

IN THE SUPREME COURT OF PENNSYLVANIA

In the Matter Of : No. 2436 Disciplinary Docket No. 3
: :
STACY PARKS MILLER : No. 32 DB 2017
: :
: Attorney Registration No. 74824
PETITION FOR REINSTATEMENT :
: (Centre County)
: :
: :

ORDER

PER CURIAM

AND NOW, this 31st day of August, 2021, the Petition for Reinstatement is granted. 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 Patricia Nicola
As Of 08/31/2021


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 February 8, 2019, the Supreme Court of Pennsylvania suspended Petitioner, Stacy Parks Miller for a period of one year and one day. On January 28, 2020, Petitioner filed a Petition for Reinstatement. Office of Disciplinary

Counsel (“ODC”) filed a Response to Petition on March 16, 2020 and a supplemental response on October 14, 2020.

Following a prehearing conference on October 14, 2020, a District III Hearing Committee (“Committee”) conducted a reinstatement hearing on November 23, 2020 and December 9, 2020. Petitioner offered twelve exhibits, which were admitted into evidence, testified on her own behalf and presented the testimony of four additional witnesses. ODC offered thirty-three exhibits, which were admitted into evidence. ODC did not present any witness testimony.

On March 4, 2021, Petitioner filed a Brief to the Committee in support of her reinstatement. On March 23, 2021, ODC filed a Letter in Lieu of Brief stating that it did not oppose Petitioner’s reinstatement, based on the record created in the instant matter.¹

By Report filed on May 6, 2021, the Committee concluded that Petitioner met her burden and recommended that the Petition for Reinstatement be granted. The parties did not take exception to the Committee’s Report and recommendation.²

The Board adjudicated this matter at the meeting on July 23, 2021.

¹ After stating that it did not oppose Petitioner’s reinstatement, ODC set forth its position that a full record was not created due to the Committee’s sustaining Petitioner’s objection to the admissibility of certain evidence.

² In ODC’s May 11, 2021 letter advising the Board that it would not submit exceptions, ODC again noted that there were “disputed issues regarding the admissibility of certain evidence at the hearing” and stated its position that “the record is not clear that all relevant evidence was fully explored.” While ODC contends it “preserved for further review” the Committee’s evidentiary ruling precluding ODC from examining Petitioner regarding posts to her social media accounts, ODC’s failure to take formal exception to the Committee’s Report and recommendation constitutes a waiver of any objection under Disciplinary Board Rule § 89.201(c).

II. FINDINGS OF FACT

The Board makes the following findings:

1. Petitioner is Stacy Parks Miller, born in 1969 and admitted to practice law in the Commonwealth of Pennsylvania in 1994. Petitioner is subject to the jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

2. By Order dated February 8, 2019, the Supreme Court of Pennsylvania suspended Petitioner for a period of one year and one day. Reinstatement Questionnaire (“RQ”), attachment 2.

3. Petitioner’s suspension was based on her actions in two separate matters while she was serving as the duly elected District Attorney of Centre County. RQ, Disciplinary Board Report (12/6/2018).

4. In the first matter, Petitioner engaged in improper ex parte email and text communications with members of the Centre County judiciary. *Id.*

5. During ODC’s investigation of the ex parte communications, Petitioner provided false and misleading responses to inquiries. *Id.*

6. In the second matter, Petitioner created, disseminated and used a fictitious Facebook page in an attempt to curb criminal activity in Centre County, which conduct was fraudulent and deceptive in violation of the ethical rules and which led to communications with represented parties. *Id.*

7. The Board found that during her disciplinary proceedings, Petitioner failed to acknowledge the vast majority of her misconduct, did not accept responsibility and failed to express sincere remorse. RQ, Disciplinary Board Report (12/6/2018), p. 22.

8. The Board found that Petitioner expressed regret that she had been charged with misconduct which caused her embarrassment, but did not express regret that she caused harm to the legal profession and the public. *Id.*

9. At the reinstatement hearing, Petitioner credibly testified on her own behalf.

10. Petitioner admitted that during her disciplinary hearing she did not fully accept responsibility for her misconduct and did not convey contrition. 11/23/20 N.T. 213-214, 215-223.

