

IN THE SUPREME COURT OF PENNSYLVANIA

IN THE MATTER OF : No. 2586 Disciplinary Docket No. 3
: :
DAWN A. SEGAL : No. 195 DB 2018
: :
: Attorney Registration No. 42469
: :
PETITION FOR REINSTATEMENT : (Philadelphia)

ORDER

PER CURIAM

AND NOW, this 13th day of May, 2021, 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).

Justice Dougherty did not participate in the consideration or decision of this matter.

A True Copy Patricia Nicola
As Of 05/13/2021


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 April 9, 2019, the Supreme Court of Pennsylvania granted a Joint Petition in Support of Discipline on Consent and suspended Petitioner, Dawn A. Segal for a period of one year and one day. Petitioner filed a Petition for Reinstatement on September 16, 2019, accompanied by the required Reinstatement Questionnaire. On November 12, 2019, Office of Disciplinary Counsel (“ODC”) filed a Response.

Following a prehearing conference held on July 2, 2020, a District I Hearing Committee ("Committee") conducted a reinstatement hearing on August 19, 2020. Petitioner, represented by counsel, presented the testimony of three witnesses and testified on her own behalf. The parties offered an exhibits, Joint Stipulations Between the Parties, which was admitted into evidence. Office of Disciplinary Counsel called no witnesses and presented no exhibits.

On September 9, 2020, Petitioner filed a brief to the Committee, requesting that the Committee recommend to the Board that she be reinstated to the practice of law. On September 22, 2020, ODC filed a letter advising that it waived its right to file a brief and did not oppose Petitioner's reinstatement.

By Report filed on November 23, 2020, the Committee concluded that Petitioner did not meet her burden of proof for reinstatement and recommended that her Petition be denied.

On December 10, 2020, Petitioner filed a Brief on Exceptions to the Committee's Report and recommendation. On December 15, 2020, ODC filed a letter advising that despite the Committee's recommendation to deny the Petition for Reinstatement, ODC found no basis to oppose Petitioner's reinstatement.

The Board adjudicated this matter at the meeting on January 21, 2021.

II. FINDINGS OF FACT

The Board makes the following findings:

1. Petitioner is Dawn A. Segal, born in 1959 and admitted to practice law in the Commonwealth of Pennsylvania in 1984. Petitioner is subject to the jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

2. Following her admission, Petitioner's legal practice consisted of personal injury on the defense side, work at the city solicitor's office, and in-house counsel for Prudential. N.T. 138.

3. From 2010 through 2016, Petitioner served as a Judge of the Municipal Court of Philadelphia. Joint Stipulations ("J.S.") 1.

4. By Order dated December 16, 2016, the Court of Judicial Discipline ordered Petitioner removed from office and deemed ineligible to hold judicial office in the future. That order was affirmed by the Supreme Court of Pennsylvania. J.S. 1, 2.

5. Subsequent to her removal from judicial office, Petitioner changed her law license status to active with the Attorney Registration Office on December 30, 2016, and resumed the practice of law. J.S. 2.

6. On October 29, 2018, ODC filed a Petition for Discipline against Respondent, charging her with violations of Rules of Professional Conduct 8.3(b), 8.4(c), 8.4(d) and 8.4(f) based on her wrongful conduct that occurred in 2011 and 2012 while Petitioner served as a Judge of the Municipal Court of Philadelphia. J.S. 4.

7. On March 5, 2019, Petitioner and ODC entered into a Joint Petition in Support of Discipline on Consent for a one year and one day suspension of Petitioner's license to practice law.

8. By Order dated April 9, 2019, the Supreme Court granted the Joint Petition in Support of Discipline on Consent and suspended Petitioner for a period of one year and one day. J.S. 3.

9. Petitioner's wrongful conduct was her failure to reject calls from a then judicial colleague on three occasions, her failure to recuse herself in those cases, and her failure to report the colleague and to allow him to believe that his calls influenced her. J.S. 5.

10. The record demonstrates the following material facts as set forth in the Joint Petition in Support of Discipline on Consent, which Petitioner acknowledged to be truthful:

a. Petitioner became familiar with former Municipal Court Judge Joseph C. Waters, Jr., in 2009 when both Petitioner and Waters were judicial candidates for the Philadelphia Municipal Court. Jt. Pet. at 12.

b. Petitioner viewed herself as an outsider to the world of Philadelphia politics; however, she viewed Waters as someone who was knowledgeable in the political process and politically well-connected. Jt. Pet. at 13.

- c. Petitioner intended to run for retention on the Philadelphia Municipal Court in the 2015 election, but had concerns that she would not have the backing of the Democratic Party. Jt. Pet. at 14.
- d. The *Philadelphia Inquirer* published an article on September 30, 2011, which quoted Democratic Party leaders as stating that judges running for retention, who wanted the backing of the Democratic Party, needed to contribute money to the party. Jt. Pet. at 15.
- e. On September 30, 2011, the same day the article appeared in the *Philadelphia Inquirer*, Waters called Petitioner. Jt. Pet. at 16.
- f. During the telephone conversation, Petitioner discussed the *Philadelphia Inquirer* article and her concerns over her retention election with Waters. Jr. Pet. at 17.
- g. Petitioner told Waters that the Democratic leader quoted in the article was the same person who previously threatened her for not supporting the Democratic Party. Jt. Pet. at 18.
- h. Waters told Petitioner not to worry and that he had the support of 21 ward leaders who would back Petitioner's retention campaign. Jt. Pet. at 19.
- i. In the same conversation, Waters told Petitioner "I have a guy – I have a guy on the list today." Jt. Pet. at 20.

j. Petitioner and Waters then engaged in a conversation regarding the case of *Houdini v. Donegal*, which was on Petitioner's docket for that day. Jt. Pet. at 21.

k. As a result of an ongoing federal investigation against Waters his telephone conversations were being intercepted. Jt. Pet. at 22.

l. The following exchange (as transcribed by the Judicial Conduct Board from the FBI recording) took place during the telephone call on September 30, 2011 between Petitioner and Waters:

Waters: I got something in front of you at 1:00 today.

