

IN THE SUPREME COURT OF PENNSYLVANIA

In the Matter of : No. 571 Disciplinary Docket No. 3
:
JAMES DANIEL HARRISON : No. 54 DB 2000
:
: Attorney Registration No. 29575
:
: (Philadelphia)
PETITION FOR REINSTATEMENT :

ORDER

PER CURIAM

AND NOW, this 21st day of October, 2020, the Petition for Reinstatement is denied. Petitioner is directed to pay the expenses incurred by the Board in the investigation and processing of the Petition for Reinstatement. See Pa.R.D.E. 218(f).

A True Copy Patricia Nicola
As Of 10/21/2020

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

In the Matter of : No. 571 Disciplinary Docket No. 3
: No. 53 DB 2000
:
JAMES DANIEL HARRISON : Attorney Registration No. 29575
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PETITION FOR REINSTATEMENT : (Philadelphia)

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 28, 2000, the Supreme Court of Pennsylvania disbarred Petitioner, James Daniel Harrison, from the practice of law in the Commonwealth. The disbarment was reciprocal discipline based on Petitioner's disbarment in the State of New Jersey by Order of the Supreme Court of New Jersey dated November 3, 1999, for forging client signatures on settlement checks and misappropriating funds. By Petition filed on June 21, 2018, Petitioner seeks reinstatement

to the practice of law. Office of Disciplinary Counsel filed a response on February 15, 2019, and opposes reinstatement.¹

Following a prehearing conference on May 1, 2019, a reinstatement hearing was held on September 6, 2019, before a District I Hearing Committee (“Committee”). Petitioner called seven witnesses and testified on his own behalf.

On October 24, 2019, Petitioner filed a Brief to the Committee and requested that he be reinstated to the practice of law.

On November 7, 2019, Office of Disciplinary Counsel filed a Brief to the Committee and requested that the Committee deny Petitioner’s reinstatement.

By Report filed on December 18, 2019, the Committee concluded that Petitioner did not meet his burden of proof and recommended to the Board that the Petition for Reinstatement be denied.

On January 28, 2020, Petitioner filed a Brief on Exceptions and requested oral argument before the Board. Office of Disciplinary Counsel filed a Brief Opposing Exceptions on March 11, 2020.

A three-member Board panel held oral argument on July 16, 2020.²

The Board adjudicated this matter at the meeting held on July 23, 2020.

¹ Office of Disciplinary Counsel was granted three extensions to file the response, normally due 60 days from the filing of the Petition for Reinstatement. Petitioner did not object to any of the extension requests.

² Pursuant to Board Administrative Order No. 2020-01 dated March 17, 2020, oral argument was continued from its original March 30, 2020 date due to the Covid-19 pandemic.

II. FINDINGS OF FACT

The Board makes the following findings:

1. Petitioner is James Daniel Harrison, born in 1947 and admitted to practice law in the Commonwealth in 1978. Petitioner's address is 6727 Rising Sun Avenue, Philadelphia, PA 19111. Petitioner is subject to the jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

2. By Order dated November 3, 1999, the Supreme Court of New Jersey disbarred Petitioner. Reinstatement Questionnaire ("RQ"), Supplement to Question 3(b).

3. The disbarment was based on Petitioner's acts of forging signatures of two clients on settlement checks and knowingly misappropriating the settlement funds that were due to the clients. RQ, Supplement to Question 3(b).

4. By Order dated April 28, 2000, Petitioner was reciprocally disbarred by the Supreme Court of Pennsylvania. RQ, Supplement to Questions 3(b) and 7.

5. Petitioner has a history of discipline in New Jersey:

a. By Order dated April 20, 1995, Petitioner received a Public Reprimand in New Jersey for negligent misappropriation and failure to keep required books and records; and

b. By Order dated February 5, 1998, Petitioner was temporarily suspended in New Jersey for failing to submit quarterly audits and court-ordered drug and alcohol testing reports.

RQ, Question 7(a) and Supplement to Question 7(a) and (b), ODC-11.

