

IN THE SUPREME COURT OF PENNSYLVANIA

In the Matter of : No. 2126 Disciplinary Docket No. 3
: :
NEIL E. JOKELSON : No. 201 DB 2014
: :
: Attorney Registration No. 2486
: :
: (Philadelphia)
PETITION FOR REINSTATEMENT :

ORDER

PER CURIAM

AND NOW, this 6th day of October, 2023, 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 Nicole Traini
As Of 10/06/2023

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

In the Matter of : No. 2126 Disciplinary Docket No. 3
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: No. 201 DB 2014
NEIL ERIC JOKELSON : :
: Attorney Registration No. 2486
: :
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

On December 23, 2014, Petitioner, Neil E. Jokelson, filed a verified Statement of Resignation pursuant to Pa.R.D.E. 215. By Order dated January 15, 2015, the Court accepted the resignation and disbarred Petitioner on consent. On June 21, 2021, Petitioner filed a Petition for Reinstatement to the bar. On December 15, 2021,

Office of Disciplinary Counsel (“ODC”) filed a response opposing Petitioner’s reinstatement.

On March 24, 2022, a pre-hearing conference was held before the Hearing Committee Chair, after which time the Chair entered an order establishing a deadline for the parties to exchange exhibits, to exchange the names of witnesses with their contact information and a brief summary of their proposed testimony, and to file motions in limine.

The Hearing Committee (“Committee”) held a reinstatement hearing on June 15, June 23, and August 18, 2022. At the outset of the hearing, ODC moved into evidence Joint Exhibits ODC 1-34 and a signed Joint Stipulation that the exhibits were admissible into evidence without objection. Petitioner appeared pro se. He presented ten character witnesses and testified on his own behalf. ODC cross-examined Petitioner. At the conclusion of the hearing, the Chair held the record open for Petitioner to provide evidence that he had satisfied tax liens that that were listed as active. On September 16, 2022, ODC and Petitioner jointly supplemented the record with tax transcripts and jointly stipulated that the documents reflected a \$0 balance, and that those liens had been released.

On November 18, 2022, Petitioner filed a post-hearing brief in support of his Petition for Reinstatement. On December 9, 2022, ODC filed a post-hearing brief and requested that the Committee recommend to the Board that the Petition for Reinstatement be denied. By Report filed on February 27, 2023, the Committee concluded that Petitioner failed to meet his burden of proof by clear and convincing evidence that a sufficient period of time had passed since his misconduct, during which

he engaged in rehabilitation. The Committee further concluded that Petitioner did not meet his burden under Pa.R.D.E. 218(c)(3) that he was morally qualified, competent and learned in the law, and that his resumption of the practice of law would not be detrimental to the integrity and standing of the bar or the administration of justice nor subversive of the public interest. For these reasons, the Committee recommended that Petitioner's reinstatement be denied.

On March 29, 2023, Petitioner filed exceptions to the Committee's Report and recommendation. ODC filed a brief opposing exceptions on April 14, 2023. The Board adjudicated this matter at the meeting on July 25, 2023.

II. FINDINGS OF FACT

The Board makes the following findings:

1. Petitioner, Neil Jokelson, was born on May 21, 1944, and was admitted to the bar of the Commonwealth of Pennsylvania in 1968.
2. Petitioner's law practice over the years included time spent as a law clerk and public defender, and eventually private practice at his own firm. N.T. III, 13-25.
3. On September 16, 1991, Petitioner received an informal admonition for failing to provide the client with a written fee agreement and failing to return the client's property, including the unearned portion of the retainer fee, within a reasonable time after being terminated from representation. ODC-1.
4. On July 23, 1992, Petitioner received an informal admonition for failing

to provide a written fee agreement to a client, lack of diligence, and lack of communication. ODC-2.

5. On August 27, 1993, Petitioner received a private reprimand related to three separate matters, which included failing to provide a written fee agreement, failing to take action, failing to communicate, and failing to refund unearned fees. ODC-3.

