

IN THE SUPREME COURT OF PENNSYLVANIA

In the Matter of	:	No. 743 Disciplinary Docket No. 3
	:	
WAYNE ANTHONY RODNEY	:	Nos. 118 DB 2000 & 59 DB 2005
	:	
PETITION FOR REINSTATEMENT	:	Attorney Registration No. 68464
	:	(Philadelphia)

ORDER


PER CURIAM:

AND NOW, this 7<sup>th</sup> day of November, 2007, upon consideration of the Report and Recommendations of the Disciplinary Board dated September 27, 2007, the Petition for Reinstatement is granted.

Pursuant to Rule 218(e), Pa.R.D.E., petitioner is directed to pay the expenses incurred by the Board in the investigation and processing of the Petition for Reinstatement.

A True Copy Patricia Nicola

As of: November 7, 2007

Attest: 

Chief Clerk

Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

In the Matter of : No. 743, Disciplinary Docket  
: No. 3  
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WAYNE ANTHONY RODNEY : Nos. 118 DB 2000 & 59 DB 2005  
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: Attorney Registration No. 68464  
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 November 2, 2006, Wayne Anthony Rodney filed a Petition for Reinstatement to the bar of the Supreme Court of Pennsylvania. Petitioner was suspended for one year and one day by Order of the Supreme Court of Pennsylvania dated June 13, 2002. This suspension was based on Petitioner's unauthorized practice of

law while on inactive status. Petitioner was suspended for one year and one day, consecutive to his prior suspension, by Order of the Supreme Court dated November 10, 2005. This suspension was the result of Petitioner's misappropriation of \$6,587 from a client. Office of Disciplinary Counsel filed a Response to Petition for Reinstatement on February 9, 2007, and stated that it would reserve the right to oppose the Petition for Reinstatement.<sup>1</sup>

A reinstatement hearing was held on April 5, 2007, before a District I Hearing Committee comprised of Chair Samuel Cohen, Esquire, and Members Michelle Albright Schultz, Esquire, and Michael D. Jones, Esquire. Petitioner appeared pro se. He presented documentary evidence and the testimony of three character witnesses. Petitioner testified on his own behalf. Office of Disciplinary Counsel submitted documentary evidence and cross-examined Petitioner's witnesses.

The Hearing Committee filed a Report on August 8, 2007 and recommended that the Petition for Reinstatement be granted.

No Briefs on Exception were filed by the parties.

This matter was adjudicated by the Disciplinary Board at the meeting on September 10, 2007.

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<sup>1</sup>By letter dated June 6, 2007, Office of Disciplinary Counsel advised the Hearing Committee it would not file a brief in opposition to the Petition for Reinstatement.

II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner is Wayne Anthony Rodney. He was born in 1967 and was admitted to practice law in the Commonwealth in 1993. His current address is 953 Remington Road, Wynnewood PA 19096.

2. By Supreme Court Order, dated June 13, 2002, Petitioner was suspended from the practice of law in the Commonwealth of Pennsylvania for a period of one year and one day.

3. Petitioner's suspension was a result of his unauthorized practice of law while on inactive status.

4. Petitioner received notice in 1997 that he was transferred to inactive status and was aware that he was prohibited from practicing law while on inactive status.

5. During the term of inactive status, Petitioner continued to represent clients and entered his appearance in three matters in state court.

6. In November 1999, Office of Disciplinary Counsel advised Petitioner that he must comply with Rule 217, Pa.R.D.E.

7. Petitioner did not withdraw from all of his cases, did not advise the Court or opposing counsel of his inactive status and did not provide copies of the withdrawals to Disciplinary Counsel.

8. Thereafter, Petitioner was put on notice of allegations of unauthorized practice of law and related misconduct by Letter Requesting Statement of Respondent's Position (DB-7).

9. After Petitioner received the DB-7, he continued to represent a client in one matter and failed to withdraw his appearance.

10. By Supreme Court Order dated November 10, 2005, Petitioner was suspended from the practice of law in the Commonwealth of Pennsylvania for a period of one year and one day, consecutive to the suspension ordered by the Court on June 13, 2002.

11. Petitioner's suspension was a result of his knowing and intentional misappropriation of approximately \$6,587 in one client matter between October 2000 and July 2001.

12. In December 2003 Petitioner made full restitution to the client.

13. On November 2, 2006, Petitioner filed a Petition for Reinstatement and Reinstatement Questionnaire with the Disciplinary Board.

14. Petitioner did not report his 2002 suspension to the United States Court of Appeals for the Third Circuit within ten days of his suspension, as required by the Rules of Attorney Disciplinary Enforcement of the United States Court of Appeals for the Third Circuit.

15. Petitioner did not "promptly" report his suspension to the United States District Court for the Eastern District of Pennsylvania, as required by that Court's Rules.

16. Petitioner did not report his 2002 suspension to the Executive Office of Immigration Review, before whom he had represented clients.

17. After an inquiry by Office of Disciplinary Counsel as part of its investigation of the Petition for Reinstatement, Petitioner, by letters dated February 5, 2007, notified each jurisdiction of his suspension.

18. Since his suspensions began, Petitioner engaged in a number of occupations outside the legal profession. He worked for UPS as a part-time package handler; for VKG Associates as a software trainer; and for CTB-McGraw-Hill as a training supervisor and content specialist.

19. Petitioner performed paralegal services for Danny Elmore, Esquire, and is currently employed as a paralegal by Valerie A. Hibbert, Esquire.

