

IN THE SUPREME COURT OF PENNSYLVANIA

IN THE MATTER OF : No. 1624 Disciplinary Docket No. 3
: :
RICHARD M. CORCORAN : No. 74 DB 2009
: :
: Attorney Registration No. 75280
: :
PETITION FOR REINSTATEMENT : (Cambria County)
: :
: :
: :

ORDER

PER CURIAM

AND NOW, this 11th day of August, 2016, 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 John A. Vaskov, Esquire
As Of 8/11/2016

Attest: 
Deputy Prothonotary
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 20, 2010, the Supreme Court of Pennsylvania suspended Richard M. Corcoran for a period of five years. Mr. Corcoran filed a Petition for Reinstatement on May 8, 2015. Office of Disciplinary Counsel filed a Response on July 9, 2015, and opposes reinstatement.

A reinstatement hearing was held on September 16, 2015, before a District IV Hearing Committee comprised of Chair Francis S. Rapp, Jr., Esquire and Members Matthew T. Mangino, Esquire and Darlene S. Wood, Esquire. Petitioner was

represented by David A. Raho, Esquire. Petitioner offered the testimony of two witnesses and testified on his own behalf. He introduced exhibits PE-1, PE-2, PE-4, PE-9, PE-12, PE-15 and PE- 25. Office of Disciplinary Counsel offered exhibits AE-I and AE-II.

Following the submission of briefs by the parties, the Hearing Committee filed a Report on December 31, 2015 and recommended that the Petition for Reinstatement be granted.

Office of Disciplinary Counsel filed a Brief on Exceptions on January 22, 2016.

Petitioner filed a Brief Opposing Exceptions on February 4, 2016.

This matter was adjudicated by the Disciplinary Board at the meeting on April 21, 2016.

II. FINDINGS OF FACT

The Board makes the following findings:

1. Petitioner is Richard M. Corcoran. He was born in 1967 and was admitted to the bar in Pennsylvania in 1995. His attorney registration address is 304 E. High St., Ebensburg, Cambria County, PA 15931. Petitioner is subject to the jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

2. Following his admission to the bar, Petitioner was a law clerk for President Judge Timothy P. Creany of the Cambria County Court of Common Pleas. Thereafter, Petitioner was a full-time public defender in Cambria County for approximately two years, followed by private practice for six years. In January 2006, Petitioner opened a private office and continued to be a part-time public defender.

Petitioner gave up his private office in 2010 and was employed as a part-time domestic relations hearing officer in Cambria County and an assistant public defender. This employment lasted until his suspension. N.T. 37-38.

3. Petitioner received an Informal Admonition on June 21, 2005 for his failure to file a timely brief in a criminal appeal.

4. By Order of the Supreme Court of Pennsylvania dated September 20, 2010, Petitioner was suspended for a period of five years. PE 1.

5. Petitioner's misconduct involved misappropriation, commingling and conversion of client funds, misrepresentation to the court and his clients, neglect of clients' matters, engaging in the unauthorized practice of law while on inactive status, failing to comply with obligations of an attorney on inactive status, and filing a false certification with the Disciplinary Board. PE 2.

6. At Petitioner's disciplinary hearing in 2009, he expressed remorse for his actions and asserted his willingness to accept the ultimate discipline imposed by the Supreme Court. He explained that a combination of poor office management and alcohol overuse and abuse contributed to his problems, but he did not try to excuse his conduct. At that time, Petitioner was drinking four to six beers almost nightly. PE 2; N.T. 64, 89, 99.

7. After the disciplinary hearing in 2009, Petitioner "realized that something had to change." N.T. 65.

8. Since that time, Petitioner has drastically reduced his consumption of alcohol, stopping almost completely for a period of about six months and now limiting himself to an occasional beer. He does not feel that he needs additional support through organizations like Alcoholics Anonymous, whose culture does not appeal to him. (N.T.

65-76) He has successfully passed multiple random drug and alcohol testing at his employers, Fenner Dunlop and Work Link Staffing. N.T. 70-72.

