

IN THE SUPREME COURT OF PENNSYLVANIA

In the Matter of : No. 771 Disciplinary Docket No. 2
:
BRUCE R. AKINS, SR. : No. 58 DB 1989
:
: Attorney Registration No. 29536
PETITION FR REINSTATEMENT :
: (Philadelphia)

ORDER

PER CURIAM

AND NOW, this 12th day of May, 2017, 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 5/12/2017

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 September 10, 1990, the Supreme Court of Pennsylvania suspended Bruce R. Akins, Sr., for a period of three years. Petitioner filed a Petition for Reinstatement on August 24, 1993, but requested leave to withdraw the Petition, which the Disciplinary Board granted by Order dated August 29, 1995. On November 19, 1997, Petitioner filed his second Petition for Reinstatement, which the Supreme Court of

Pennsylvania denied by Order dated August 1, 2000. Petitioner filed a third Petition for Reinstatement on October 16, 2015, and a Supplement to Petition on October 29, 2015. Office of Disciplinary Counsel filed a Response to Petition for Reinstatement on March 21, 2016.

On June 28, 2016, a reinstatement hearing was held before a District I Hearing Committee comprised of Chair Scott Mustin, Esquire, and Members Patricia Pierce, Esquire and Sayde J. Ladov, Esquire. Petitioner was represented by Wallace L. Walker, Esquire.

Following the submission of a brief by Petitioner, the Hearing Committee filed a Report on October 5, 2016, and recommended that the Petition for Reinstatement be denied.

Petitioner filed a Brief on Exceptions to Hearing Committee Report and Recommendation on October 25, 2016.

Office of Disciplinary Counsel did not file a brief.

The Board adjudicated this matter at the meeting on January 12, 2017.

II. FINDINGS OF FACT

The Board makes the following findings:

1. Petitioner is Bruce R. Akins, Sr. He was born in 1953 and was admitted to the practice of law in the Commonwealth of Pennsylvania in 1979. His

attorney registration address is 409 Marion Ave., Westville, NJ 08093. Petitioner is subject to the jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

2. Following his admission to the bar in Pennsylvania, Petitioner worked for a short time for a legal services entity in Allentown, Pennsylvania and for the United States Equal Employment Opportunity Commission. Reinstatement Questionnaire ("RQ") No. 2(d); N.T. 118-119.

3. In 1984, Petitioner entered private practice as a solo practitioner and opened a small office a few blocks from where he grew up in West Philadelphia. His practice consisted of civil law, including family matters, consumer bankruptcy, and minor injury claims. He wrote free wills for senior citizens over 65 years of age. RQ Nos. 2(d); N.T. 121-122.

4. By Order of September 10, 1990, the Supreme Court of Pennsylvania suspended Petitioner for a period of three years. ODC-1.

5. Petitioner's suspension was the result of his commingling client trust funds and non-trust funds on twenty-seven (27) occasions in a single general office account. On those occasions, the balance of the funds in the general office account was less than the varying amounts owed to the clients. Petitioner misappropriated client funds and used them for his personal and business use. In one of the instances, he failed to timely release a \$1,380.00 medical provider payment he withheld from a client's settlement funds. Petitioner paid all of his clients and the medical provider prior to the institution of disciplinary proceedings. Joint Stipulations No. 8; N.T. 125, 126.

6. Petitioner filed a Petition for Reinstatement in 1993, which he voluntarily withdrew. Petitioner filed a second Petition for Reinstatement in 1997, which the Supreme Court of Pennsylvania denied in 2000 on the basis that Petitioner failed to demonstrate his moral fitness to return to the practice of law. ODC-2, ODC-3.

7. Following his suspension, Petitioner worked for approximately one year as a substitute teacher in New Jersey. N.T. 132-133.

8. In 1993, Petitioner obtained employment as a paralegal performing per-diem work for Stokes E. Mott, Jr., Esquire, with whom Petitioner had attended law school. N.T. 130-131, 134.

9. Eventually, Petitioner worked full-time providing paralegal services to Mr. Mott until early 2015, when Mr. Mott retired from the practice of law. N.T. 134-135. Petitioner researched, prepared, and filed documents in civil and bankruptcy matters. N.T. 134, 149-50, 199-202.

10. While working for Mr. Mott, Petitioner met Alan B. Liss, Esquire, who shared office space with Mr. Mott and maintained a consumer bankruptcy practice. N.T. 83, 87-90.

11. Following Mr. Mott's retirement in 2015, Petitioner provided occasional paralegal services to Mr. Liss. N.T. 83, 87, 202, 203.