20. Petitioner attended 36 hours of CLE in 2005 and 36 hours of CLE in 2006 in preparation for his readmission.

21. Petitioner offered the credible testimony of three character witnesses.

22. Danny Elmore, Esquire, is a Philadelphia attorney who has known Petitioner since approximately 1994. Mr. Elmore employed Petitioner during his suspensions and was impressed by Petitioner's research and writing skills.

23. Mr. Elmore was able to observe the impact that the suspension had on Petitioner, and saw that Petitioner exhibited responsibility for his misconduct. Mr. Elmore believes that Petitioner would be an asset to the legal community.

24. Daniel Ferreira, Esquire, is an attorney licensed in the State of New York. He has known Petitioner since 1989, when they attended law school at Cardozo Law School in New York. He described Petitioner as a very skilled and competent attorney who would be an asset to the legal community in Philadelphia.

25. Valerie A. Hibbert, Esquire, is an attorney in Lansdowne, Pennsylvania who has known Petitioner since college. She is Petitioner's current employer. Ms. Hibbert described Petitioner as being "lost" after his suspension, but she believes that he has accepted his wrongdoing and is ready to move on with his life in a positive way.

26. Petitioner expressed sincere remorse and recognition of his wrongdoing. He suffered embarrassment and emotional trauma due to his suspensions, but gained a new resolve to go forward.

27. If reinstated Petitioner plans to practice in the Counties of Philadelphia, Montgomery and Delaware, and possibly with Attorney Hibbert.

### III. CONCLUSIONS OF LAW

1. Petitioner has demonstrated 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. Pa.R.D.E. 218(c)(3)(i)

2. Petitioner has demonstrated by clear and convincing evidence that his present resumption of the practice of law would not have a detrimental effect upon the

integrity and standing of the bar, the administration of justice or the public interest.

Pa.R.D.E. 218(c)(3)(i)

IV. DISCUSSION

Petitioner seeks reinstatement from suspensions imposed in two separate matters. Petitioner was suspended by Order of the Supreme Court on June 13, 2002 for a period of one year and one day. He was suspended for one year and one day consecutive to the 2002 suspension, by Order of the Supreme Court dated November 10, 2005.

Pursuant to Rule 218(a), 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 Supreme Court of Pennsylvania. In order for Petitioner to gain reinstatement, he has the burden of proving by clear and convincing evidence that he possesses the moral qualifications, competency and learning in the law required for admission to practice law in this Commonwealth. In addition, Petitioner has the burden of demonstrating that his resumption of the practice of law will not be detrimental to the integrity and standing of the bar or administration of justice, nor subversive of the public interest. Rule 218(c)(3)(i), Pa.R.D.E.

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 which gave rise to the lawyer's suspension, but rather the nature and extent of the rehabilitative efforts the lawyer has made since the time that the sanction

was imposed, and the degree of success achieved in the rehabilitative process. Philadelphia News, Inc., v. Disciplinary Board of the Supreme Court, 363 A.2d 779 (Pa. 1976).

Petitioner's 2002 suspension arose from his unauthorized practice of law while on inactive status. Petitioner's 2005 suspension arose from his misappropriation of \$6,587 in a client matter, which occurred between October 2000 and July 2001. Petitioner made full restitution to the client in December 2003.

Petitioner has provided clear and convincing evidence that he is fit and qualified to practice law in Pennsylvania. Petitioner has been removed from the practice of law since June 13, 2002. Since his initial suspension, Petitioner has worked at various occupations, both within and outside of the legal profession. Petitioner worked as a package handler for United Parcel Service and as a software instructor and user documentation expert for a company commissioned to train and instruct employees of the Philadelphia License and Inspections Department. Petitioner worked as a training supervisor and content specialist for CTB-McGraw-Hill.

In 2002 Petitioner worked as an independent contractor paralegal for Danny Elmore, Esquire, where he had the opportunity to perform legal research and writing. In 2005 Petitioner began working as a paralegal for Valerie Hibbert, Esquire. Petitioner maintained his legal education by attending Continuing Legal Education courses, completing 36 hours of course work in 2005 and 36 hours in 2006.

In support of his reinstatement, Petitioner presented three character witnesses, who testified credibly as to Petitioner's remorse. Attorney Elmore had meaningful opportunities to observe the impact the suspension had on Petitioner. He encouraged Petitioner to persevere and work to regain his license. Attorney Daniel Ferreira felt disappointment with Petitioner that he had committed misconduct, but was able to see the remorse Petitioner displayed and the responsibility he took for his wrongdoing. Attorney Hibbert has known Petitioner since college and has known his reputation in the community prior to the suspension as an excellent attorney. These witnesses fully support Petitioner's reinstatement and believe he will be an asset to the bar and the public.

Petitioner has expressed his sincere remorse and desire to re-enter the legal profession. The testimony of Petitioner and his witnesses supports a finding that while Petitioner displayed poor judgment and made missteps in his legal career and personal life, he has made changes that demonstrate he is a fit and competent individual. For these reasons the Board recommends that the Petition for Reinstatement be granted.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that Petitioner, Wayne Anthony Rodney, be reinstated to the practice of law.

The Board further recommends that, pursuant to Rule 218(e), 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:   
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Marc S. Raspanti, Board Member

Date: September 27, 2007

Board Members Pietragallo, Baer, Cognetti and Buchholz did not participate in the adjudication.