9. Petitioner characterized the period of his heavier drinking as a result of stressors in his life, including his troubled marriage, raising four children, and family finances. N.T. 90

10. Petitioner has realized that his life has gotten better, despite the fact of the suspension, because he has control of his life. N.T. 65-67.

11. Petitioner presented a report by Scott J. Scotilla, Psy.D, who specializes in addiction counseling. The report concludes that Petitioner did not show an alcohol use disorder or addiction issues of any kind. (PE 15) Office of Disciplinary Counsel did not object to the admission of the report.

12. With regard to his personal life, in 2009, Petitioner separated from his then wife and was awarded 50/50 custody of his minor children. In 2014, he was awarded primary custody of his remaining minor child. N.T. 75, 77.

13. Petitioner remarried in 2014. He indicated that his new spouse provides emotional support that he did not have before the suspension. They have purchased a home. Petitioner's two adult, college-aged children continue to reside in his household along with his minor son. N.T. 34-35, 104.

14. Petitioner has outstanding tax and other obligations, which he is attempting to resolve. Petitioner failed to file federal tax returns, beginning in the early 2000s to 2009. He is currently trying to resolve what he believes are errors in the assessments against him, which currently total \$215,011.42. N.T. 95; PE 9.

15. Petitioner has a consolidated student loan debt of \$118,000.00 and some small debts that remain unpaid. N.T. 54; PE 9.

16. Since the filing of Petitioner's Reinstatement Questionnaire, he has satisfied the debt owed to Yellow Book Sales and Service and to First National Bank. PE 9E, PE 10A.

17. Petitioner has not incurred any new debt during his suspension and has been current in the filing of all federal and state tax returns. N.T. 53.

18. Petitioner testified and produced a letter from the Pennsylvania Lawyers Fund for Client Security stating that he had reimbursed the Fund for the amounts it paid out on claims against Petitioner. N.T. 43; PE 4.

19. Petitioner testified and produced a record of the Continuing Legal Education courses that he completed from February 2015 through April 2015. N.T. 61; PE 12.

20. In addition to his CLE courses, Petitioner has regularly read and reviewed the Pennsylvania Rules of Civil Procedure, the Pennsylvania Rules of Criminal Procedure, and West's Pennsylvania Criminal Justice, and has read articles and cases on various legal websites. He has read and reviewed advance sheets in the area of domestic relations. Reinstatement Questionnaire No. 19(b).

21. Petitioner has made every effort to remain gainfully employed during the period of his suspension in order to support himself and his family and to reduce his outstanding liens. This employment history includes positions at Work Link Staffing, a temporary service, and Fenner Dunlop. At the time of the reinstatement hearing, Petitioner had been laid off from Fenner Dunlop, where he worked as a machine operator, and was collecting unemployment. The layoff was due to a significant decline in business. N.T. 69 -73

22. Petitioner applied for a teaching certificate with the Pennsylvania Department of Education but was refused certification due to the suspension of his law license. N.T. 60.

23. Lisa Lazzari, Esquire is the Somerset County District Attorney and was Petitioner's superior at the Cambria County Public Defender's Office. She testified at the reinstatement hearing and indicated that he had been an excellent public defender and an excellent trial attorney. She further indicated that if she had a position available in her present office she would offer it to him. N.T. 7-23.

24. David Beyer, Esquire is a practicing attorney in Cambria County. He testified at the reinstatement hearing that he engaged Petitioner to represent him on a real estate matter, which Petitioner successfully handled. In addition, Mr. Beyer has had numerous opportunities to observe him in a courtroom setting. Mr. Beyer indicated that Petitioner was consistently well-prepared. He would eagerly welcome Petitioner back into the legal community. N.T. 23-34.

