

IN THE SUPREME COURT OF PENNSYLVANIA

In the Matter of : No. 2677 Disciplinary Docket No. 3
: :
WILLIAM JAMES HELZLSOUER : No. 197 DB 2018
: :
: Attorney Registration No. 17300
: :
PETITION FOR REINSTATEMENT : (Allegheny County)

ORDER

PER CURIAM

AND NOW, this 7th day of December, 2022, the Petition for Reinstatement is denied. Petitioner is ordered 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 Nicole Traini
As Of 12/07/2022

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 January 23, 2020, the Supreme Court of Pennsylvania suspended Petitioner, William James Helzlsouer, from the practice of law for a period of one year and one day. By Petition filed on August 6, 2021, Petitioner seeks reinstatement to the bar. Office of Disciplinary Counsel (“ODC”) filed a Response to Petition on September 30, 2021, opposing Petitioner’s request for reinstatement based upon multiple

inaccuracies and omissions in Petitioner's Reinstatement Questionnaire. Petitioner filed a Supplement to Petition on November 8, 2021.

By Reference for Reinstatement Hearing dated October 11, 2021, a District IV Hearing Committee ("Committee") was assigned to hear the Petition for Reinstatement. Following a prehearing conference on November 9, 2021, Committee Chair Gina Marie Zumpella entered a Pre-Hearing Order dated November 9, 2021, which, *inter alia*, set deadlines for the exchange of witness and exhibit lists and for objections to proposed witnesses and/or exhibits. Petitioner did not timely respond to the Pre-Hearing Order and did not furnish any exhibits or witness lists by the required deadlines. On the evening of December 12, 2021, less than 24 hours before the scheduled reinstatement hearing, Petitioner attempted to circulate to the Committee, but did not properly file, a personal statement and a witness list, well past the deadlines set forth in the Pre-Hearing Order.

The Committee conducted a reinstatement hearing on December 13, 2021. Petitioner appeared pro se. He requested that the Committee either allow him to call witnesses despite having ignored the Pre-Hearing Order, or to otherwise continue the hearing until a future date. ODC objected. The Committee found that Petitioner failed to provide a reasonable explanation as to why he did not meet the deadlines in the Pre-Hearing Order. The Committee denied Petitioner's request for a continuance and the hearing proceeded as scheduled. Petitioner testified on his own behalf, but was precluded from offering other witnesses or exhibits due to his failure to comply with the Pre-Hearing Order. ODC offered eight exhibits, which were admitted into evidence.

When Petitioner failed to submit a post hearing brief by the January 27, 2022 deadline, ODC timely submitted its brief on February 16, 2022, and requested that the Committee recommend to the Board that the Petition for Reinstatement be denied. On February 17, 2022, Petitioner filed an untimely brief in support of his reinstatement, which the Committee accepted.

Approximately two months after filing his untimely brief, on April 20, 2022, Petitioner filed a Motion to Open the Record and attempted to file a Supplemental Brief to the Committee. By Order dated April 20, 2022, the Committee denied the Motion and further stated that it would not consider the Supplemental Brief. Petitioner requested reconsideration of the Committee's April 20, 2022 Order, which was denied. By Report dated April 29, 2022, the Committee concluded that Petitioner failed to meet his reinstatement burden by clear and convincing evidence and recommended to the Board that the Petition for Reinstatement be denied.

The parties did not file exceptions to the Committee's Report and the Board adjudicated this matter at the meeting on July 21, 2022.