Judge Segal: Okay. Tell me. What is it?

Waters: The name's Donegan (sic). Okay?

Judge Segal: Okay.

Waters: Ah, it's – it's something to do with an alarm company. Sammy Kuttab and Sonny Campbell will be there.

Judge Segal: Okay. And uh, okay.

Waters: You know Sam?

Judge Segal: And who do we need?

Waters: Uh, we, we, we got the, the defendant.

Judge Segal: I'm sorry, wait, I can't hear you. What?

Waters: I said we got the defendant, Donegan. (sic) Eh...

Judge Segal: Oh, okay, Okay.

Waters: Alright?

Judge Segal: Say no more. Say no more. Alright.

Jt. Pet. at 23.

m. On September 30, 2011, after the telephone call with Waters, Petitioner had a contested motion in the matter of *Houdini v. Donegal* wherein counsel for Donegal requested a continuance and counsel for Houdini objected. Jt. Pet. at 24.

n. Petitioner granted the continuance request and ordered that the case proceed to trial without any further delays. Jt. Pet. at 25.

o. On September 30, 2011, after granting the motion to continue in the *Houdini v. Donegal* case, Petitioner initiated a call to Waters. Jt. Pet. at 26.

p. The following conversation (as transcribed by the Judicial Conduct Board from the FBI recording) took place between Petitioner and Waters:

Waters: Hey, how ya doing?

Judge Segal: I'm good. I just want to let you know um, I continued that matter.

Waters: Okay.

Judge Segal: But um, cause the, the 12 year old who came for your client wasn't ready, they opposed it, but marked it "must be tried" because they were really -...

Waters: Okay.

Judge Segal: ...jumping up and down. But I did continue and I gave them a long date so hopefully that's enough for them.

Waters: Okay, cool.

Judge Segal: Alright ...

Waters: Alright.

Segal: ...I did the best I could.

Waters: I, I, I know you do, believe me and I appreciate it.

Judge Segal: All for you. Anything. Alright...

Jt. Pet. at 27.

q. On June 12, 2012, Petitioner was assigned to hear a pro se Petition to Open Default Judgment in the case of *City of Philadelphia v Rexach*, which she denied for failure to set forth a meritorious defense. Jt. Pet. at 28.

r. On June 29, 2012, Waters contacted Petitioner and told her he had a friend (Rexach) who filed a Petition for Reconsideration as a result of Petitioner having previously denied his Petition to Open Default Judgment. Jt. Pet. at 29.

s. The defendant in the case, Ian Rexach, was the son of (now former) Judge Angeles Roca of the Philadelphia Court of Common Pleas. Jt. Pet. at 30.

t. Petitioner granted the Petition for Reconsideration filed by Rexach and initiated a call to Waters on Sunday, July 1, 2012. Jt. Pet. at 31.

u. While the substantive issue of whether there was a legal basis to open the default judgment was not before Petitioner, she granted the Petition for Reconsideration and issued a Rule to Show Cause. Jt. Pet. at 32.

v. During the call on July 1, 2012, Petitioner stated the following to Waters (as transcribed by the Judicial Conduct Board from the FBI recording):

Waters: Hey, what's up?

Judge Segal: Hi, I figured it out and I took care of it.

Waters: Oh, okay. Thank you.

Judge Segal: I got it. Alright. It was on my um, queue, so I did it. So tell her it's done.

Waters: Thank you very much, honey.

Judge Segal: Alright, you take care.

Waters: You too ...

Judge Segal: ...for you, Alright, bye.

Jt. Pet. at 33.

w. Petitioner was assigned to preside over a preliminary hearing in *Commonwealth v. David P. Khoury*, scheduled for July 24, 2012. Jr. Pet. at 34.

x. On July 23, 2012, Waters contacted Petitioner and the following telephone conversation took place (as transcribed by the Judicial Conduct Board from the FBI recording):

Judge Segal: Hello?

Waters: Dawn, how are you?

Judge Segal: I'm good, Joe, how are you?

Waters: Good. Look, Dawn, you got a case tomorrow with a Rich ...eh...Rich Khoury. Skip Fuschino is representing him.

Judge Segal: Okay.

Waters: See if you can take a good hard look at it. He's ah ...ah...ah ...ah, a friend of mine.

Judge Segal: Khoury is it? Khoury's a friend of yours?

Waters: Yeah, Rich Khoury ...ah...Skip Fuschino. Don't hurt yourself, but if you can help him, I'd appreciate it.

Judge Segal: No, I will, if he's a friend of yours. I'll look a hard at the case. Don't worry about it.

Jt. Pet. at 35.

y. The defendant in *Commonwealth v. Khoury* was charged with Firearms Not to be Carried Without a License, graded as a felony offense. Jt. Pet. at 36.

z. Petitioner presided over the preliminary hearing on July 24, 2012 and reduced the charge from a felony offense to a misdemeanor offense. Jt. Pet. at 37.

aa. The decision to grade the offense as a misdemeanor, rather than a felony, was not an uncommon outcome in similar cases heard before the Philadelphia Municipal Court, based on testimony

concerning this issue, which was presented by Petitioner's counsel in the Judicial Conduct Board proceedings. Jt. Pet. at 38.

bb. Petitioner then telephoned Waters and stated the following (as transcribed by the Judicial Conduct Board from the FBI recording):

Judge Segal: I...ah...um...remanded your friend's thing.