6. Petitioner has a history of criminal convictions in New Jersey:

a. On October 8, 1999, Petitioner pleaded guilty to possession of cocaine and was sentenced to a term of imprisonment of three years at number 98-10-02020-I;

b. On October 8, 1999, pleaded guilty to attempting to disarm a police officer and was sentenced to three years of imprisonment at number 98-04-00822-I. This sentence was concurrent to 98-10-02020-I; and

c. On January 7, 1999, Petitioner entered a guilty plea in the New Jersey Superior Court of Passaic County to Theft by Failure to Make Required Disposition of Property Received at number 99-01-0022-A. In particular, Petitioner pleaded guilty to failing to disburse \$52,366.34 in funds belonging to ten clients between January 1 and December 31, 1997. On November 1, 1999, two days before he was disbarred in New Jersey, Petitioner was sentenced to a term of imprisonment of three years. This sentence was concurrent to 98-

10-02020-I and 98-04-00822-I. RQ, Supplement to Question 9; ODC-2; N.T. 157-158.

7. Petitioner testified that he served approximately eleven months in prison. N.T. 159.

8. Petitioner testified that he began drinking excessively in the 1980s, four or five years into his practice. N.T. 147; ODC-11, p. 11. He later abused cocaine and pain medication. N.T. 152. Petitioner used client funds to fund his cocaine habit. N.T. 152-153.

9. Petitioner's life began to fall apart due to his alcohol and drug use. His marriage broke up and he became involved in criminal incidents. N.T. 154-155.

10. Petitioner has been sober and in recovery since March 2011. N.T. 165, 226.

11. Petitioner accepted responsibility for the misconduct that led to his disbarment and expressed sincere remorse. He also accepted responsibility for his criminal acts. N.T. 166-168,

12. Petitioner reimbursed the New Jersey Lawyers' Fund. N.T. 189.

13. Petitioner filed for bankruptcy in order to pay off his debts. N.T. 165.

14. From 2009 to the present, Petitioner's primary source of income has been Social Security. ODC-8; RQ, Question 12 and Supplement to Question 12.

15. Aside from working for one month in the spring of 2013 as a drug and alcohol counselor, Petitioner has not been employed in any capacity since 2010. N.T. 171, 211-213.

16. During the relevant time, Petitioner never sought employment as a paralegal, clerk or legal assistant at any law firm. N.T. 214.

17. In May 2019, Petitioner began volunteering intermittently at his local library. N.T.175-177, 215-216.

18. Petitioner began volunteering at the Innocence Project in August 2019, shortly before the time of his reinstatement hearing, and at that time had volunteered for five days. N.T. 180, 217.

19. Petitioner has not lived independently since he completed an inpatient rehabilitation program in New Jersey and moved to Pennsylvania. From April 2011 through the present, Petitioner has lived in either a “recovery house” or a “sober house.” These houses provide a structured living arrangement for individuals in recovery. N.T. 170, 218-221; ODC-8.

20. Petitioner has never practiced law in Pennsylvania. N.T. 235.

21. Petitioner has not subscribed to any legal periodicals, official reporters, or advance sheets during his period of disbarment. N.T. 222-223.

22. Petitioner testified that he reviewed reinstatement cases in preparation for his hearing. N.T. 223.

23. Petitioner occasionally observed trials at City Hall and at the Criminal Justice Center in Philadelphia. N.T. 223-224.

24. Petitioner fulfilled his Continuing Legal Education requirements by taking 36 credit hours. N.T. 235; RQ, Question 19.

25. Petitioner acknowledged his lack of familiarity with the Pennsylvania Rules of Civil Procedure, but testified that if he is reinstated, he would be “cautious” with respect to taking on cases and would potentially rely on other lawyers. N.T. 235-236.

26. Petitioner admitted that the path to starting a practice in Pennsylvania is unclear. N.T. 222, 234.

27. Petitioner suggested he might seek employment with the Innocence Project, accept referrals from courts, and accept per diem work from other attorneys. N.T. 182-183, 221.

