

IN THE SUPREME COURT OF PENNSYLVANIA

In the Matter of : No. 917 Disciplinary Docket No. 3  
:   
: No. 35 DB 2002  
BARRY FRANKLIN LEVINE :   
: Attorney Registration No. 54886  
:   
PETITION FOR REINSTATEMENT : (Erie County)


ORDER

PER CURIAM:

AND NOW, this 26<sup>th</sup> day of September, 2011, upon consideration of the Report and Recommendations of the Disciplinary Board dated June 27, 2011, the Petition for Reinstatement is granted.

Pursuant to Rule 218(f), Pa.R.D.E., petitioner is directed to pay the expenses incurred by the Board in the investigation and processing of the Petition for Reinstatement.

A True Copy Patricia Nicola  
As Of 9/26/2011

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 of April 27, 2005, the Supreme Court of Pennsylvania suspended Barry Franklin Levine from the practice of law for a period of five years. Mr. Levine filed a Petition for Reinstatement on July 21, 2010. Office of Disciplinary Counsel filed a Response to Petition on August 23, 2010 and does not oppose reinstatement.

A reinstatement hearing was held on October 25, 2010 before a District IV Hearing Committee comprised of Chair Mark E. Mioduszewski, Esquire, and Members Evan E. Adair, Esquire, and Elizabeth L. Hughes, Esquire. Petitioner appeared pro se. Petitioner offered the testimony of two witnesses and testified on his own behalf. Petitioner submitted into evidence numerous exhibits.

On January 24, 2011, the Hearing Committee filed a Report and recommended that the Petition for Reinstatement be granted.

This matter was adjudicated by the Disciplinary Board at the meeting on April 13, 2011.

## II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner is Barry Franklin Levine. He was born in 1962 and was admitted to practice law in the Commonwealth of Pennsylvania in 1989. His current address is 938 West 52 Street, Erie, PA 16509. Petitioner is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

2. By Order of April 27, 2005, the Supreme Court suspended Petitioner from the practice of law for a period of five years. This suspension arose from Petitioner's forgery of a judge's name on a settlement order and his subsequent attempt to conceal the forgery.

3. Prior to and following his suspension, Petitioner sought and received treatment for depression from Patrick S. Hanna, Ph.D., a psychologist. Petitioner has treated with Dr. Hanna since 2003 on a weekly basis.

4. At Dr. Hanna's suggestion, since 2009 Petitioner has received treatment from Dr. Max Gottesman, a board certified psychiatrist at Safe Harbor. Petitioner sees Dr. Gottesman every six months.

5. Petitioner is treated with prescribed medications, which have contributed to significant reduction in Petitioner's level of depression.

6. Petitioner submitted a letter from Dr. Hanna (PE 1), which cites that Petitioner has made "significant progress" and states that Petitioner is ready to responsibly resume the practice of law. Dr. Hanna does not foresee Petitioner having difficulties which might give rise to future misconduct.

7. During his suspension, Petitioner became active at his children's school as vice-president of the PTO and as the school mascot. Petitioner and his wife led Pre-Cana seminars at Mrs. Levine's church for couples planning inter-faith marriages.

8. Petitioner has taken steps to address tax and financial problems created prior to his suspension.

9. Petitioner has worked as a paralegal under the supervision of Attorney Mary Kathryn Karn since July 2009.

10. Petitioner has fulfilled his Continuing Legal Education requirements necessary for reinstatement.

11. Petitioner has kept current in the law by reading and reviewing the Erie County Legal Journal and Pennsylvania Supreme Court cases.

12. If reinstated, Petitioner intends to resume a private practice of law in Erie.

13. Petitioner is eligible for and has been receiving Social Security benefits due to his depression, and is also eligible for assistance from Pennsylvania's Office of

Vocational Rehabilitation. This assistance would include the funding of start-up costs if Petitioner resumes the practice of law.

14. Petitioner testified on his own behalf and expressed sincere regret and remorse for his conduct which led to the suspension.

15. Petitioner presented two witnesses.

16. Reverend David J. Wilson is a Catholic priest who has known Petitioner for more than 20 years. He opined that Petitioner has a good reputation in the community as an able lawyer who has done a good job for people.

17. Mary Kathryn Karn, Esquire, is a Pennsylvania attorney who has known Petitioner since 1985. She opined that Petitioner has a good reputation in the community for honesty and truthfulness. She supports Petitioner's readmission to the bar, as do other attorneys in the community whom she has talked to.

18. Attorney Karn employs Petitioner as a paralegal and is very satisfied with his work. She described Petitioner's legal research and writing as very meticulous and organized.

19. Petitioner submitted into evidence five letters of reference from community members who support Petitioner's reinstatement.

20. Office of Disciplinary Counsel does not oppose reinstatement.

### III. CONCLUSIONS OF LAW

Petitioner has met his burden of proving by clear and convincing evidence that he has the moral qualifications, competency and learning in the law required for admission to practice law and 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. Pa.R.D.E. 218(c)(3).

#### IV. DISCUSSION

Petitioner seeks readmission to the practice of law in Pennsylvania following his suspension for a period of five years. Rule 218(c)(3) requires that a suspended attorney demonstrate by clear and convincing evidence that he has the moral qualifications, competency and learning in the law required for admission to practice law and that the petitioner's 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. A reinstatement proceeding 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).

Petitioner was suspended after he forged a judge's signature on a court order and subsequently falsely told the court that the original document could not be found. Petitioner is extremely remorseful for his misconduct and has fully acknowledged his wrongdoing. Petitioner suffers from depression and has taken measures to seek and receive appropriate treatment for his condition. He has regular weekly sessions with his psychologist and treats regularly with his psychiatrist, who monitors his medication. Petitioner has explored every professional avenue possible to address the root cause of his

behavior that led to his suspension. Dr. Hanna's letter indicates that Petitioner has made significant progress and is ready to resume the practice of law.

Petitioner has maintained involvement in his children's school and in his community during his suspension. Petitioner has a supportive wife and family and seeks reinstatement in part to give his family a restored sense of pride in him. Petitioner has addressed tax liabilities and other debt that arose prior to his suspension.

Since 2009, Petitioner has worked as a paralegal for Mary Kathryn Karn, Esquire. Ms. Karn testified that she is very pleased with Petitioner's work product and finds it to be meticulous and organized. She indicated that Petitioner has a reputation in the community as an honest person and a good legal practitioner. Among the lawyers she has talked to, all of them support Petitioner's return to the bar.

Petitioner presented the testimony of Reverend David Wilson, a Catholic priest. Rev. Wilson knows Petitioner's reputation as a lawyer to be good, and further believes that Petitioner used his time on suspension in a productive way, as far as his involvement with his family and the community.

Petitioner's character letters are also indicative of the support he has received from members of his community and the general feeling that his readmission to the bar would be positive for the community.

Petitioner has fulfilled his Continuing Legal Education requirements and has kept his currency in the law by reading and reviewing legal periodicals and newspapers, as well as Supreme Court cases. Petitioner's paralegal work is also evidence of his learning in the law and competence.

Petitioner has met his burden pursuant to Rule 218(c)(3) and the Board recommends that he be reinstated to the practice of law.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that Petitioner, Barry Franklin Levine, 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:  \_\_\_\_\_  
Albert Momjian Board Member

Date: 6/27/2011

Board Member Jefferies did not participate in the adjudication.