25. Petitioner presented a letter in support of his reinstatement from President Judge Timothy P. Creany of the Cambria County Court of Common Pleas. Judge Creany has used Petitioner as a Juvenile Master and a Hearing Officer at Domestic Relations. He described Petitioner as intelligent, responsive, a good writer, and pleasant to work with. Judge Creany discussed his concerns relative to Petitioner's alcohol use when he was practicing, but emphasized that he is familiar with Petitioner's current circumstances and Petitioner's behavior has changed as he has addressed his problems. Judge Creany advocated that Petitioner be given another chance to practice law. PE 24.

26. Petitioner presented a letter in support of reinstatement from Kelly Callihan, Esquire, who is the District Attorney of Cambria County. Ms. Callihan described Petitioner as a highly skilled, passionate and professional adversary in the courtroom. She would like to see him reinstated because of his legal experience and history of fairly litigating cases. PE 25.

27. Petitioner has openly acknowledged his misconduct and is sincerely remorseful for his actions. He understands that his conduct caused hardship to his clients, the legal profession, and to his family. N.T. 67, 79.

28. Petitioner admits that he went through a difficult time and committed acts for which he is ashamed, but his life has improved as the various stressors are no longer present. N.T. 79.

29. If granted his law license, Petitioner expressed an interest in full-time employment with a governmental agency involving criminal law and/or family law. He enjoyed his previous work in the public defender's office and felt that he was good at it, and would enjoy returning to that type of work. N.T. 102-103; Reinstatement Questionnaire No. 18.

III. CONCLUSIONS OF LAW

1. Petitioner has demonstrated by clear and convincing evidence that he has the moral qualifications, competency and learning in the law required for admission to the practice of law in this Commonwealth. Rule 218(c)(3), Pa.R.D.E.

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.
Rule 218(c)(3), Pa.R.D.E

IV. DISCUSSION

Petitioner seeks readmission to the practice of law in Pennsylvania following his suspension for a period of five years, imposed on September 20, 2010. 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. Rule 218(c)(3), Pa.R.D.E.; *In the Matter of Jerome J. Verlin*, 721 A.2d 600, 602 (Pa. 1999). 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 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).

Initially, we address an issue raised by Office of Disciplinary Counsel concerning the preclusion by the Hearing Committee of three DB-7 Requests for Position as to disciplinary complaints filed against Petitioner for misconduct which allegedly occurred in 2009 and 2010. Office of Disciplinary Counsel argues that the Committee erred by precluding such evidence from the record, as the concerns raised by those complaints has not been assuaged by Petitioner's answers. Office of Disciplinary Counsel contends it sent notice to Petitioner of the complaints in 2010 and

2011, prior to the filing of his Petition for Reinstatement. As part of Office of Disciplinary Counsel's formulation of its response to the Petition, it requested Petitioner provide a statement of position as to each complaint, which Petitioner did. Office of Disciplinary Counsel contends that Petitioner's statements as to each of the complaints did not convincingly refute the complainants' allegations, so the allegations and Petitioner's answers thereto should have been part of the record.

The Hearing Committee was provided with the DB-7 Requests for each complaint, together with Petitioner's answers to said requests, and determined that they were not relevant to the circumstances of the reinstatement hearing. It must be noted that despite the fact that these complaints were received by Office of Disciplinary Counsel some five to six years ago, no formal action has been taken. Rule 218(c)(2), Pa.R.D.E provides that if any other formal disciplinary proceedings are pending at the time of the petition for reinstatement, the reinstatement and disciplinary matters may be heard by the same hearing committee. Office of Disciplinary Counsel did not invoke this procedure in regard to the three complaints. We are persuaded that the Committee did not err in precluding the three DB-7 Requests from evidence.

The underlying misconduct for which Petitioner was suspended was his misappropriation, commingling and conversion of entrusted funds, misrepresentation, client neglect, and the unauthorized practice of law while on inactive status and related issues. These acts of misconduct were serious and were appropriately addressed by a five year period of suspension.

Petitioner's misconduct occurred during a time in his life when he was experiencing stress from personal problems and engaging in excessive use of alcohol.