28. Petitioner presented credible testimony from seven witnesses.

29. Stephen O’Hanlon, Esquire has been a member of the Pennsylvania bar since 2008 and has known Petitioner for approximately four and a half years from attendance at Lawyers Concerned for Lawyers (“LCL”) meetings. N.T. 21-21, 28.

30. Mr. O’Hanlon is aware of Petitioner’s disciplinary background and his desire to be reinstated. Mr. O’Hanlon testified that he has observed Petitioner working hard at his sobriety. N.T. 22-24.

31. Mr. O’Hanlon has never observed Petitioner performing legal work in any capacity. N.T. 28-29.

32. Mark Sheppard, Esquire has been a member of the Pennsylvania bar since 1987 and knows Petitioner through his involvement in LCL. N.T. 32-33.

33. Mr. Sheppard testified that Petitioner has been very open and honest about his addiction and past problems. N.T. 36.

34. Mr. Sheppard has never observed Petitioner's legal work and has never read any legal pleading or writing that Petitioner has prepared. N.T. 44-45.

35. Alan Denenberg, Esquire has been a member of the Pennsylvania bar for more than thirty years and has known Petitioner for approximately seven to ten years through their participation in LCL meetings. N.T. 47-48.

36. Mr. Denenberg testified that Petitioner is dedicated to his sobriety and further testified that Petitioner's mistakes in the past should not hinder his ability to be a practicing attorney. N.T. 51.

37. Mr. Denenberg has never observed Petitioner's legal work. N.T. 54.

38. Mr. Denenberg testified that he "probably" would have hired Petitioner to do legal work, but also testified that after reviewing the rules requiring a supervising attorney to monitor the disbarred lawyer, he was not personally interested in being involved in that situation. N.T. 55.

39. Harvey Thompson is a retired Pennsylvania-licensed psychologist and certified school psychologist who has known Petitioner for approximately five and a half years. N.T. 59-60.

40. Mr. Thompson serves as Petitioner's Alcoholics Anonymous ("AA") sponsor and has interacted with him at least twice per week over the past five years. N.T. 60, 68.

41. Mr. Thompson has witnessed Petitioner chairing "dozens" of AA meetings and helping others by openly sharing his background. N.T. 62-68.

42. Mr. Thompson testified that during the time he has known Petitioner, Petitioner has been continuously sober. N.T. 62.

43. David Cooper is an appliance salesman and has known Petitioner for about eleven or twelve years. Mr. Cooper was Petitioner's first sobriety monitor. Mr. Cooper testified that when he was Petitioner's monitor, they spoke two or three times a week, and currently, Mr. Cooper talks to Petitioner a couple of times a month. Mr. Cooper has seen Petitioner grow and change from when he first started attending AA in that Petitioner takes ownership of what happened in his life, instead of blaming others. N.T. 78-79, 84-85.

44. William Kane, Esquire is a member of the New Jersey bar and is the director of the New Jersey Lawyers Assistance Program, which program is designed to help attorneys with personal problems, including substance abuse. Mr. Kane first met Petitioner in 1993, when he evaluated him in connection with a New Jersey disciplinary matter. At that time, Petitioner was not in recovery mode. N.T. 90-94.

45. Mr. Kane met again with Petitioner approximately five to seven years ago through the Assistance Program and observed that Petitioner was well into his recovery at that time. N.T. 102-104.

46. Mr. Kane testified that he was impressed by Petitioner's recovery and described it as "imbedded" and on an "ongoing path." N.T. 105.

47. Lenna Lipman is a nurse and has shared a personal relationship with Petitioner since 2012. Ms. Lipman has not observed Petitioner using alcohol or drugs during the time they have been together. N.T. 131-134.

III. CONCLUSIONS OF LAW

1. The misconduct for which Petitioner was disbarred is not so egregious as to preclude consideration of his Petition for Reinstatement. ***Office of Disciplinary Counsel v. John Keller***, 506 A.2d 872 (Pa. 1986).

2. Petitioner has met his burden of proof by clear and convincing evidence that a sufficient period of time has passed since the misconduct, during which he engaged in qualitative rehabilitation. ***In the Matter of Jerome J. Verlin***, 731 A.2d 600 (Pa. 1999).