II. FINDINGS OF FACT

The Board makes the following findings:

1. Petitioner is William James Helzlsouer, born in 1948 and admitted to practice law in the Commonwealth in 1973. Petitioner's address of record is 302 Euclid Avenue, Dravosburg, Allegheny County, PA 15034. Petitioner is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.
2. By Order dated January 23, 2020, the Supreme Court of Pennsylvania suspended Petitioner for a period of one year and one day, effective February 22, 2020. ODC-2.
3. Petitioner was suspended for his violations of the Rules of Professional Conduct in three separate matters involving neglect, mishandling of his IOLTA account by allowing his adult son unauthorized access to the account, failing to hold entrusted funds properly, failing to promptly refund unearned fees, and engaging in the unauthorized practice of law while suspended. ODC-1.
4. During Petitioner's suspension, disciplinary complaint C4-20-446 was opened by ODC, in which it was alleged that Petitioner may have engaged in the unauthorized practice of law while suspended. ODC-4.
5. During Petitioner's suspension, disciplinary complaint C4-20-914 was filed against him by another Pennsylvania attorney, in which it was alleged that Petitioner may have failed to adequately represent his client

and that he may have failed to properly withdraw from his representation of a client upon suspension and to notify opposing counsel. ODC-5.

6. ODC sent Petitioner letters of inquiry as to the matters and he provided statements of position as to both. ODC-4, ODC-5.
7. In both matters, ODC determined it could not take action as Petitioner was currently suspended, but advised the complainant in C4-20-914 that if Petitioner sought reinstatement, the allegations could be presented in opposition to reinstatement. *Id.*
8. Petitioner filed a Petition for Reinstatement on August 6, 2021, along with the required Reinstatement Questionnaire (“Questionnaire”).
9. Petitioner provided false or substantially inaccurate answers to questions on the Questionnaire.
 - a. Question 8(a) states, in pertinent part, “To the best of your knowledge, have you ever been the subject of a disciplinary complaint not revealed hereinabove...” Petitioner answered “No” despite his knowledge and awareness of the two complaints at C4-20-446 and C4-20-914 filed against him during his current period of suspension.
 - b. Question 5 asks if any charge giving rise to the misconduct involved commingling, misuse or neglect to pay money, and if so, asks for more specific information. Even though his 2020 suspension was due in part to his violation of Rules of

Professional Conduct 1.15(b), 1.15(c) and 1.15(e) regarding the failure to properly handle entrusted funds, Petitioner answered “N/A” to this question.

- c. Question 19 inquires about the hours of Continuing Legal Education Petitioner obtained in the year preceding the filing of his Petition for Reinstatement. While he represented that he had completed the requisite 36 hours, including 12 ethics hours, Petitioner’s documentation accompanying his Questionnaire only supported 11 ethics hours. ODC subsequently allowed Petitioner to remedy this deficiency prior to the hearing.

10. Petitioner’s Questionnaire included three incomplete answers:

- a. Question 3 (findings of misconduct): Petitioner failed to provide any answer to as to the findings of misconduct upon which his suspension was based and failed to attach the Report and Recommendation of the Board pertaining to his misconduct.
- b. Question 7(a) (discipline by other courts): Petitioner failed to divulge that he had been suspended from the practice of law by the United States District Court for the Western District of Pennsylvania. ODC-3.
- c. Question 10 (involvement in civil actions as a party and outstanding judgments): Petitioner failed to answer the subparts of the question as to specifics of outstanding judgments and failed

to include other judgments of record, failed to provide certified docket entries for all cases of record and offered no summary or explanation regarding the current amount of all unsatisfied judgments held. ODC-6, ODC-7.

11. Petitioner failed to fully explain the falsities, inaccuracies and omissions on his Questionnaire.

12. Petitioner failed to comply with the Pre-Hearing Order dated November 9, 2021, as to the exchange of information related to exhibits and witnesses and was consequently precluded from entering evidence or calling any witnesses at the reinstatement hearing. N.T. 18.

13. Petitioner testified to his legal practice over the years and admitted that "I have on several occasions run afoul of the Board." N.T. 21-23, 33-34. In addition to his current suspension, Petitioner was disciplined on the following occasions:

- a. by Order dated September 27, 2017, the Court suspended Petitioner for a period of three months;
- b. by Order dated June 5, 2012, the Court suspended Petitioner for a period of three months on consent, with the suspension stayed in its entirety and probation for three months with a practice monitor; and
- c. Private Reprimand administered on December 8, 2010.