Petitioner's testimony was credible that his alcohol consumption has drastically reduced to an occasional beer or two, and is no longer a factor in his personal life. In addition, a report of Dr. Scott J. Scotilla, a psychologist who specializes in addiction counseling, which was not rebutted by Office of Disciplinary Counsel, stated that Petitioner does not suffer from alcohol use disorder or addiction issues of any kind. Petitioner has successfully passed random drug and alcohol testing with two employers. Other personal problems have since been resolved, as Petitioner separated from his former wife in late 2009 and remarried in 2014. He enjoys the support of his new wife and reports that the emotional turmoil and stress of his former marriage has dissipated. He gained primary custody of his sole remaining minor child in 2014, while providing a home for his two college-aged adult children.

Petitioner has sought and maintained regular full-time employment in non-legal fields during his suspension and has satisfied some financial obligations which were initially listed on the Reinstatement Questionnaire, including to Yellow Book Sales and Service and to First National Bank. Likewise, he has satisfied all claims made against him through the Pennsylvania Lawyers Fund for Client Security. He is making good faith efforts to resolve other, larger debts. It should be noted that he has not incurred any additional debt since the time of his suspension and has been current in the filing of all federal and state tax returns during his suspension.

Office of Disciplinary Counsel has expressed concern that Petitioner's financial situation and debt indicates he is not ready for reinstatement. Our review of the record persuades us that although Petitioner does have a significant amount of outstanding debt, he has acknowledged same and is making efforts to resolve same. He is working and attempting to satisfy obligations within the income that he earns. If

reinstated, his opportunity to earn greater income will increase with the potential of legal employment. We note that complete satisfaction of all financial obligations is not a prerequisite to reinstatement. *Office of Disciplinary Counsel v. Andrew Keith Fine*, 141 D.D. No. 3 (Pa. 2014) (nonpayment of judgments would not be a bar to reinstatement.) In this particular matter, Petitioner has presented credible evidence that he is working to extinguish his debt.

Petitioner's witnesses provided reliable and favorable insight into the quality of Petitioner's character and his competence as a legal practitioner. These witnesses support Petitioner's reinstatement. The testimony was compelling and persuasive that Petitioner's readmission to the bar would be welcomed in the legal community. Lisa Lazzari, Esquire indicated that she would offer Petitioner a position in her own office at the Somerset District Attorney if same were available,

In addition to the live witnesses, two other individuals provided letters in support of Petitioner's reinstatement. Judge Timothy P. Creany and Kelly Callihan, Esquire noted the changes Petitioner has made to better himself since his suspension. The testimony and the character letters are indicative of the support Petitioner 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 the CLE requirements necessary for readmission and has read and reviewed various legal periodicals, advance sheets and legal websites to keep apprised of the current law. If reinstated, he hopes to obtain full-time employment with a governmental agency involving criminal or family law.

Petitioner's testimony was credible as to his sincere and genuine remorse for his past wrongdoing and in his confidence that he can once again be a valuable, respected member of the bar. He realizes that the conduct in which he engaged was wrong and caused hardship to his clients, the legal profession and his family. In the years since engaging in the misconduct, Petitioner has done his best to make amends and improve his life in order that he can be a productive member of the legal profession.

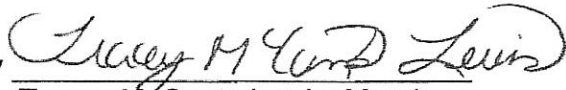
We conclude from the evidence of record that Petitioner has met his burden by clear and convincing evidence that he is morally qualified, competent and learned in the law and we are persuaded that reinstatement is justified and safe with regard to the public interest, taking into account Petitioner's sincere expressions of remorse, his rehabilitation, and the favorable character evidence.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that the reinstatement of Petitioner, Richard M. Corcoran, be granted.

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,

By 
Tracey McCants Lewis, Member
The Disciplinary Board of the
Supreme Court of Pennsylvania

Date 6/22/2016

Board Member Cordisco did not participate in the adjudication.