3. Petitioner has failed to show by clear and convincing evidence that he has the competency and learning in the law required for reinstatement to the bar, 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)

IV. DISCUSSION

Petitioner seeks readmission to the practice of law in Pennsylvania following his disbarment by Order of the Supreme Court of Pennsylvania dated April 28, 2000, reciprocal to Petitioner's disbarment in New Jersey by Order dated November 3, 1999. The misconduct giving rise to Petitioner's disbarment was his misappropriation of client

funds in two matters through forgery of signatures on settlement checks. The Committee has recommended that Petitioner's request be denied on the basis that he is not competent and learned in the law, and therefore has not demonstrated his readiness to practice. Petitioner takes exception to the Committee's conclusions and urges the Board to recommend his reinstatement to the Court.

When a disbarred attorney seeks reinstatement, the Board and the Court must examine whether the magnitude of the breach of trust was so egregious as to preclude further reconsideration of the petition for reinstatement. As the Court held in **Keller**, "[i]n the case of disbarment, there is no basis for an expectation by the disbarred attorney of the right to resume practice at some future point in time." **Keller** at 875.

Petitioner's conduct that led to his disbarment was egregious. Theft of client funds and forgery are the types of misconduct that erode the public's confidence in the legal profession. However, in light of the Court's previous holdings, we cannot say Petitioner's misconduct was so great as to preclude his reinstatement. There are numerous examples where the threshold question has been met in cases involving conversion of entrusted funds. See **In the Matter of Lawrence D. Greenberg**, 749 A.2d 434 (Pa. 2000) (misappropriation of two million dollars and commission of perjury in bankruptcy proceeding); **In the Matter of William James Perrone**, 777 A.2d 413 (Pa. 2001) (improperly obtaining public funds allocated for indigent legal representation by filing false fee petitions); **In the Matter of Grahame P. Richards, Jr.**, No. 43 DB 1996 (D. Bd. Rpt. 8/23/2016) (S. Ct. Order 9/21/2016) (misappropriation of more than one million dollars in client funds); **In the Matter of Peter Joseph Payne, Jr.**, No. 197 DB

2012 (D. Bd. Rpt. 6/3/2019) (S. Ct. Order 7/22/2019) (misappropriation of \$500,000 in client funds).

The above-cited cases contain examples of flagrant acts of misconduct by Pennsylvania lawyers, all of whom met the threshold standard for reinstatement. The Board concludes that Petitioner's acts of misconduct, while extremely serious and a breach of his ethical responsibilities, are not so egregious as to prevent reinstatement.

Following our analysis of the *Keller* threshold, we next consider whether Petitioner, as a disbarred lawyer, has demonstrated that a sufficient period of time has passed since his misconduct, during which he engaged in qualitative rehabilitation. This entails scrutiny of Petitioner's post-disbarment conduct and efforts at rehabilitation to determine if they are sufficient to dissipate the detrimental impact of his conduct on the public trust. *Verlin* at 602. On this issue, we conclude that Petitioner met his burden.

Petitioner is 73 years of age and has been disbarred for twenty years. The unrefuted, credible testimony of Petitioner and his seven witnesses demonstrates that after years of struggling with alcohol and drug use, Petitioner has successfully remained sober for the past nine years. Petitioner candidly described his past disciplinary and criminal problems, his remorse for his actions, and the alcohol and drug use that contributed to these problems. He forthrightly discussed the personal losses he experienced due to his substance abuse, his persistent and ultimately successful efforts to achieve sobriety, his move to Pennsylvania, his residence at sober and recovery houses, his poor financial status, and his hopes for the future if he is reinstated. Each of

the witnesses, who included Pennsylvania attorneys, the director of the New Jersey Lawyer Assistance Program, and Petitioner's current and former AA sponsors, spoke persuasively as to Petitioner's diligent efforts to maintain his hard-won sobriety through attendance at AA and LCL meetings. We conclude that sufficient time has passed since Petitioner's misconduct during which he engaged in qualitative rehabilitation to remediate the behavior that led to his transgressions.