Waters: I appreciate that. You're the best.

Jt. Pet. at 39.

cc. On May 15, 2014 and June 3, 2014, as part of an ongoing investigation, Petitioner was interviewed by two U.S. Attorneys and two FBI Special Agents. Jt. Pet at 40.

dd. Petitioner admitted that she was concerned about her retention election and wanted Waters to assist and support her. Jt. Pet. at 41.

ee. Petitioner was aware that Waters was influential in the Democratic Party and she tried to keep him happy. Jt. Pet. 42.

ff. Petitioner admitted that she believed Waters was trying to influence her when he called her about the *Houdini v. Donegal* case. Jt. Pet. at 43.

gg. Petitioner admitted that the phone calls with Waters were inappropriate. Jt. Pet. at 44.

hh. Petitioner admitted that she understood when Waters asked her to “take a good hard look at it (Khoury)” he was trying to influence her. Jt. Pet. at 45.

ii. Petitioner admitted that Waters’ request in *Khoury* was to make a substantive decision and that she should have recused herself from the case. Jt. Pet at 46.

jj. Petitioner admitted that she now realizes that she should have recused herself as her impartiality might reasonably have been questioned because of that contact. Jt. Pet. at 47.

kk. Petitioner admitted that she engaged in repeated inappropriate communications with Waters concerning matters pending before her in the Municipal Court of Philadelphia. Jt. Pet. at 48.

ll. Petitioner entertained the communications with Waters in order to curry favor with him in her retention campaign. Jt. Pet. at 49.

mm. Petitioner admitted that she failed to disclose her conversations with Waters to any of the parties, or counsel, in the three cases and failed to recuse herself in light of those communications. Jt. Pet. at 50.

nn. Petitioner admitted that she failed to report the misconduct of Waters to the Judicial Conduct Board or any other authority. Jt. Pet. at 51.

11. Petitioner voluntarily ceased practicing law in December 2018, approximately four months prior to the Supreme Court's Order granting the Joint Petition in Support of Discipline on Consent. J.S. 7.

12. Following entry of the suspension order, Petitioner timely filed the required Statement of Compliance and paid all costs associated with the disciplinary matter. J.S. 8.

13. Petitioner timely notified the State of New Jersey of her license suspension and is awaiting reciprocal discipline in that jurisdiction, which she testified she will not contest. N.T. 172, 173.

14. Petitioner has no unpaid judgments, has timely filed and paid all taxes and is current on all debts. J.S. 9.

15. Prior to filing her Petition for Reinstatement, Petitioner timely completed the required Continuing Legal Education courses pursuant to Disciplinary Board Rules §§ 89.275(a) and 89.279(a). J.S. 6.

16. Since May 2019, Petitioner has been employed as a paralegal at Ostroff Law in Blue Bell, Pennsylvania. Petitioner timely filed the Notice of Engagement required pursuant to Pa.R.D.E. 217(j). The Notice was signed by Petitioner and her supervising attorney, Ryan Jablonski, Esquire. During her employment, Petitioner has complied with the requirements of Pa.R.D.E. 217(j) pertaining to law-related activities of formerly admitted attorneys. J.S. 10.

17. Three witnesses testified on Petitioner's behalf at the reinstatement hearing: Jacob Segal, Esquire; Nancy Wasser, Esquire; and Jonathan Ostroff, Esquire.

18. Mr. Segal is Petitioner's son. He was admitted to practice law in the Commonwealth in 2018 and is employed by the Philadelphia District Attorney's Office. N.T. 16.

19. Mr. Segal first learned about the misconduct resulting in his mother's loss of her judgeship and suspension from the practice of law when he was in college. N.T. 17, 18.

20. Mr. Segal testified that from the time he and his mother first discussed what happened, she demonstrated remorse. N.T. 18. Petitioner told her son that she was in a situation where she needed to hold herself accountable for what she did, and that even though Petitioner could not change what happened, she could use it as a tool to move forward and to grow as a person. N.T. 20, 21.

21. Mr. Segal testified that his mother holds herself accountable for her actions, and understands and regrets the impact that her actions had in terms of being a reflection of her position as a judge and of the Philadelphia legal community as a whole. N.T. 20 - 22.

22. Mr. Segal testified that Petitioner acknowledged that but for her own actions, the position she was in would not have happened. N.T. 21, 23.

23. Mr. Segal testified that Petitioner has experienced personal growth as a result of her misconduct on the bench. N.T. 23-24.

24. Mr. Segal is not concerned that Petitioner's misconduct would be repeated if she were granted the privilege of reinstatement. Mr. Segal explained that his mother was the moral compass in his life and was and still is the most ethical person he knows. N.T. 26.

25. Mr. Segal testified that Petitioner understands that she did not make the right decisions when she was a municipal court judge, and that in fact she made bad decisions, but he still regards her as a person of high moral standards. N.T. 26-27.

26. Mr. Segal has no concerns about his mother's return to the practice of law, because she truly understands what she did was wrong and has made changes to ensure that those wrongs will not occur again. N.Y. 27-28.

27. Mr. Segal's testimony is credible.

28. Nancy Wasser, Esquire is Petitioner's spouse and is an attorney who has practiced law since 1979. Ms. Wasser and Petitioner have known each other for 35 years and at the time of the reinstatement hearing had their 34th anniversary. Ms. Wasser has been aware of Petitioner's professional misconduct issues "pretty much from the outset." N.T. 35-37.

29. Ms. Wasser has heard and seen Petitioner express "great remorse" for the impact that her misconduct had on the public perception, both in the legal community and the judiciary. N.T. 38-39.