6. On December 3, 1993, Petitioner received a private reprimand for lack of diligence, failure to communicate, and failure to release the client's file. ODC-4.

7. On February 26, 2001, Petitioner received a public censure and three years of probation with a practice monitor for misconduct in two separate client matters where he neglected the matters, failed to communicate, and failed to respond to Court orders. ODC-5.

8. On January 15, 2015, the Supreme Court of Pennsylvania accepted Petitioner's verified Statement of Resignation and disbarred him on consent. Petitioner's disbarment was based on two charges. In the first charge, Petitioner had an overdraft in his IOLTA account and paid business expenses from that account, and in the second charge, Petitioner converted settlement funds to his own use. ODC-6.

9. Petitioner testified on his own behalf at the reinstatement hearing.

10. At the outset of Petitioner's reinstatement hearing, he repeatedly asserted, "I did not convert funds" despite the fact that he had submitted a verified Statement of Resignation admitting to converting funds. N.T. 1, 55, 56, 90-91.

11. As a result of Petitioner's repeated insistence that he did not convert

fiduciary funds, the Committee Chair recessed the hearing so that he could review the record, including Petitioner's verified Statement of Resignation in which Petitioner admitted to conversion. N.T. I61-62; ODC-6.

12. The Committee Chair overruled Petitioner's objection that Petitioner had not converted fiduciary funds. N.T. I, 88-90, 91.

13. Petitioner subsequently testified, "I think in a technical sense, I, I think, literally converted funds." N.T. III, 180.

14. Petitioner acknowledged that he is responsible for his misconduct giving rise to his disbarment. N.T. III, 10.

15. Following his disbarment, Petitioner failed to notify all courts that he was admitted to—specifically the U.S. Tax Court, the United States Supreme Court, and the U.S. Court of Appeals for the Fourth Circuit—of his disbarment. ODC-8, ¶1; N.T. III, 70-71.

16. Petitioner had multiple errors and omissions on his Reinstatement Questionnaire. ODC-33.

- a. Petitioner failed to provide information and attach documents pertaining to the lawsuits in which he was a party.
- b. Petitioner failed to provide information and attach documents pertaining to the malpractice lawsuits filed against him, of which he was a defendant in 19 such lawsuits. ODC-16(a)-(t).
- c. Petitioner incorrectly answered "no" to a question concerning unsatisfied judgments, when in fact there were five open judgments on court records.

- d. Petitioner incorrectly answered “no” to the question whether he had ever been disciplined by another jurisdiction, when in fact he was disbarred by the Eastern District of Pennsylvania, District Court of New Jersey, Third Circuit Court of Appeals, and Tax Court.

17. In response to ODC’s request that Petitioner provide information about the lawsuits in which he was a party (ODC-7, q. 4), Petitioner provided a chart listing 245 lawsuits. ODC-16.

- a. Petitioner’s chart failed to include five lawsuits in which he was party in Florida, including a Florida lawsuit that was filed against Petitioner three months before he applied for reinstatement. ODC-18(a) – (e).
- b. Petitioner testified that the Florida lawsuit “just slipped my mind.” N.T. III, 63.
- c. Petitioner’s chart failed to list two cases filed against him in Pennsylvania. ODC-17, ODC-30(c)(1).
- d. Petitioner testified that he was unaware and had completely forgotten about these cases. N.T. III, 127-128; ODC-12, p. 3.

18. Petitioner described himself as “not very good with paperwork” and testified that his disorganized office procedures contributed to his disciplinary issues over the years. He further testified that he “overextended himself,” should have been better organized, and should have had fewer cases. N.T. III, 31-32, 98,99, 273. Petitioner described his law practice as “chaotic” and his organizational skills as “pathetic.” N.T. III, 39, 273.

19. Petitioner took 41.5 CLE credit hours, 5.5 above the 36 required hours for reinstatement. The credit hours included a 2 hour course on IOLTA accounts and a 1.5 hour course on “Going Solo: The Business of Lawyering.” ODC-33, No. 19(a).