11. Petitioner testified that she used her period of suspension to reflect on her actions and has accepted responsibility for her misconduct. 11/23/20 N.T. 213-214, 219.

12. As to the *ex parte* communications, Petitioner admitted that her informality with judges was wrong and her failure to respect that divide was her fault. 11/23/20 N.T. 220-222.

13. Petitioner testified concerning the Facebook ruse and admitted that she should not have created the page because it was deceptive and as a lawyer she was not permitted to engage in deceptive behavior, for which she apologized. 11/23/20 N.T. 228, 232-233.

14. Petitioner repeatedly expressed sincere remorse and deep regret, frankly testifying “I mean, I don’t even know if there is enough words to cover it ... But some of the words that come to mind are humiliated, devastated, and shamed, very regretful.” 11/23/20 N.T. 327; 12/9/20 N.T. 56-57.

15. Petitioner admitted that she abused the power of her office as District Attorney of Centre County and expressed contrition. She testified, “As the public prosecutor in charge of enforcing the law, me joking around with a Judge or asking a Judge to move a hearing, you know, I have the ability to enforce the law. I should be upholding it, not doing things that raised questions about, you know, the ethics of my office. I do think that the things that I have done absolutely were an abuse of the power of the position I was given ... I impaired the entire system, the confidence in the system ... So I now understand the impact of what I did to the profession and also that position. So I get that now.” 12/9/20 N.T. 45-46.

16. Petitioner testified that she is seeking reinstatement because “I love being a lawyer. I love being in the courtroom ... I love getting to know people, meeting people, when they have a problem and sitting down and saying how can I use my skill set to solve it for them. So I can’t even dream of another job that would make me this happy in terms of satisfied. It’s a purpose.” 11/23/20 N.T. 236.

17. When questioned about how she will follow the Rules of Professional Conduct if she is readmitted, Petitioner testified, “the word that comes to mind is hyper vigilant. Never run afoul of the rules again. Not be walking any lines or do anything questionable, being the attorney that the profession needs me to be, and the attorney that I have been in my life before a certain time period, to get back to that.” 11/23/20 N.T. 328.

18. Petitioner further testified, “I hope I can be a better attorney and a better person because of the things I have done and as a consequence of the things that happened to me.” 12/9/20 N.T. 58.

19. During her suspension, Petitioner maintained continuous employment working as a paralegal for William Shaw, Esquire, as a certified peer specialist at CenClear providing services for mentally challenged youths and adults, and performing research for Professor Rosemary L. Gido. RQ 11(a); SPM-2; 11/23/20 N.T. 29-31, 79-80, 136-137.

20. Petitioner fulfilled her Continuing Legal Education credits required for reinstatement and kept current in the law by reviewing case law on the website for the Pennsylvania Courts. N.T. RQ No. 19.

21. If reinstated, Petitioner plans to practice criminal defense and general civil litigation in Centre County. RQ No. 18.

22. Four character witnesses credibly testified on Petitioner's behalf and support her reinstatement to the practice of law.

23. Kristin Shirey testified that her sister was murdered while Petitioner was the District Attorney. 11/23/20 N.T. 11, 12.

24. Based on her interactions with Petitioner in the aftermath of her family's tragedy, Ms. Shirey described Petitioner as caring and empathetic and a proactive advocate for victims and their families. Ms. Shirey believes Petitioner protected her and her family from harm, helped obtain counseling for Ms. Shirey's niece, and continues to keep in touch. *Id.*

25. Ms. Shirey testified that if Petitioner returned to the practice of law, she would have no hesitation using her services. 11/23/20 N.T. 17.

26. Stan Moustacalis has been employed with CenClear for thirteen years and has spent the last nine years as a field supervisor. He has supervised Petitioner in her capacity as a certified peer specialist since 2019. 11/23/20 N.T. 29-31.

27. Mr. Moustacalis explained that in order to work at CenClear, Petitioner earned a counseling certification after going through training and passing a background check. 11/23/20 N.T. 35.

