepted full responsibility for his misconduct and has demonstrated sincere remorse and regret. Petitioner suffered many negative consequences as a result of his addictive behavior; however, he views these consequences as necessary in that he was able to achieve sobriety. Petitioner has worked to mend fractured relationships with his family, particularly his adult sons, and to be more accountable in his life. Petitioner's sobriety remains his first priority in life, as he is cognizant that a relapse could signify the loss of hard-won achievements. The record demonstrates that Petitioner has been an effective father, employee, LCL volunteer and member of society since his suspension.

Petitioner's witnesses wholeheartedly endorse his reinstatement, as they have observed first-hand the extraordinary changes he has made in his life. None of the witnesses have observed a relapse of Petitioner's sobriety, and each believes that Petitioner will properly balance his legal career with his recovery and be an asset to the legal profession.

Petitioner has fulfilled his Continuing Legal Education requirements necessary for reinstatement and has maintained his currency in the law by reading and reviewing various legal publications and working as a law clerk.

Each reinstatement matter before this Board is unique, driven by factual circumstances particular to the petitioner. Yet, we are guided by past reinstatement

cases involving attorneys who have been suspended for misconduct engaged in while suffering from addiction, and who have demonstrated rehabilitation from that addiction. We note the similarities between the instant case and the recent case of *Office of Disciplinary Counsel v. W. Christopher Conrad*, Nos. 171 DB 2007, 169 DB 2008 & 187 DB 2011 (2015). Mr. Conrad's underlying suspension for 18 months was based on his criminal conviction for DUI and related offenses. Mr. Conrad had a long history with the disciplinary system of private discipline culminating in his suspension as a result of his addiction to alcohol. At his reinstatement hearing, he persuasively demonstrated that he had accepted responsibility for his misconduct, was sincerely remorseful, and had successfully engaged in recovery. The Board recommended reinstatement, and the Supreme Court reinstated Mr. Conrad by Order of March 17, 2015.

The evidence of record demonstrates that Petitioner has met his burden pursuant to Rule 218(c)(3), Pa.R.D.E. We recommend that the Petition for Reinstatement be granted.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that Petitioner, Brian S. Quinn, 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: 
Stefanie B. Porges, MD, Board Member

Date: July 13, 2015