20. Petitioner failed to introduce evidence of rehabilitative efforts to overcome his long-term known deficiencies in disorganization, which he admitted led to his misconduct, and to remedy his admitted disorganization.

21. Subsequent to his disbarment, between 2015 and 2018, Petitioner testified that for a considerable period he had health issues. N.T. III, 249.

22. Petitioner did not offer evidence of rehabilitative efforts between 2015 and 2018.

23. Petitioner cared for his ill wife from 2018 until her death in May 2020. N.T. I, 14-15; N.T. III, 88-90, 249.

24. Since 2020, Petitioner has provided full-time care to a disabled friend, which includes taking her to exercise classes several days per week, where he assists the exercise instructor. N.T. I, 15-16; N.T. III, 92-96.

25. Petitioner offered no evidence of law-related or non-legal employment. ODC-33, No. 11(a).

26. Petitioner offered no evidence of charitable or community service.

27. If reinstated, Petitioner intends to handle the occasional case, consult, or teach. N.T. III, 107.

28. Petitioner described his disbarment as “humiliating” and seeks reinstatement to “remove the shameful humiliation under which I labor.” N.T. III, 99, 107.

29. Petitioner offered the testimony of ten character witnesses.

30. The character witnesses offered evidence regarding Petitioner's legal performance and acumen in the decades prior to his disbarment.

31. The character witnesses did not know the complete factual basis for Petitioner's disbarment on consent. N.T. 1, 50-51, 62-64 (The Honorable Frederica Messiah-Jackson (retired)), 101 (Bernard Chanin, Esquire), 127-129 (Richard Gerson, Esquire), 167 (Jay Rothman, Esquire), 196 (Andrew Braunfeld, Esquire), 219 (Gary Samms, Esquire), 258 (Terence Gibbs, Sr.); N.T. II, 15 (Jeffrey Miller, Esquire), 38 (Marvin Wilenzik, Esquire), and 73 (Yeidja Bostick) (Ms. Bostick did not know Petitioner was disbarred and hoped he had retired).

32. Some witnesses were not aware that Petitioner had been disbarred until years after the 2015 disbarment.

a. Mr. Gibbs testified that he found out from Petitioner directly of the disbarment in the past year, and "until recently, I was not clear on the matter." N.T. I, 256, 257.

b. Mr. Samms testified that he did not know of Petitioner's disbarment in 2015 but learned of it later from Petitioner's sons, who are lawyers. N.T. I, 217-218.

33. Upon being informed that Petitioner had converted fiduciary funds:

a. Mr. Samms opined that it was very serious misconduct and reflected negatively on the legal profession. N.T. I, 219-220.

- b. Mr. Rothman opined that an attorney's conversion of fiduciary funds "would be reflective of somebody's character." N.T. I, 172.
 - c. Mr. Gibbs testified that Petitioner advised him that he was disbarred because of "some funds that didn't go where they should have gone" due to the office manager passing away. N.T. I, 258.
34. Many character witnesses had little or no contact, personal or otherwise, with Petitioner since his disbarment and had no knowledge of his post-disbarment activities.
- a. Judge Messiah-Jackson testified that she has had no personal contact with Petitioner since his 2015 disbarment, save for the exchange of Christmas cards. N.T. 1, 48.
 - b. Mr. Chanin testified that he had not spoken to Petitioner at all in the interval between Petitioner's 2015 disbarment and the 2022 reinstatement proceedings. N.T. I, 109.
 - c. Mr. Rothman testified that he had not communicated with Petitioner since 2015. N.T. I, 174.
 - d. Mr. Braunfeld testified that he did not have any information about Petitioner's activities in the six to seven years preceding the 2022 reinstatement hearing. N.T. I, 201.
 - e. Mr. Samms testified that he had no contact with Petitioner post-disbarment until Petitioner contacted him a week prior to the reinstatement hearing. N.T. I, 223-24.