30. Ms. Wasser testified that Petitioner never denied the facts of her misconduct. N.T. 44-45.

31. Although Petitioner has been suspended for one year and one day, Ms. Wasser testified that even prior to Petitioner's actual date of suspension on April 9, 2019, Petitioner has worked to make amends for her misconduct. N.T. 72.

32. Ms. Wasser testified that she believes it is fair to say that Petitioner has expressed concerns about the impact her actions have had on the public perception of the legal community, even though Ms. Wasser expressed that Petitioner's misconduct was different from the "controversy around Philadelphia Traffic court." N.T. 38-39.

33. Upon being questioned about the differences between the controversy in Traffic Court and Petitioner's conduct, Ms. Wasser testified "there was never, ever the hint of any allegation that anything [Petitioner] did involved fixing cases; although, I have to say those statements were a part of some of the reporting. And to this day, when I Google [Petitioner's] name, things come up about herself and the other judge who was removed fixing cases (sic) and that was not – that was never part of this. The acts I am talking about are not having reported her colleague." N.T. 41.

34. Ms. Wasser was questioned extensively about the underlying facts of Petitioner's misconduct, specifically the recorded telephone calls between Petitioner and Waters. Ms. Wasser believed that Petitioner was "naïve and polite" and did not realize that just calling Waters back could be interpreted to mean that she was going to be doing something for him. N.T. 50, 53-56, 63-65.

35. Ms. Wasser testified that she has witnessed personal behavioral growth on Petitioner's part over the past years as a result of Petitioner's experience in

committing misconduct, in that Petitioner has realized the privilege of being a lawyer and has worked hard to regain that privilege. N.T. 41-42.

36. Ms. Wasser has no qualms whatsoever concerning Petitioner's reinstatement, and testified that Petitioner's return to the practice of law would not have a negative impact on the profession, judiciary or the public perception of the profession and judiciary. N.T. 43.

37. Ms. Wasser's testimony is credible.

38. Jonathan Ostroff is the owner of Ostroff Law and has been a licensed attorney in Pennsylvania for nearly 30 years. His firm has been in existence since 1993 and is a personal injury plaintiff's firm. N.T. 78, 101.

39. Mr. Ostroff knew Petitioner from many years ago, when he had a number of cases where Petitioner was on the other side, and Mr. Ostroff found Petitioner to be a very competent person and a person of integrity. N.T. 78.

40. Mr. Ostroff read about Petitioner's misconduct giving rise to her suspension in the *Legal Intelligencer*. After talking to Petitioner's legal counsel and reviewing the record of her Judicial Conduct Board proceedings, Mr. Ostroff contacted Petitioner to ask if she would be interested in discussing a job opportunity. N.T. 79.

41. Mr. Ostroff emphasized that he had a litigation history with Petitioner, and she had caught his attention because he felt she was very competent and was true to her word. N.T. 91-92.

42. Prior to hiring Petitioner, Mr. Ostroff carefully reviewed Pa.R.DE. 217(j), which governs the conduct of formerly admitted attorneys with respect to law-related activities. N.T. 79.

43. Petitioner has been employed as a paralegal with Mr. Ostroff's firm since May 2019. J.S. 10; N.T. 79.

44. Upon Petitioner's initial employment at the Ostroff Firm, her role was that of a case manager. She obtained updates and helped gather medical information. Currently, Petitioner is involved with the litigation department's pleadings. N.T. 80-81.

45. Although Petitioner's supervising attorney is Ryan Jablonski, Esquire, who has control over day-to-day employee issues, Mr. Ostroff acts in a global capacity and is very familiar with Petitioner's quantity and quality of work. N.T. 81-82, 83.

46. Mr. Ostroff testified that Petitioner's work is excellent. N.T. 83. He described her work ethic as outstanding, with good interaction with the legal and nonlegal staff. N.T. 84-85.

47. Mr. Ostroff emphasized that Petitioner is not involved in legal decisions or review, and Petitioner is very vigilant in avoiding crossing the line separating work that an attorney can do from work that a non-attorney can perform. N.T. 85-86.

48. Mr. Ostroff testified that he was disappointed when he read about her misconduct, but having known Petitioner for many years, still believed in her integrity. N.T. 92-93.

49. Mr. Ostroff testified that he was not going to risk his reputation and that of his firm for anyone, and he felt comfortable with Petitioner. N.T. 94.

50. Mr. Ostroff described Petitioner as expressing sadness, regret, embarrassment and remorse for her actions, and not making any excuses for what she did. N.T. 95-97, 99, 108.

51. Mr. Ostroff testified that Petitioner's actions at the office and the respect that she has garnered from individuals at the office speak to her sincere regret. N.T. 97.

52. Mr. Ostroff's testimony is credible.

53. Petitioner and ODC stipulated to the testimony of eight character witnesses. J.S. 12 – 19.

a. Sharon Barr, Esquire has known Petitioner for 28 years. She is familiar with the factual circumstances that led to Petitioner's removal from the bench and suspension from the practice of law. Petitioner acknowledged to Ms. Barr the wrongfulness of her conduct and expressed remorse for the circumstances her conduct has had on the profession. Ms. Barr would testify that among the people she knows and who know Petitioner, Petitioner still enjoys an excellent reputation for honesty and integrity.

b. Alexander Pete Hoskins is Ms. Barr's husband and has known Petitioner for 28 years. He is the former President and CEO of the Philadelphia Zoo. He is familiar with Petitioner's underlying misconduct and has seen how Petitioner has expressed remorse and blamed no one but herself for her actions. Mr. Hoskins would

testify that Petitioner still enjoys an excellent reputation for honesty and integrity in the community.