12. While suspended, Petitioner has not held himself out as an active lawyer. N.T. 201, 202.

13. Petitioner fulfilled his Continuing Legal Education requirements necessary for reinstatement. RQ 19(a).

14. During his suspension, Petitioner read various legal periodicals and newspapers, including the Legal Intelligencer, Pennsylvania Lawyer, Philadelphia Bar Reporter, and the ABA Journal, and he reviewed numerous Disciplinary Board opinions on the Board's website. RQ 19(b); N.T. 141.

15. In addition to the paralegal services Petitioner provided to Mr. Mott and Mr. Liss, he performed legal research for Robert Hoof, Esquire, Richard B. Moore, Esquire, Wallace Walker, Esquire, and Jeffrey Totan, Esquire. RQ No. 19(e).

16. Petitioner credibly testified at the reinstatement hearing, where he expressed genuine remorse and shame for his misconduct. N.T. 129-130, 152. He did not try to justify his misconduct, but explained that as a young lawyer in the 1980s, although he knew right from wrong, he did not understand that he needed to have a separate bank account earmarked for trust funds. N.T. 125-127, 139-140. Petitioner's goal as a practicing attorney was to make sure the clients were paid, but he did not manage the funds properly. N.T. 128-129.

17. In response to a question from Petitioner's counsel about how Petitioner's understanding of trust accounts has changed, Petitioner stated "Not only do I know it, I have no doubt about it. I'm very much aware of the rules requiring fiduciary accounts, iota [sic] accounts. I'm very much aware of the rules respecting utilization of unearned fees. I'm very much aware of the rules requiring the separation of accounts, separation of personal funds, the not commingling of funds. I am very much aware of that." N.T. 140-141.

18. Petitioner's previous reinstatement request was denied in 2000 following a determination that he had not demonstrated his moral fitness to return to the practice of law. ODC-3. Petitioner waited until 2015 to file another reinstatement petition because he wanted to make sure a sufficient amount of time had passed to address the seriousness of his misconduct. N.T. 130.

19. Since 2008, Petitioner's adjusted gross income has averaged less than \$10,000 per year. N.T. 188-194. In addition to paralegal services, Petitioner has supplied handy-man home repair services to various individuals from time-to time. RQ No. 12. He admitted that he has a limited income and is "doing the best I can." N.T. 198.

20. Petitioner owes approximately \$5,000 in federal taxes and \$3,000 in state taxes. He is in approved re-payment agreements with federal and state tax agencies. N.T. 143, 167-168.

21. Petitioner listed one pending civil action on his Reinstatement Questionnaire, but failed to include four other civil actions that he was a party to. Joint Stipulations Nos. 15 and 17; RQ No. 10(a); ODC-6-9; N.T. 206, 207. Petitioner testified that he would have listed the actions if he had been aware of them at the time he prepared the Questionnaire. N.T. 208.

22. By letter dated November 13, 2015, Petitioner supplemented his Reinstatement Questionnaire in regard to No. 10(c) and provided information on five judgments listed as unsatisfied. Joint Stipulations No. 19.

23. Petitioner failed to list an unsatisfied judgment in New Jersey. Joint Stipulations No. 20; ODC-10.

24. Petitioner completed his Questionnaire to the best of his knowledge and information. N.T. 215-216. He apologized for any errors in his Questionnaire, as he intended to prepare it as accurately as possible. N.T. 211.

25. During his lengthy suspension, Petitioner mentored several young people, including Daryel Williams, who testified at the reinstatement hearing on Petitioner's behalf. N.T. 137-138, 216.

26. If reinstated, Petitioner plans to practice in Philadelphia primarily in the area of consumer bankruptcy and intends to associate with other attorneys, as opposed to conducting a solo practice. RQ No. 18; N.T. 211-212.

27. Petitioner introduced the credible testimony of four witnesses.

28. David Waties, Esquire, has been a Pennsylvania-licensed attorney since 1985 and has known Petitioner since the 1970s. Mr. Waties is aware that Petitioner commingled funds by not having separate accounts. N.T. 11-12.

29. Mr. Waties contacted Petitioner on occasion when Petitioner worked for Mr. Mott to ask about bankruptcy issues. Mr. Waties testified that the quality of Petitioner's work was excellent. N.T. 13-15.

30. Mr. Waties opined that Petitioner is an honorable man with a good reputation in the community and is capable of practicing law. N.T. 15-16, 18, 19.