35. Several witnesses testified that they understood Petitioner was playing a lot of golf in Florida. N.T. I, 48, 174 263; N.T. II, 40.

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 J. Keller*, 506 A.2d 872, 875 (Pa. 1986).

2. Petitioner failed to prove by clear and convincing evidence that he has engaged in a sufficient period of rehabilitation during his disbarment. *In the Matter of Jerome J. Verlin*, 731 A.2d 600, 602 (Pa. 1999).

3. Petitioner failed to prove by clear and convincing evidence that he has the moral qualifications and competency for reinstatement to the bar, and that his resumption of practice 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 disbarment on consent on January 15, 2015. The Committee recommended denying reinstatement based on its conclusion that Petitioner failed to provide proof of his rehabilitation during the past eight years sufficient to demonstrate fitness to resume practice. Petitioner takes exception to that recommendation. Upon the record before us, and considering the

parties' briefs, for the following reasons, we conclude that Petitioner failed to satisfy his burden and we recommend that reinstatement be denied.

The primary purpose of the lawyer disciplinary system is to protect the public, preserve the integrity of the courts, and deter unethical conduct. *Office of Disciplinary Counsel v. Paul M. Pozonsky*, 177 A.3d 830, 838 (Pa. 2018). As a threshold matter, when a disbarred attorney seeks reinstatement, the Board and the Court must examine whether the magnitude of the breach of trust is so egregious as to preclude further reconsideration of the petition for reinstatement. *Office of Disciplinary Counsel v. John Keller*, 506 A.2d 872, 875 (Pa. 1986).

Here, Petitioner signed a verified statement of resignation accepting disbarment on consent, in which he admitted his conversion of fiduciary funds and mishandling of his IOLTA account. Petitioner's misconduct is serious, as he misused entrusted funds and breached his fiduciary responsibilities. Nevertheless, consistent with the decisional law, we conclude that Petitioner's misconduct is not so egregious that it should prohibit his reinstatement. Petitioner's misconduct is similar to that of other attorneys who have been disbarred for converting fiduciary funds and who met the Keller standard. See, *In the Matter of Lawrence Greenberg*, 749 A.2d 434 (Pa. 2000) (misappropriation of two million dollars and commission of perjury in a bankruptcy not so egregious as to warrant permanent disbarment); *In the Matter of Robert Costigan*, 664 A.2d 518 (Pa. 1995) (theft conviction was not a breach of trust of significant magnitude to forever bar the attorney seeking readmission). Accordingly, Petitioner has satisfied the *Keller* threshold and is not barred from seeking reinstatement.

We next consider whether Petitioner has established by clear and convincing evidence that he has the moral qualifications, competency and learning in the law required for admission to practice law in Pennsylvania and, further, that his readmission would not have a detrimental impact on the integrity and standing of the bar, the administration of justice nor be subversive of the public interest. Pa.R.D.E. 218(c)(3). To satisfy his burden, Petitioner must prove that his conduct and efforts at rehabilitation during his period of disbarment were sufficient to dissipate the detrimental impact of his serious misconduct on the public trust. *In the Matter of Verlin*, 731 A.2d at 602.

Petitioner has been disbarred for eight years. The tone of this reinstatement proceeding was set on the first day of the three-day hearing, when Petitioner failed to acknowledge that he was disbarred for converting fiduciary funds. Petitioner repeatedly objected to ODC's cross-examination of his character witnesses and asserted, "I did not convert funds." N.T. I, 55, 56. As a result of Petitioner's repeated insistence that he did not convert entrusted funds, the Committee Chair recessed the hearing in order to review the record, including Petitioner's verified resignation statement filed with the Court on December 23, 2014, where he admitted to conversion. Despite this clarification, Petitioner clung to his distorted view of his misconduct and testified, "I think in a technical sense, I, I think, literally converted funds." N.T. III, 180. Petitioner did not fully embrace that he converted funds, and attributed his problems to issues with a new bookkeeper at his firm. N.T. III, 175-178. While Petitioner later acknowledged responsibility for his misconduct (N.T. III, 10), his inability to accept that he converted entrusted funds without parsing the

details as something other than conversion establishes that Petitioner's expression of remorse was not genuine and sincere.