c. John Corcoran, Esquire has known Petitioner in both a professional and personal capacity for more than 30 years. Mr. Corcoran would testify that prior to assuming the bench, Petitioner enjoyed an excellent reputation as an attorney and a person, and was well-liked and respected. Among the people Mr. Corcoran knows and who know Petitioner, Petitioner's reputation has not changed. Mr. Corcoran would describe Petitioner's remorse as "palpable."

d. Michele Herman is a writer, editor and teacher who counts Petitioner as one of her oldest and closest friends. Among the people Ms. Herman knows that know Petitioner, Ms. Herman would testify that Petitioner's reputation is "quite sterling, both personally and professionally." Ms. Herman would testify that Petitioner expressed remorse and sorrow for her conduct.

e. Joann Hyle, Esquire has been a close friend of Petitioner for approximately 20 years and would describe Petitioner as being "well respected in the legal community." Ms. Hyle is familiar with Petitioner's misconduct and would testify that she believes those acts were out of character, and that Petitioner has exhibited great remorse and understanding that her acts had consequences.

f. Joan Rhodes is a social worker who has been a friend of Petitioner for decades. She would describe Petitioner's reputation in the community as "pristine."

g. Dot Mahan is the bookkeeper at the Ostroff Firm where Petitioner currently works as a paralegal. Ms. Mahan did not know Petitioner before her employment. Ms. Mahan would testify that Petitioner has expressed remorse for her misconduct both in terms of her personal life and the legal profession. Ms. Mahan has observed Petitioner's work ethic to be "impeccable, unbelievable."

h. Crystal Smith is a paralegal at the Ostroff Firm and did not know Petitioner until she became employed at the firm. For a period of time, Petitioner was Ms. Smith's supervisor. Ms. Smith would testify that she has observed Petitioner to be humble, a great person and a great worker.

54. Petitioner credibly testified on her own behalf.

55. In response to the question of what she has learned, Petitioner

testified:

That the process and protecting the process is the most important thing, either as a judge, as a lawyer. That individuals have to believe that the process is pristine. It's protected. It's transparent. I didn't do that, I didn't do it when I didn't report Waters, when I took his calls, and when I called him back. I didn't do it. And I didn't fully understand right when it was happening that I hadn't protected the process. And people questioned what I did. I was wrong...And I

think I understand even more about the importance of transparency and the process and my failure...failures.
N.T. 112-113.

56. Petitioner took the opportunity to clarify and correct Ms. Wasser's testimony, stating that she knew her spouse was trying to explain things, "but I was wrong." N.T. 114. Petitioner further testified, "I deserved to be sanctioned. I should have reported him. I should have recused myself. I should have stopped. And when I called him back, I shouldn't have done that, and I know that." N.T. 114, 115.

57. When asked if she accepts the sanction that occurred in the Court of Judicial Discipline, Petitioner testified "I do. 300 percent. I do. I didn't protect the process. I thought that I could handle it on my own. I was wrong. I was wrong for me. I was wrong for my colleagues and the judiciary." N.T. 115.

58. Petitioner voluntarily agreed to testify in front of the grand jury, without any request for immunity, because she felt that it would show she accepted responsibility for her actions. N.T. 117-118.

59. Petitioner wanted to self-report to the Judicial Conduct Board, but understood she was under a duty of confidentiality until told otherwise. N.T. 118, 119.

60. After it was announced in September 2014 that Waters was pleading guilty, Petitioner self-reported to the Judicial Conduct Board five days later. *Id.*

61. During her testimony, Petitioner admitted that that she was wrong on no fewer than 14 occasions. N.T. 113, 114, 115, 116, 118, 119, 121, 127, 129, 143, 156, 160, 161, 167.

62. Petitioner testified that she brought disrepute upon her colleagues “who work so hard to do the right thing” and stated that she will live with it and feel remorseful “forever.” N.T. 115, 116.

63. Petitioner testified on several occasions that she deserved the sanction she got for her misconduct. N.T. 114, 117.

64. Petitioner believes she is a different person than when she engaged in the misconduct. She believes she is a person of integrity, but fully admitted she cannot justify what she did and it was inconsistent with what she taught her son about right and wrong. N.T. 116, 117.

65. Petitioner testified that “going forward, I won’t fail again. I will be even more scrupulous about speaking up, stepping up, reporting and adhering to these rules of professional conduct.” N.T. 122.

66. Petitioner did not blame anyone and stated that “I failed in an enormous way.” N.T. 122.

67. When asked why she returned calls to Waters on three occasions, Petitioner testified that she had asked herself that question and believed that the first time, she did it to let him think that he had influenced her. She knew by the second call that it was improper and understood that he kept calling because she did not stop it. N.T. 127.

68. Petitioner further testified that “the first time I called him back was about I didn’t want to anger someone who I believed was politically connected. And I was thinking of my retention. ... Other than that, it was not a quid pro quo. When I called him

back on the second and third times, the conversation – the tapes sound horrendous, but my intention was to buy myself time to figure out what to do with this man....Foolish. Wrong. I shouldn't have done that. Those are my misconduct (sic) for which I was sanctioned. N.T. 128, 129.

69. Petitioner testified that if she was able to speak to those on the other side of the matters for which Waters called her, she would apologize and tell them not to judge the legal system by her misconduct; that there are good decent judges. N.T. 131.

70. When asked to differentiate between remorse for the damage to her personal reputation and family versus remorse for the damage to the reputation to the legal profession, Petitioner testified that she brought on the damage to herself and her family and deserves it, but feels horrible about and will always regret, the discredit and questioning of the ethics and integrity of her former colleagues on the bench. N.T. 132.