14. Petitioner testified that during his current suspension, he has been employed as a substitute schoolteacher, referee for high school soccer, and COVID -19 vaccine telephonic scheduler. N.T. 23-24, 27.
15. Petitioner testified that if reinstated, he would not practice law as extensively as he has in the past, given his age and circumstances. N.T. 27.
16. As to instances of practicing law while suspended, Petitioner explained one occurrence where he made an inquiry for an "old-time client" who he claims did not compensate him. On this individual's behalf, Petitioner contacted a lawyer in West Virginia to check the status of the individual's situation involving an estate. This matter was the subject of the disciplinary complaint at C4-20-446. N.T. 28.
17. Petitioner testified he has attempted to try to ameliorate the circumstances that required clients to report him to the Board, but presented no evidence demonstrating these attempts. N.T. 48.
18. Petitioner did not express credible and sincere remorse for his misconduct and did not express credible acceptance of responsibility for his wrongdoing.
19. Petitioner does not believe that any of the deficiencies related to his Questionnaire were deliberate attempts to mislead the Board, and he believes reinstatement is appropriate based on his history of practice. N.T. 48-49.

20. ODC opposes Petitioner's reinstatement.

21. Petitioner did not file exceptions to the Committee's recommendation that his reinstatement be denied.

III. CONCLUSIONS OF LAW

1. Petitioner failed to meet his burden 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. Pa.R.D.E. 218(c)(3).
2. Petitioner failed to meet his burden 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 reinstatement to the bar following his suspension from the practice of law for one year and one day by the January 23, 2020, Order of the Supreme Court of Pennsylvania. In a reinstatement proceeding, a suspended attorney bears the high burden of demonstrating by clear and convincing evidence that such person has the moral qualifications, competency and learning in the law required for admission to practice law in Pennsylvania and that the 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).

The reinstatement process is a searching inquiry focused on the nature and extent of the petitioner's rehabilitative efforts made since the time that the sanction was imposed and the degree of success achieved in the rehabilitative process. ***Philadelphia Newspapers, Inc. v. Disciplinary Board of the Supreme Court***, 363 A.2d 779, 780-781 (Pa. 1976). This inquiry necessarily involves thorough examination of a wide range of issues relevant to a petitioner's fitness to resume the practice of law. ***Id.*** Upon this record, we conclude that Petitioner has failed to meet his stringent reinstatement burden.

Petitioner's conduct during his suspension period, including disciplinary complaints filed against him, his untruthful and incomplete responses on the Questionnaire, and his lack of preparation and deference with which he approached the reinstatement proceeding, demonstrate that Petitioner has not been rehabilitated sufficient to resume practice.

The record established that while suspended, two disciplinary complaints were filed against Petitioner. File No. C4-20-446 dated July 6, 2021, alleged that Petitioner may have engaged in the unauthorized practice of law while suspended. This matter is concerning as it involved allegations similar to the misconduct for which he is, in part, currently serving a suspension. File No. C4-20-914 dated December 19, 2020 alleged, among other things, that Petitioner failed to: notify his client and opposing counsel of his suspension; notify same that he could no longer represent his client; and

withdraw his appearance in the matter. Although the two matters were not concluded due to Petitioner's current suspension, the allegations nonetheless are relevant to the issue of Petitioner's fitness and competency, particularly as he failed to divulge these complaints on his Questionnaire.

The record demonstrated that Petitioner's Questionnaire included false and inaccurate answers to three sets of questions. In response to Question 8(a) regarding being the subject of a disciplinary complaint not previously revealed on the Questionnaire, Petitioner falsely answered in the negative, despite his knowledge of the two disciplinary complaints filed against him during his suspension. Petitioner provided a substantively inaccurate answer to Question 5, which asked if any charge giving rise to the misconduct involved commingling, misuse or neglect to pay money. Even though Petitioner's 2020 suspension was due, in part, to his violation of ethical rules regarding the failure to properly handle entrusted funds, Petitioner answered this question as "N/A." In Question 19, Petitioner was asked about the number of hours of Continuing Legal Education he had obtained in the year preceding the filing of his Petition for Reinstatement. While Petitioner represented that he had completed the required 36 hours, including 12 ethics hours, the documentation that Petitioner attached to his Questionnaire showed only 11 ethics hours. ODC subsequently allowed Petitioner to cure this deficiency prior to the hearing. Nevertheless, this answer was inaccurate.