Petitioner testified to his extensive prior record of discipline involving mismanagement and failure of oversight on his part, and his long history of law practice disorganization that he admitted contributed to many of the incidents of misconduct. N.T. III, 79-81, 174-175, 273. Petitioner admitted that "I'm really not very good with paperwork." N.T. III, 32. Petitioner testified that "as a lawyer, [his] organization skills were pathetic" and his law practice was "chaotic." N.T. III, 39, 273. We emphasize, as did the Committee, that the focus of the instant reinstatement proceeding is not on Petitioner's record of discipline that occurred prior to his disbarment, but rather on his activities post-disbarment. However, Petitioner raised his practice management deficiencies to explain his disciplinary record and the natural follow-up to his acknowledgements on this topic is his success in addressing these deficiencies. Unfortunately, the record contains scant evidence to show that Petitioner remedied these long-standing problems. Petitioner completed the 36 CLE course credits required for reinstatement, plus an additional 5.5 credits, for a total of 41.5 credits. These credit hours included a 2 hour course on IOLTA accounts and 1.5 hour course on "Going Solo: The Business of Lawyering." Other than these course credits totaling 3.5 hours, Petitioner did not provide evidence to demonstrate how he has addressed or plans to address the self-admitted disorganization that has long plagued his legal career.

Petitioner's Reinstatement Questionnaire filed on June 21, 2021, demonstrates that Petitioner's organizational skills and handling of paperwork have not

improved, as the Questionnaire contained misstatements and omitted information regarding, among other things, Petitioner's disciplinary history in other jurisdictions, lawsuits filed against Petitioner, which were later revealed upon ODC's investigation to number in the hundreds, and unsatisfied judgments. These errors and omissions reinforce our conclusion that Petitioner is not rehabilitated and raises issues of Petitioner's competency.

Petitioner's own testimony focused heavily on his activities prior to his disbarment, with very minimal evidence as to his post-disbarment life, which raises the question whether Petitioner truly grasped the focus of the instant proceeding as a "searching inquiry into a lawyer's *present* professional and moral fitness to resume the practice of law." *Philadelphia News, Inc. v. Disciplinary Board of the Supreme Court of Pennsylvania*, 363 A.2d 779, 780-781 (Pa. 1976) (emphasis added).

Regarding his post-disbarment conduct, Petitioner credibly testified that from 2018 to May 2020, he cared for his ill wife until her death, and for the past two years, he has been the caretaker for a disabled friend. These activities are considered as rehabilitation. See, *In the Matter of Joseph A. Gembala, III*, No. 21 DB 2012 (D. Bd. Rpt. 5/10/2022, p. 22) (S. Ct. Order 6/21/2022). While these caregiving activities may explain how Petitioner has spent his time since 2018, Petitioner has been disbarred since 2015. The record is devoid of evidence regarding Petitioner's rehabilitative efforts between 2015 and 2018.

Turning to Petitioner's character evidence, we find that the witnesses offered nothing of substance to support Petitioner's claim that he is rehabilitated. The

testimony of the witnesses focused primarily on Petitioner's legal acumen during his practice prior to disbarment. Many of the witnesses were unaware of the factual details of the underlying misconduct, had not personally been informed by Petitioner about his disbarment, and learned of his disciplinary status years later from other people. One witness was unaware that Petitioner was a disbarred lawyer and thought he was retired. Most of the witnesses have had no contact with Petitioner since 2015 and offered little if any insight into Petitioner's conduct during the past seven or eight years, other than his penchant for golf. As did the Committee, we find these witnesses to be well-meaning, but accord little weight to their testimony, as we have gleaned nothing from their testimony by which to assess Petitioner's current character and determine his present moral fitness. *See, In the Matter of Jon Ari Lefkowitz*, No. 125 DB 2018 (D. Bd. Rpt. 1/3/2022) (S. Ct. Order 4/1/2022) (Many of Lefkowitz's ten character witnesses conceded a lack of knowledge of the details of Petitioner's criminal conduct that led to his two year suspension, leading the Board to accord no substantial weight to the testimony).