71. Petitioner understands how important it is that people can perceive the transparency and absence of politics from the legal process. She is acutely aware that people must trust the system. N.T. 135, 136.

72. Petitioner desires to be a lawyer again so she can embody the needed transparency and make sure that no politics are involved in the system. N.T. 136.

73. Petitioner was questioned about how she stopped taking calls from Waters. Her testimony indicated that it happened prior to the FBI interaction, but she could not remember the exact circumstances, including whether it was in person or over the phone. N.T. 163-166.

74. Petitioner testified that after she shut down the communications with Waters, she did not report him. N.T. 129,169.

75. Petitioner understands that just because she shut off communications with Waters on the fourth time, it does not excuse her serious misconduct the first three times. *Id.*

76. When asked if her conduct is likely to recur, Petitioner testified that “I can guarantee that I will always protect the process. That something like this will never happen again....I was totally wrong. I didn’t understand at the time it was happening it wasn’t just about me, but it was about the whole system and people’s perception of justice and fairness. And I understand that even more. And I feel like, even as I have been lucky to have been at John Ostroff firm (sic), I have tried to be more scrupulous about maintaining that ethical line. And I feel like I had before this incident, and I will certainly continue to do that even more moving forward.” N.T. 121.

77. Petitioner testified to her work as a paralegal at the Ostroff Firm. She feels lucky and grateful that she has the job, and described the experience as humbling and one where she has learned a lot about supporting lawyers. N.T. 117, 121, 135. Her current job duties entail drafting complaints which are then reviewed by an attorney. Petitioner emphasized that she does not make any decisions on cases. N.T. 113.

78. During her employment as a paralegal, Petitioner has “tried to be so scrupulous about maintaining that ethical line.” N.T. 121.

79. During her suspension, Petitioner fulfilled her Continuing Legal Education requirements and reviewed *The Legal Intelligencer* to keep abreast of changes in the law. Reinstatement Questionnaire No. 19(a) and (b)

80. Prior to her suspension, Petitioner was involved in community activities and pro bono work, such as serving as president of the board of Women Organized Against Rape. Petitioner continued to be involved serving her community during her suspension by offering college guidance at a local school in Philadelphia, volunteering for Habitat for Humanity, and serving as an English language tutor for the immigrant community. N.T. 120, 145, 170.

81. Petitioner described her community work during her suspension as stepping up her involvement from what she had done in the past. N.T. 171.

82. In addition, Petitioner cared for a dying friend, and testified that in general she tried to be more of a presence of kindness and supportiveness for the people around her. N.T. 171.

83. If reinstated, Petitioner has the option to work for Mr. Ostroff's firm. N.T. 139. Petitioner also expressed strong interest in doing pro bono advocacy, as she feels there is much she can do to help people in need. N.T. 123, 139-140.

84. Petitioner testified that she became a lawyer to make a difference and to bring justice to those who weren't able to get it. N.T. 123.

85. In addition to her testimony, Petitioner's responses to Questions No. 20 and 21 on the Reinstatement Questionnaire asking for additional facts the Board

should consider to justify her reinstatement set forth her comprehension of her wrongdoing. In summary she stated:

What I failed to understand was that I was responsible for all of my problems. I was a judge. This is a privilege few lawyers attain. In addition to making the right legal decision, it was my responsibility to protect the integrity of the judiciary and the judicial system. I failed in that responsibility. It is something that will haunt me for the rest of my life.

She further stated:

I can assure the Board and the Court that with respect to myself, there are additional certainties I have learned my lesson. I understand the wrongfulness of my conduct. I understand the importance of self-regulation of the judiciary and the legal profession. I understand that I failed myself as well as my profession.

III. CONCLUSIONS OF LAW

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

2. Petitioner demonstrated by clear and convincing evidence that her 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 following her suspension on consent for a period of one year and one day, ordered by the Supreme Court of Pennsylvania on April 9, 2019. Pursuant to Rule 218(a)(1), 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 Court.

Petitioner bears the burden of proving by evidence that is clear and convincing, that she is morally qualified, competent and learned in the law and that her 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). This burden is not light, and reinstatement is not automatic. 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).

Here, the Board considers the Committee's recommendation to deny Petitioner's reinstatement based on its conclusion that Petitioner did not meet her burden to establish that she is morally qualified and competent to resume the practice of law and that her 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. In

particular, the Committee found that “Petitioner does not genuinely understand, acknowledge or appreciate the wrongfulness of her conduct” and has “created the concern that she will commit misconduct in the future.” Hearing Committee Report at pp. 42-43. Petitioner takes exception to the Committee’s conclusion and advocates for her reinstatement. ODC does not oppose Petitioner’s reinstatement. Upon review of the record, we conclude that Petitioner met her reinstatement burden for the reasons set forth below.

The transgressions that gave rise to Petitioner’s law license suspension were the same transgressions that gave rise to her removal as a Philadelphia Municipal Court judge. That wrongful, serious misconduct was Petitioner’s failure to reject calls from Waters, her judicial colleague, on three occasions, her failure to recuse herself in the cases discussed on the calls, her failure to report Waters, and allowing Waters to believe his calls influenced her.

The Joint Petition in Support of Discipline on Consent is detailed and comprehensive in nature. Therein, Petitioner acknowledged each and every fact of her misconduct. Petitioner admitted that she believed Waters was trying to influence her, admitted that the phone calls with Waters were inappropriate, admitted that she should have recused herself as her impartiality might reasonably have been questioned because of that contact, admitted that she engaged in not just the one call, but repeated inappropriate communications with Waters, admitted that she entertained the communications with Waters in order to curry favor with him in her retention campaign, admitted that she failed to disclose her communications with Waters to any of the parties

or counsel in the three cases, and admitted she failed to report the misconduct of Waters to the Judicial Conduct Board or any other authority.