28. Mr. Moustacalis described Petitioner's job skills as excellent and further testified that she has an excellent work ethic, is articulate and focused on doing her job, and is "just one of the best that I've supervised ever." 11/23/20 N.T. 34-36.

29. Mr. Moustacalis supports Petitioner's return to practice because she has a lot to offer the community. 11/23/20 N.T. 51-52.

30. William Shaw, Esquire was admitted to practice law in Pennsylvania in 1996. Mr. Shaw is the former District Attorney in Clearfield County. Mr. Shaw has known Petitioner since 1996, when they worked together as assistant district attorneys. Later, as district attorneys of neighboring counties, they communicated routinely on matters of joint interest, and more recently, since 2019 Mr. Shaw has employed Petitioner as a paralegal at his private law office to perform research and legal writing. N.T. 76-78, 80.

31. Mr. Shaw testified that Petitioner has reflected on the issues that led to her misconduct, expressed regret and remorse for her actions, and shared her desire to never run afoul of the ethical rules again. 11/23/20 N.T. 90, 91-92.

32. Mr. Shaw testified that Petitioner is a very competent and professional lawyer who possesses excellent trial skills as well as excellent research and writing skills. He considered her to be a superb assistant district attorney and district attorney. N.T. 78, 83.

33. Mr. Shaw described Petitioner's paralegal work for him as "top-shelf" and he never had any concerns about her work product. N.T. 83.

34. Mr. Shaw notified the Disciplinary Board of Petitioner's employment and ensured that Petitioner did not engage in the practice of law during her employment. N.T. 80-81; SPM-2.

35. Mr. Shaw has no concerns about Petitioner's ability to resume practice and testified that he believes she is an exceptional lawyer. N.T. 85.

36. Mr. Shaw knows many attorneys in Clearfield County and Centre County who know Petitioner and he opined that among these attorneys she has a great reputation for being a "terrific" lawyer. 11/23/20 N.T. 87-88.

37. Professor Rosemary L. Gido is a criminologist with a background in state agency work and academia, most recently as a professor of criminology at Indiana University of Pennsylvania, retiring in 2011 and maintaining professor emerita status. Professor Gido is an active member of the Academy of Criminal Justice Sciences since 1985 and has been the editor of the Prison Journal for the last 20 years. 11/23/20 N.T. 127-128, 130.

38. Professor Gido first met Petitioner in 2017 in Petitioner's capacity as district attorney. Professor Gido's neighbor was murdered (the Shirey matter

referenced above) and she came to observe Petitioner and the work Petitioner did on behalf of the neighbor's family. 11/23/20 N.T. 132-133.

39. Professor Gido observed that Petitioner displayed compassion and empathy for victims, and was respectful and professional. 11/23/20 N.T. 133, 154.

40. Professor Gido developed a professional academic relationship with Petitioner when she invited Petitioner to work on a research project focused on poverty. Professor Gido believed that Petitioner had passion for and devotion to the issues of victims and survivors and thought her background would be useful for the project. 11/23/20 N.T. 135-137.

41. After the project was completed, Professor Gido asked Petitioner to author an essay about her observations and conclusions related to the research. 11/23/20 N.T. 139; SPM - 4.

42. While working with Petitioner, Professor Gido was at all times aware that Petitioner was a suspended attorney. She found Petitioner to be knowledgeable and trustworthy and had no hesitation working with Petitioner in a professional capacity. 11/23/20 N.T. 149, 150-151.

43. Professor Gido supports Petitioner's reinstatement and believes that Petitioner has a great deal to offer the profession based on her experience, energy and focus. 11/23/20 N.T. 157-158.

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 of 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 for a period of one year and one day, ordered by the Supreme Court of Pennsylvania on February 8, 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).

We conclude from the evidence of record that Petitioner spent her suspension period engaged in genuine rehabilitation. See ***In the Matter of Benjamin Hart Perkel***, No. 23 DB 2014 (D. Bd. Rpt. 1/28/2021) (S. Ct. Order 3/15/2021); ***In the Matter of James Francis Donohue***, No. 112 DB 2013 (D. Bd. 6/10/2020) (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). Petitioner met the requirements of Rule 218(c)(3), Pa.R.D.E., by presenting credible evidence of her moral qualifications, competency and learning in the law. Petitioner admitted that her misconduct represented a serious breach of her ethical duties and caused her suspension, and she has demonstrated via her own credible testimony and the credible testimony of her four witnesses, that her resumption

of the practice of law will not harm the public or be detrimental to the integrity of the profession.