31. Daryel Williams is a licensed contractor in New Jersey and has known Petitioner for twenty-five years. Although Mr. Williams is aware that Petitioner is not actively practicing law, he was unaware of the reason that Petitioner was suspended. N.T. 24-25.

32. Mr. Williams credibly testified that he owes his success in life to Petitioner, who acted as a surrogate father to Mr. Williams by mentoring and guiding him after Mr. Williams' mother died. Mr. Williams lived at Petitioner's house for approximately four or five years when he was a teenager. N.T. 24-27, 35-37.

33. Mr. Williams would feel comfortable using Petitioner as an attorney and does not believe that Petitioner would be a danger to the public as a practicing lawyer. N.T. 28.

34. Robert Hoof, Esquire, has been a Pennsylvania-licensed attorney since 1987 and has known Petitioner since 1994, when Petitioner worked as paralegal for Mr. Mott. Mr. Hoof is aware of the disciplinary violations committed by Petitioner. N.T. 40-41, 43.

35. From time to time, Mr. Hoof asked Petitioner to perform legal research and writing for him and found Petitioner to be a competent paralegal who provided a very good work product. N.T. 44, 45.

36. Mr. Hoof developed a personal relationship with Petitioner and testified that he is an honest person with good values whose reinstatement would be an asset to the bar. N.T. 48-49, 50.

37. Alan B. Liss, Esquire, has been a Pennsylvania-licensed attorney since 1976 and has known Petitioner since 2007. Mr. Liss is aware of Petitioner's misconduct. N.T. 83-84.

38. In approximately 2015, Mr. Liss asked Petitioner to do some paralegal work for him in the form of specific case assignments. Mr. Liss was aware that

Petitioner had a working knowledge of bankruptcy law and Mr. Liss would discuss legal issues with Petitioner and have him research, prepare and draft pleadings. N.T. 87-88.

39. Mr. Liss credibly testified that Petitioner's ability to research the law was "as good as most seasoned attorneys with years of practice." N.T. 89. Mr. Liss found everything that Petitioner prepared for him was "spot on." N.T. 89. Mr. Liss found Petitioner to be a major asset to his practice. N.T. 90.

40. Mr. Liss would consider hiring Petitioner upon reinstatement. N.T. 90, 107.

41. If Petitioner is reinstated, Mr. Liss credibly testified that he would be "as competent an attorney as any one of us sitting in the room." N.T. 90.

42. Petitioner introduced five letters of reference in support of his reinstatement petition. One of the letters was written by Daryl Williams, who appeared at the reinstatement hearing and testified on Petitioner's behalf. The Hearing Committee admitted the letters into evidence but they were not marked as exhibits. N.T. 236-237.

43. Willis K. Smith is Petitioner's neighbor and has known him for many years as a law-abiding, honest and knowledgeable individual.

44. Joseph A. Bailey is Chairman/CEO of JBailey Builders and has known Petitioner for decades through Petitioner's employment with Mr. Mott. Mr. Bailey knows Petitioner as an honest and professional person.

45. Karen E. Seeney is Petitioner's former spouse. Although they have been divorced since 1996, Ms. Seeney has never questioned Petitioner's devotion and honesty in his work and his commitment to their four children.

46. Stokes E. Mott, Jr. is a retired Pennsylvania lawyer who has known Petitioner since the late 1970s. Throughout the time that Petitioner provided paralegal services, Mr. Mott found that Petitioner completed his tasks intelligently and timely. Mr. Mott found that Petitioner was very adept at completing the detailed work in bankruptcy cases and was extremely helpful concerning complex civil litigation matters. Mr. Mott believes that Petitioner possesses the skills, honesty and integrity necessary to serve as an attorney in Pennsylvania.

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 law in Pennsylvania. Pa.R.D.E. 218(c)(3).

2. Petitioner demonstrated by clear and convincing evidence that his 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. 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 three years, imposed by the Supreme Court of Pennsylvania on September 10, 1990. 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's underlying misconduct was his commingling of trust funds and non-trust funds in one general office account on twenty-seven occasions. Petitioner used the funds for personal and business purposes. These acts of misconduct were serious and were addressed by a three-year period of suspension.

The record supports the conclusion that Petitioner is morally qualified, competent and learned in the law. Petitioner fully acknowledged responsibility for his misconduct and did not attempt to justify or minimize his actions. He expressed sincere remorse, regret and shame. Petitioner explained that at the time of his misconduct, which occurred in the late 1980s, he was an inexperienced lawyer and did not comprehend the concept of separate accounts for funds. Petitioner made sure that clients received the funds to which they were entitled, but he fully admits that he did not manage the funds

properly and was out of escrow on many occasions. Petitioner credibly testified that currently, he has a full awareness of the rules governing fiduciary accounts, including the separation of accounts.