The evidence of record demonstrates that Petitioner's reinstatement proceeding constituted the searching inquiry into her fitness to resume the practice of law that is required by *Philadelphia News*. The instant proceeding delved thoroughly and rigorously into the nature of Petitioner's transgressions, her moral qualities and character, and her actions to maintain her competence and learning in the law. On these topics, Petitioner credibly and forthrightly answered questions concerning the specifics of her wrongdoing, why she engaged in the misconduct, the impact it had on her personally and on the legal profession, how she has changed and grown as a person, what steps she has taken to address her misconduct and rehabilitate herself, her employment as a paralegal, her plans on moving forward if she is reinstated, and how she intends to avoid future misconduct.

In addition to Petitioner's credible testimony, Petitioner's spouse and son credibly testified at length as to her acknowledgement of responsibility, her remorse, and how she has changed since her misconduct. The testimony of Petitioner's employer demonstrated further evidence of Petitioner's remorse and regret for her misconduct, as well as her excellent legal skills and work ethic. Stipulated evidence of eight witnesses bolstered the live testimony and demonstrated Petitioner's good reputation in her community as an honest person of integrity. By all accounts, Petitioner acknowledged her bad acts, accepted full responsibility for her wrongdoing, and is genuinely contrite.

Petitioner established by clear and convincing evidence that she is morally qualified to resume the practice of law. Petitioner credibly admitted that she brought disrepute upon the judiciary and the legal profession and deserved to be removed permanently from the bench and suspended from the bar. The record of the instant proceeding is replete with instances of her credible and sincere acknowledgement that she engaged in each act of serious misconduct as set forth in Joint Petition, that she was wrong, and that her suspension was warranted.

Petitioner's consent to suspension of her license was a positive step in her rehabilitative process, as it demonstrated her acceptance of responsibility for her actions. At the hearing, Petitioner addressed what she learned as a result of her wrongful actions, explaining that when her misconduct was happening, she did not fully understand that she had not protected the judicial process in order that individuals would believe it is pristine. Petitioner now understands that the judicial process and protecting the integrity of that process is the most important thing that a judge and lawyer can do. She testified that she "failed in an enormous way" and "brought disrepute upon my colleagues, who work so hard to do the right thing, and for that, I will feel remorseful forever." On no fewer than 14 occasions during her testimony, Petitioner accepted responsibility by credibly admitting that she was wrong to have engaged in the misconduct, and she repeatedly expressed her great regret for her wrongdoing. Petitioner made clear that the harm to her personally from her actions was only what she deserved and not nearly as significant as the discredit and questioning of the ethics and integrity of her former colleagues on the bench, which is where her remorse lies.

The Committee asked Petitioner many pointed questions, to which Petitioner provided forthright, direct and consistent answers. She did not equivocate or seek to avoid the questions, no matter how uncomfortable they were, nor did she minimize her actions. In fact, Petitioner made a point to clarify testimony that Ms. Wasser gave which seemed to indicate that Ms. Wasser believed Petitioner's wrongdoing pertained only to failing to report Waters. At the very beginning of her testimony, Petitioner firmly refuted her spouse's testimony on that point in order to correct the record, stating "I know Nancy, my partner, was trying to explain things, but I was wrong. I deserved to be sanctioned. I should have reported [Waters]. I should have recused myself, I should have stopped. And when I called [Waters] back, I shouldn't have done that, and I know that." N.T. 114. This is unambiguous testimony that demonstrates Petitioner's comprehension of the nature and enormity of her bad acts.

In addition to her genuine remorse and acceptance of responsibility, Petitioner demonstrated rehabilitation through her community service. The evidence established that prior to her misconduct, Petitioner gave her time to community activities such as Women Organized Against Rape, where she served as president of the board. During her suspension, Petitioner described herself as stepping up her community involvement from what she had done in the past by doing college guidance at a local school, volunteering for Habitat for Humanity, and serving as an English tutor for an Afghan family. As well, she helped care for a dying friend. In her words, Petitioner tried to "be more of a presence of kindness and supportiveness for people around me." N.T. 171.

The record established that Petitioner timely filed the required Statement of Compliance and paid all costs associated with her suspension on consent, filed the Notice of Engagement required for her employment as a paralegal, filed and paid all taxes, is current on all debts and has no unpaid judgments against her. Petitioner timely notified the State of New Jersey of her Pennsylvania license suspension and at the time of the reinstatement hearing, was awaiting reciprocal discipline in that jurisdiction, which she testified that she will not contest.

Petitioner's genuine rehabilitation is corroborated by the testimony of her three witnesses, who testified credibly on her behalf and provided insight into Petitioner's remorse and acceptance of responsibility. Mr. Segal, Petitioner's son, explained that Petitioner instilled in him the need to take responsibility for his actions when he was growing up, and that he and his mother had many conversations about her misconduct. Mr. Segal testified that from the start, Petitioner expressed remorse and understood that she could not change what she had done, but could use the experience as a tool to grow and move forward. Mr. Segal described his mother's personal growth as "taking a step back and thinking what she did that led to this and how in the future she can take different steps that this doesn't happen." N.T. 15-33. Despite her misconduct, Mr. Segal still regards Petitioner as his moral compass and a highly ethical person.

Ms. Wasser, Petitioner's spouse, credibly testified that Petitioner expressed great remorse for her actions, has done so for years, and has never denied responsibility. Ms. Wasser observed that Petitioner now realizes the privilege of being a lawyer.