Petitioner's suspension was predicated upon misconduct that occurred while she served as the duly elected Centre County District Attorney. Petitioner engaged in improper ex parte communications with county judges and used fraudulent and deceptive tactics in creating, disseminating and using a Facebook page ostensibly designed to prevent crime in Centre County. The record of Petitioner's disciplinary proceedings makes abundantly clear her unwillingness or inability to accept responsibility for her actions at that time and reflects that her primary concern was her own embarrassment at being charged with misconduct, at the expense of any recognition that she sullied her public office and breached the public trust by her actions.

The record of the instant reinstatement proceedings reflects a marked change in Petitioner's attitude and demeanor. The record demonstrates that Petitioner presented credible evidence to show her sincere remorse, rehabilitation, good character, competency and learning in the law. Petitioner admitted fault and forthrightly acknowledged that she had failed to take responsibility and show remorse in the past. Petitioner credibly explained that during her suspension period, she had the opportunity to reflect on her actions and now understands her wrongdoing and has learned to be a better person. Throughout the reinstatement hearing, Petitioner compellingly communicated her genuine shame, regret and disappointment in herself for her misconduct, accepted full responsibility and expressed remorse. Petitioner addressed the underlying misconduct, admitted that she was wrong, and apologized. Importantly,

she fully appreciated that she abused the power of the district attorney's office and impaired the public's confidence. Further, Petitioner made credible assurances that she has learned from her experiences and is determined that her misconduct will not be repeated in the future, as she will be "hyper vigilant" in adhering to the conduct rules. Petitioner's love of the law and eagerness to resume practice was readily apparent and convincingly expressed in her testimony.

Petitioner's four character witnesses bolstered Petitioner's own testimony and provided valuable insight into her character and qualifications. The witnesses comprised a community member whose family tragedy put her in contact with Petitioner as the district attorney, Petitioner's supervisor at CenClear, a former district attorney who has known Petitioner for decades and who has worked with her and employed her as a paralegal, and a criminology professor for whom Petitioner performed research. These witnesses have had the opportunity to work and interact with Petitioner in her various capacities over the years. The witnesses credibly testified to Petitioner's knowledge and skill as a lawyer and her passion for the law and helping others, her excellent work ethic, and her remorse for her actions that resulted in suspension of her license. The record is clear that Petitioner's witnesses fully support her resumption of the practice of law and view her as an asset to the legal profession and the community.

In addition to establishing her moral qualifications, the evidence of record supports the conclusion that Petitioner is competent and learned in the law. The record reflects that Petitioner maintained continuous employment during her suspension, completed required Continuing Legal Education credits, kept abreast of developments in

the law by reviewing recent case law, and worked as a paralegal performing research and legal writing. Attorney Shaw praised Petitioner's excellent legal abilities and the high quality of her legal work, and confirmed that Petitioner's skills would foster her smooth transition back to legal practice.

In addition to meeting her stringent burden to demonstrate moral qualifications, competency and learning in the law, Petitioner demonstrated by clear and convincing evidence that her resumption of the practice of law will not be detrimental to the integrity and standing of the bar nor subversive of the public interest. Upon this record, we conclude that Petitioner's rehabilitative efforts have been successful in addressing the underlying wrongdoing, she is fit to practice law, and her return to practice will not harm the public, the courts or the profession.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that Petitioner, Stacy Parks Miller, be reinstated to the practice of law.

The Board further recommends that, pursuant to Rule 218(f), Pa.R.D.E., Petitioner be directed to pay the necessary expenses incurred in the investigation and processing of the Petition for Reinstatement.

Respectfully submitted,

THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

By: */s/ Dion G. Rassias*
Dion G. Rassias, Member

Date: 8/3/2021