

IN THE SUPREME COURT OF PENNSYLVANIA

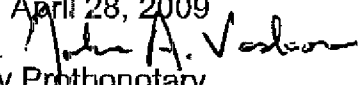
In the Matter of : No. 658 Disciplinary Docket No. 3
:
ERIC M. D. LEVANDE : No. 72 DB 1999
:
: Attorney Registration No. 42600
:
PETITION FOR REINSTATEMENT : (Lackawanna County)

ORDER

PER CURIAM:

AND NOW, this 28th day of April, 2009, upon consideration of the Report and Recommendations of the Disciplinary Board dated March 11, 2009, the Petition for Reinstatement is granted.

Pursuant to Rule 218(e), 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 John A. Vaskov
As of: April 28, 2009
Attest: 
Deputy Prothonotary
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

In the Matter of : No. 658, Disciplinary Docket
: No. 3
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ERIC M.D. LEVANDE : No. 72 DB 1999
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: Attorney Registration No. 42600
PETITION FOR REINSTATEMENT :
: (Lackawanna 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

On May 2, 2008, Eric M.D. Levande filed a Petition for Reinstatement to the bar of the Supreme Court of Pennsylvania, following his suspension for one year and one

day imposed on April 2, 2001. Following an investigation, Office of Disciplinary Counsel filed a Response to Petition for Reinstatement on July 1, 2008 and did not oppose the reinstatement request.

A reinstatement hearing was held on August 26, 2008, before a District III Hearing Committee comprised of Chair Jack M. Stover, Esquire, and Members Marc J. Farrell, Esquire, and Joseph M. Cosgrove, Esquire. Petitioner was represented by Robert B. Hoffman, Esquire. Petitioner introduced exhibits and offered the testimony of one witness, as well as his own testimony.

The Hearing Committee filed a Report on December 24, 2008, and recommended that the Petition for Reinstatement be granted.

This matter was adjudicated by the Disciplinary Board at the meeting on January 28, 2009.

II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner is Eric M.D. Levande. He was born in 1959 and was admitted to practice law in the Commonwealth in 1984. His current address is 7011 San Sebastian Circle, Boca Raton FL 33433.

2. By Order of April 2, 2001, the Supreme Court of Pennsylvania suspended Petitioner for a period of one year and one day.

3. The suspension was the result of a misconduct, generally consisting of inattentiveness and tardiness in the handling of client matters; submitting documents, primarily in bankruptcy proceedings, containing financial information known by Petitioner to be incorrect; and failing to properly segregate client funds. No activity relating to his failure to segregate client funds indicated any degree of dishonesty, conversion of client funds improperly for his own use or, indeed, of any dishonest or improper motive.

4. Petitioner operated a solo practice that focused on high volume, low-cost representation in family law, bankruptcy, and some criminal law. One of the criminal matters he took was the pro bono defense of a capital murder, which Petitioner admitted he should not have done as he lacked experience in such matters.

5. The murder trial took up a disproportionate amount of his time and resulted in Petitioner neglecting other matters.

6. In addition to overextending himself, Petitioner was ill with diabetes, having been newly diagnosed in 1996. His family life was difficult and stressful, as his wife suffered from mental illness and exhibited unstable behavior.

7. Following his suspension, Petitioner moved to Florida to be near his parents. He divorced his wife and gained sole custody of his then toddler-aged daughter, Annie. He gained sole custody of his younger daughter, Sarah, several years later, when she was three years old. His ex-wife has only minimal, supervised visitation rights and plays virtually no role in the lives of the children, who were ten and eight at the time of the hearing.

8. Petitioner has been employed at a series of jobs in Florida: stock broker; advocate for the disabled; case manager at a juvenile detention facility; and for the past several years as a court program specialist for Palm Beach County.

9. Petitioner has chosen jobs that allow him regular hours so that he is able to care for his daughters.

10. Petitioner's diabetes is under control using exercise and diet. The resolution of Petitioner's marital issues by divorce has helped to minimize his stress.

11. Although Petitioner could have applied for reinstatement some years ago, he chose to wait until the issues with his ex-wife were resolved.

12. Petitioner completed his Continuing Legal Education coursework and read various legal journals during his suspension to keep apprised of the law.

13. Petitioner has no definite plans for a law practice.

14. Petitioner presented the testimony of Paul Levande, his father.

15. Mr. Levande described the positive changes in Petitioner's life since his suspension. Petitioner has a happy and healthy lifestyle with his two daughters and his extended family.

III. CONCLUSIONS OF LAW

1. Petitioner has met his burden of proof 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.

2. Petitioner has 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.

IV. DISCUSSION

This matter is before the Disciplinary Board for consideration of Petitioner's request for readmission to the bar of the Supreme Court of Pennsylvania. Petitioner was suspended for a period of one year and one day by Order of the Supreme Court dated April 2, 2001.

Pursuant to Rule 218(a), 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 Supreme Court of Pennsylvania. In order for Petitioner to gain reinstatement, he has the burden of proving by clear and convincing evidence that he possesses the moral qualifications, competency and learning in the law required for admission to practice law in this Commonwealth. In addition, Petitioner has the burden of demonstrating that his resumption of the practice of law will not be detrimental to the integrity and standing of the bar or administration of justice nor subversive of the public interest. Rule 218(c)(3)(i), Pa.R.D.E.

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 which gave rise to the lawyer's suspension but rather the nature and extent of the rehabilitative efforts the lawyer has 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, 363 A.2d 779 (Pa. 1976).

Petitioner was suspended for one year and one day due to his lack of diligence, failure to communicate with clients, and an instance of improper handling of client funds. This misconduct occurred while Petitioner was running a high-volume, low cost legal practice consisting of bankruptcy, divorce and some criminal representation. Petitioner overextended himself and in at last one matter took on representation that he knew he did not have the experience or the staff to handle. Simultaneously, Petitioner's personal life was very stressful, as he had been recently diagnosed with diabetes and was experiencing extremely difficult marital issues with his now former wife, who suffered from mental illness.

Petitioner accepted his suspension and closed his practice in Pennsylvania, moving to Florida to live near his parents and start a new life. Petitioner eventually divorced his wife and gained sole custody of his two young daughters. Petitioner has worked steadily at a variety of jobs, with the prime focus to maintain a regular schedule for the benefit of his children. Currently, Petitioner is a court program specialist for Palm Beach County.

During his time of suspension, Petitioner has learned to control his diabetes with exercise and proper diet, as well as the reduction of stress in his life. Petitioner

describes his life as very different from what he experienced at the time of his professional misconduct. He is in control of his personal life and has a very good relationship with his daughters and extended family. Paul Levande, Petitioner's father, testified to the positive changes in his son's life and his dedication to the well-being of his daughters. As far as professional criteria, Petitioner fulfilled his CLE course requirements and read various legal journals to keep apprised of the law. Petitioner has no definite plans to practice law, but feels that he is ready to be reinstated at this time, as his life is calmer than it had been and he is committed to the changes he has made.

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 in the Commonwealth, and he has further 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.

V. RECOMMENDATION


The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that Petitioner, Eric M.D. Levande, be reinstated to the practice of law.

The Board further recommends that, pursuant to Rule 218(e), 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: _____


Gerald Lawrence Jr., Board Member

Date: March 11, 2009

Board Member Newman did not participate in the adjudication.