The determination of what constitutes rehabilitation sufficient to meet a petitioner's burden of proof depends on the facts and circumstances of each matter, requiring the Board to view the record as a whole and closely examine the petitioner's period of removal from legal practice. We emphasize that there is no exhaustive checklist of rehabilitative acts that a petitioner must meet for reinstatement. However, the decisional law provides many examples of rehabilitation. From these cases, we conclude that successful petitioners show evidence of rehabilitation based on the entirety of their time on disbarment or suspension, not just during certain periods. The Board has found

the following to be elements of rehabilitation: expressing genuine remorse and accepting responsibility for the underlying misconduct; engaging in continuous employment in a competent manner either of a law-related or non-legal nature; addressing and remedying underlying issues that led to the misconduct; getting financial affairs in order; meeting family obligations; engaging in community service or charitable endeavors; seeking professional treatment when necessary; and strong character testimony. See, *In the Matter of Joshua Lawrence Gayl*, No. 79 DB 2016 (D. Bd. Rpt. 9/19/2022) (S. Ct. Order 10/25/2022); *In the Matter of John Anthony Costalas*, No. 217 DB 2015 (D. Bd. Rpt. 4/28/2022) (S. Ct. Order 6/10/2022); *In the Matter of Sandra Couch Collins*, No. 141 DB 1996 & 37 DB 1996 (D. Bd. Rpt. 3/14/2022) (S. Ct. Order 5/4/2022); *In the Matter of Dawn A. Segal*, No. 195 DB 2018 (D. Bd. Rpt. 4/13/2021) (S. Ct. Order 5/3/2021); *In the Matter of Cory Adam Leshner*, No. 159 DB 2013 (D. Bd. Rpt. 11/10/2020) (S. Ct. Order 12/16/2020); *In the Matter of Lisa Reo Jenkins*, No. 81 DB 2006 (D. Bd. Rpt. 11/4/2015) (S. Ct. Order 12/10/2015).

Our scrutiny of the record concerning Petitioner's post-disbarment conduct reveals a dearth of the type of evidence that has been found to constitute significant rehabilitation sufficient to establish the fitness required to resume the practice of law. The instant record shows minimal rehabilitation that occurred only during a discrete portion of the eight year disbarment. This paucity of evidence, combined with conflicting evidence of Petitioner's genuine remorse, the lack of compelling evidence to establish that he has addressed practice issues that contributed to his misconduct, and his deficient Reinstatement Questionnaire demonstrates the "accumulation of shortcomings" the

Committee found fatal to Petitioner’s application for reinstatement. As Petitioner has failed to meet his burden by clear and convincing evidence, his reinstatement should be denied at this time. See, *In the Matter of William Jay Gregg*, No. 210 DB 2009 (D. Bd. Rpt. 12/5/2017, p. 12) (S. Ct. Order 2/5/2018) (the Board found that Gregg “failed to show that he has made significant rehabilitation efforts since the time of his disbarment.”); *In the Matter of Lawrence J. DiAngelus*, No. 189 DB 2003 (D. Bd. Rpt. 1/3/2013, p. 6) (S. Ct. Order 4/24/2013) (DiAngelus failed to provide evidence of changes that had occurred since his suspension that helped him rehabilitate from the underlying misconduct).

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that the Petitioner, Neil Eric Jokelson, 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: /s/ Gretchen A. Mundorff
Gretchen A. Mundorff, Member

Date: 08/10/2023