Although Petitioner has remained suspended since 1990, he has nonetheless maintained a connection to the legal profession for much of that time by providing paralegal services, primarily to Stokes E. Mott, Jr., Esquire and Alan B. Liss, Esquire. In this capacity, Petitioner researched the law, drafted legal documents, and read many legal magazines and texts, in addition to reviewing cases on the Disciplinary Board website. Petitioner completed his Continuing Legal Education requirements necessary for reinstatement. If reinstated, Petitioner intends to practice law in Philadelphia, primarily in the area of consumer bankruptcy, in which area Petitioner has many years of experience due to his paralegal work.

Petitioner has limited income and owes federal and states taxes in the amount of approximately \$8,000.00, for which he has repayment agreements. He has several judgments against him that remain unsatisfied. Petitioner indicated that at present, he does not have the financial ability to eradicate these obligations. The Hearing Committee concluded that this evidence of economic instability demonstrated that Petitioner was not sufficiently rehabilitated to permit reinstatement to the bar. In fact, complete satisfaction of all financial obligations is not a prerequisite to reinstatement. ***Office of Disciplinary Counsel v. Andrew Keith Fine***, No. 115 DB 1995 (D. Bd. Rpt. 1/24/14) (S. Ct. Order 5/23/14). Fine had numerous judgments entered against him, of which he had been unaware at the start of the reinstatement process; however, the Board

found that Fine satisfied many and attempted to contact those entities and persons to whom he owed money. It was these good faith efforts on Fine's part to address the judgments that weighed in the Board's recommendation to reinstate Fine. Rpt. at 12. The Supreme Court of Pennsylvania accepted this recommendation and reinstated Fine from disbarment.

In the case of *Office of Disciplinary Counsel v. Richard M. Corcoran*, No. 74 DB 2009 (D. Bd. Rpt. 6/22/16) (S. Ct. Order 8/11/16), the Board concluded that Corcoran was fit to resume the practice of law following a five year period of suspension, even though he had a significant amount of outstanding debt. Crucially, the Board found that Corcoran acknowledged his debt and was attempting to satisfy his obligations and if reinstated, would have an increased opportunity to earn greater income. Rpt. at 10-11.

We conclude from our review of this issue that although it is clear that Petitioner is in straitened financial circumstances, he has made efforts to address his tax debt to the best of his ability. We are not convinced that preventing his reinstatement, after more than twenty-six years of suspension, will have any positive effect upon his ability to address his debt. Rather, we conclude, as the Board did in *Corcoran*, that reinstatement will increase Petitioner's potential to earn greater income and remedy his financial obligations.

Four witnesses appeared on Petitioner's behalf to attest to his remorse, rehabilitation, character and competence as a legal practitioner and to confirm his current positive reputation in the community. Daryel Williams credibly testified that Petitioner became a mentor to him after Mr. Williams' mother died when he was a teenager,

providing not only guidance and encouragement to Mr. Williams, but a place to live. Three of Petitioner's witnesses are active members of the Pennsylvania bar and provided credible and reliable insight into Petitioner's legal knowledge and work ethic. In addition to the live testimony, four individuals provided letters in support of Petitioner's reinstatement, including Petitioner's former employer, Stokes E. Mott, Esquire, and Petitioner's former wife. The testimony and the character letters indicate the high level of support Petitioner has received from community members and the general feeling that Petitioner is well-regarded and his readmission to the bar would be a positive circumstance.

Petitioner is sixty-three years of age and has been suspended from the practice of law for decades. He has attempted reinstatement on two occasions: the first in 1993, when he voluntarily withdrew his petition; and the second in 1997, which resulted in a denial of his Petition by the Supreme Court of Pennsylvania in 2000 for failing to demonstrate by clear and convincing evidence that he had sufficient moral qualifications. Another fifteen years passed before Petitioner filed the instant reinstatement petition. Petitioner made a conscious decision to wait a long period of time between petitions in order to dissipate the harm caused by his misconduct to the integrity and standing of the bar and to the interests of the public.

Based on the totality of the record, we recommend that the Petition for Reinstatement be granted.

V RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that Petitioner, Bruce R. Akins, Sr. 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: 
Brian J. Cali, Board Member

Date: 4/4/17