Determining whether reinstatement to practice is warranted requires examination of other criteria indicative of a petitioner's fitness. Pursuant to Pa.R.D.E. 218(c)(3), Petitioner must prove by clear and convincing evidence that he is morally qualified, competent and learned in the law, and that his resumption of practice will not be detrimental to the integrity and standing of the bar or the administration of justice, nor subversive of the public interest.

With all due respect and admiration for Petitioner's commitment to achieving and maintaining sobriety, we conclude that Petitioner is not fit to practice law in Pennsylvania, as he did not meet his burden to show that he is competent and learned in the law, nor did he clearly and convincingly demonstrate that his current resumption of the practice of law would not be detrimental to the public, the courts, or the profession. It is on these points that Petitioner's reinstatement request must be denied.

Prior to his disbarment, Petitioner practiced exclusively in New Jersey and never practiced law in Pennsylvania. Following his move to Pennsylvania in 2011, Petitioner has never been employed in the legal field as a paralegal, law clerk or legal assistant, nor has he held employment in a non-legal capacity. The sum total of

Petitioner's legal experience in Pennsylvania is his volunteer work at the Innocence Project for approximately five days shortly before the reinstatement hearing. Petitioner fulfilled the minimum 36 hours of Continuing Legal Education. He reviewed reinstatement matters pertinent to his own case, but did not review advance sheets, periodicals, or other sources to learn Pennsylvania law. Petitioner indicated he occasionally observed trials at City Hall and the Criminal Justice Center, but other than what he might have gleaned from watching such proceedings, there is no evidence that Petitioner is knowledgeable in Pennsylvania law and is ready to practice under the rules and procedures of this jurisdiction.

Since his move to Pennsylvania, Petitioner has lived solely in the structured environment of recovery or sober houses and as noted earlier, has not been employed in any capacity and has no demonstrable record of community or volunteer service. Petitioner suggested potential plans for legal employment if reinstated, which include seeking employment with the Innocence Project, accepting referrals from courts, and accepting per diem work from other attorneys. However, we note that none of the attorneys who testified on Petitioner's behalf indicated interest in employing Petitioner in any capacity, nor did Petitioner offer evidence that he had employment prospects at the Innocence Project. Petitioner admitted that his unstable living situation and precarious finances may impede his ability to practice law. These situations, in combination with Petitioner's lack of work history during his recovery from addiction, raise a concern that the rigors of legal practice may be too stressful, to the detriment of potential clients.

The reinstatement case of *In the Matter of Kirk Douglas Rhodes*, 170 DB 2002 (D. Bd. Rpt. 4/22/2014) (S. Ct. Order 9/30/2014) is on point with the instant matter. Therein, Rhodes, who was disbarred in New Jersey due to misappropriation of client funds and reciprocally disbarred in Pennsylvania, sought reinstatement in Pennsylvania. In its Report to the Court, the Board recommended denying reinstatement on the basis that Rhodes was not competent to practice law in Pennsylvania. Similar to the instant matter, the Board found that Rhodes had never practiced in Pennsylvania, had not studied or reviewed any materials pertinent to Pennsylvania law, such as advance sheets, legal periodicals or reporters, and had suggested no mentors or practitioners in Pennsylvania to support his commencement of practice. The Court accepted the Board's recommendation and denied Rhodes' reinstatement. We conclude that the reasoning in *Rhodes* is applicable to this matter.

This record demonstrates an applicant who has not met his burden as it relates to competency and learning in the law; these real deficiencies in Petitioner's request for reinstatement cannot be overcome by the sincere support and testimony of Petitioner's witnesses. The risk to the public, the courts and the profession is too great to permit Petitioner's reinstatement at this time. We are constrained to conclude that Petitioner's reinstatement would be detrimental to the integrity and standing of the bar and the administration of justice, and would be subversive of the public interest, and we recommend that the Petition for Reinstatement be denied.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that Petitioner, James Daniel Harrison, be denied reinstatement 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: 
Dion G. Rassias, Member

Date: 8.19.20