As the record demonstrated, Petitioner not only answered some questions falsely or inaccurately, he provided incomplete answers to other questions. Petitioner's

responses to questions concerning his underlying misconduct, discipline by other courts where he was admitted, and involvement in civil actions as a party and outstanding judgments, minimized or omitted relevant information required by the questions, thus making it more difficult for ODC to investigate and promptly respond to the Petition.

Petitioner suggests that the deficiencies on his Questionnaire are minimal and should not bear heavily on his ability to be reinstated. However, the record shows that he did not fully and satisfactorily explain all of the problems to the degree required to show that he is competent. Moreover, the instant matter involves not merely one or two insignificant errors, but a pattern of problematic responses. We conclude that Petitioner's false, inaccurate and incomplete responses on his Questionnaire show not only his lack of competence in carefully completing a critically important reinstatement document, but further demonstrate his lack of moral qualifications by making false statements on the Questionnaire. Petitioner's inability to provide complete and truthful answers on his Questionnaire suggests he did not take his reinstatement matter seriously and reflects negatively on his fitness to practice law.

We next turn to Petitioner's actions during his reinstatement proceeding and his testimony at the hearing. The Committee specifically found that Petitioner appeared for his reinstatement hearing unprepared and did not show appropriate deference to the hearing process. Upon review, we agree. Petitioner's inexplicable failure to comply with the Pre-Hearing Order deadline to submit exhibits and witness lists precluded him from introducing exhibits and witness testimony on his own behalf, demonstrably hampering

his ability to present his case. Possibly realizing his predicament, Petitioner attempted to correspond with Committee members on the eve of hearing to submit a witness list, and at the hearing requested to be allowed to call witnesses. The Committee denied Petitioner's request, finding that he did not provide a reasonable explanation for his failure to meet the Pre-Hearing Order deadlines.

Despite his knowledge of the consequences of missing a deadline, Petitioner failed to file his post-hearing brief by the due date and in fact did not file a brief until three weeks later. While the Committee generously accepted the brief as untimely, the Committee denied Petitioner's later attempts to file a supplemental brief and open the record. Petitioner's careless, slipshod prosecution of his own reinstatement petition supports the conclusion that Petitioner is neither competent nor learned in the law sufficient to be reinstated to practice.

Petitioner's evidence in support of his rehabilitative efforts during suspension was limited as he was precluded from offering witness testimony or other evidence, and consisted of his own very brief testimony. Petitioner testified as to his employment during his suspension as a substitute teacher, soccer referee, and COVID-19 vaccine scheduler. While Petitioner noted that if reinstated, he would not practice as extensively as he used to prior to his suspension, he did not provide any specific testimony about how he intends to resume his practice or what safeguards he intends to put into place to ensure his compliance with the Rules of Professional Conduct. Significantly, the record is absent of any genuine expression by Petitioner of remorse or

acceptance of responsibility for the wrongdoing that led to his suspension, and any understanding by Petitioner as to the ramifications of his professional misconduct on the public and the integrity of the legal profession. Petitioner has wholly misunderstood the object and nature of this reinstatement proceeding, as demonstrated by the woefully deficient record of his qualifications to return to practice.

Upon the totality of the evidence before us, we conclude that Petitioner has failed to meet his burden of proving his moral qualifications, competency and learning in the law by any standard, much less clear and convincing, nor has he shown clearly and convincingly that his reinstatement would not be detrimental to the integrity and standing of the bar and the administration of justice, nor subversive of the public interest. We recommend that the Petition for Reinstatement be denied.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that the reinstatement of Petitioner, William James Helzlsouer, be denied.

The Board further recommends that, pursuant to Rule 218(f), Pa.R.D.E., Petitioner be directed to pay all of 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: 
David S. Senoff, Member

Date: 9/27/2022