We recognize that the testimony of Mr. Segal and Ms. Wasser was tinged by the close personal relationship they share with Petitioner, but we do not find their testimony any less credible for that relationship, and in fact note that each was asked to “put on their attorney hat” and view Petitioner through the lens of their profession, and each credibly and wholeheartedly endorsed Petitioner as a person of integrity who would not cause harm to the public or the profession if reinstated.

Mr. Ostroff, Petitioner’s employer and an attorney with nearly three decades of experience, provided credible testimony that he has known Petitioner since before her time as a judge and they had a number of cases where Petitioner was opposing counsel. Mr. Ostroff testified that Petitioner was very competent and a person of integrity. After reading about her suspension and reviewing the underlying facts, Mr. Ostroff offered Petitioner a position as a paralegal. Mr. Ostroff emphasized that he never would have taken a chance on someone he did not feel comfortable with, as his reputation and that of his firm was on the line. During the employment interview, Mr. Ostroff and Petitioner discussed the facts of her misconduct and Mr. Ostroff noted that Petitioner expressed sadness, remorse, regret and embarrassment, but never made excuses for her wrongdoing. Although Mr. Ostroff felt disappointment when he first read about Petitioner’s misconduct, he still believed she was a person of integrity based on his past experiences with her and he was willing to hire her at his firm.

The stipulated testimony of eight witnesses supports the conclusion that Petitioner is morally qualified. These witnesses, members of Petitioner’s community, three of whom are Pennsylvania attorneys, corroborated the live witness testimony that

Petitioner accepted responsibility, expressed remorse, did not blame anyone but herself for her conduct, and understood the direct consequences of her actions on the public and the legal profession. This stipulated testimony demonstrated that Petitioner is held in high esteem and has an excellent reputation for honesty and integrity in her community. There is staunch support for Petitioner's resumption of the practice of law from members of Petitioner's community.

Petitioner established by clear and convincing evidence that she is competent and learned in the law. She has been employed as a paralegal for the Ostroff Firm since May 2019, performing job duties in that capacity that do not constitute the practice of law. Petitioner described her paralegal responsibilities at the firm and explained that she makes no decisions as to how cases are tracked or handled. Petitioner testified that being a paralegal has humbled her and she has learned many things about supporting lawyers, and further testified that she felt "lucky" to have the job and grateful that Mr. Ostroff hired her.

Mr. Ostroff is very familiar with Petitioner's work and work ethic and described them as excellent. Mr. Ostroff has observed that Petitioner has garnered respect at the law firm by her work and her vigilance in hewing to the ethical lines that prevent her from practicing law.

In addition to her employment as a paralegal, Petitioner demonstrated learning in the law by fulfilling her Continuing Legal Education credits required for reinstatement and reviewing *The Legal Intelligencer* to maintain her learning in the law.

If reinstated, Petitioner plans to explore employment with Mr. Ostroff's firm, and expressed a keen interest in performing pro bono legal work. She elaborated on this point, explaining that she became a lawyer to make a difference and bring justice to those unable to obtain it. Petitioner feels that society has many people who are in need of free legal counseling and she wants to be able to provide that service.

Noteworthy in this matter is that ODC does not oppose Petitioner's reinstatement. We find it compelling that the prosecutor's office who obtained Petitioner's suspension and investigated her readmission does not object to her resumption of the practice of law.

Upon this record, we conclude that Petitioner spent her suspension period engaged in genuine rehabilitation. See *In the Matter of Robert Turnbull Hall*, No. 49 DB 2011 (D. Bd. Rpt. 6/8/2020) (S. Ct. Order 7/6/2020); *In the Matter of Harry Vincent Cardoni*, No. 210 DB 2010 (D. Bd. Rpt. 2/5/2020) (S. Ct. Order 3/12/2020); *In the Matter of Robert P. Maizel*, No. 26 DB 2014 (D. Bd. Rpt. 10/15/2018) (S. Ct. Order 11/16/2018). Petitioner met the requirements of Rule 218(c)(3), Pa.R.D.E., by presenting clear and convincing evidence of her moral qualifications, competency and learning in the law. Although Petitioner's wrongful conduct while serving as a judge caused her suspension, she has demonstrated via her own testimony and the testimony of her witnesses, that her reinstatement will not harm the public or be detrimental to the integrity and standing of the profession.

We conclude that Petitioner has demonstrated clearly and convincingly that she is fit to practice law. The Board recommends that the Petition for Reinstatement be granted.

V. RECOMMENDATION


The Disciplinary Board of the Supreme Court of Pennsylvania recommends that the Petitioner, Dawn A. Segal, be reinstated to the practice of law.

The Board further recommends that, pursuant to Rule 218(f), Pa.R.D.E., the 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: _____


Gretchen A. Mundorff, Member

Date: 04/13/2021

Members Rafferty and Senoff dissent and would deny reinstatement.

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

In the Matter of : No. 2586 Disciplinary Docket No. 3
: :
DAWN A. SEGAL : No. 195 DB 2018
: :
: Attorney Registration No. 42469
PETITION FOR REINSTATEMENT : (Philadelphia)

DISSENTING STATEMENT

I dissent from the decision to reinstate Dawn A. Segal to the practice of law.

I recognize the testimonial of her legal abilities presented on her behalf since Petitioner's removal as a Judge, Municipal Court of Philadelphia. As a Judge, an individual is charged with the fair administration of justice; all parties being equal in treatment in our Courts. Petitioner perverted her duty as a Judge. I believe Petitioner's conduct as a Judge, before being caught by the authorities and removed as a Judge, is too aggravating a factor for her reinstatement to the practice of law.

Respectfully submitted,

By: /s/ John C. Rafferty, Jr.
John C. Rafferty, Jr., Member

Date: 04/13/2021