

IN THE SUPREME COURT OF PENNSYLVANIA

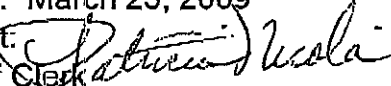
In the Matter of : No. 1071 Disciplinary Docket No. 3
: :
: No. 158 DB 2003
RICHARD B. MOORE : :
: Attorney Registration No. 15140
: :
PETITION FOR REINSTATEMENT : (Philadelphia)

ORDER

PER CURIAM:

AND NOW, this 25th day of March, 2009, upon consideration of the Report and Recommendations of the Disciplinary Board dated December 23, 2008, 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: March 25, 2009
Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

In the Matter of : No. 1071, Disciplinary Docket
: No. 3
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RICHARD B. MOORE : No. 158 DB 2003
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PETITION FOR REINSTATEMENT : Attorney Registration No. 15140
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: (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 October 16, 2007, Richard B. Moore filed a Petition for Reinstatement and Supplement to Petition for Reinstatement with the Disciplinary Board of the Supreme Court of Pennsylvania. Mr. Moore was suspended for a period of two years by Order of the Supreme Court dated November 10, 2005. On October 22, 2007, Petitioner filed another

Supplement to Petition for Reinstatement. Office of Disciplinary Counsel filed a Response to Petition for Reinstatement on February 22, 2008, and raised several issues of concern.

A reinstatement hearing was held on April 29, 2008, before a District I Hearing Committee comprised of Chair Samuel Cohen, Esquire, and Members Louis W. Schack, Esquire, and Kevin J. O'Brien, Esquire. Petitioner was represented by Samuel C. Stretton, Esquire. Petitioner testified on his own behalf and offered the testimony of 11 witnesses.

Following the submission of briefs by the parties, the Hearing Committee filed a Report on August 26, 2008, and recommended that the Petition for Reinstatement be granted.

Office of Disciplinary Counsel filed a Brief on Exceptions on September 15, 2008, and requested oral argument before the Disciplinary Board.

Petitioner filed a Brief Opposing Exceptions on October 9, 2008.

Oral argument was held on October 29, 2008, before a three member panel of the Disciplinary Board.

This matter was adjudicated by the Disciplinary Board at the meeting on November 12, 2008.

II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner is Richard B. Moore. He was born in 1943 and was admitted to practice law in Pennsylvania in 1972. His current business address is 406 S. 16th St., Philadelphia PA 19146.

2. By Order of the Supreme Court of Pennsylvania dated November 10, 2005, Petitioner was suspended from the practice of law in Pennsylvania for a period of two years.

3. Petitioner's suspension was a result of his representation of an executrix of an estate. Petitioner charged excessive fees and demanded "loans" from the estate without any security or payment terms. Petitioner failed to account for and properly remit funds received for payment of decedent's federal income taxes, timely pay inheritance taxes and file a return, file an accounting, and make restitution until after an award was made by the Pennsylvania Lawyer's Fund for Client Security.

4. Petitioner's conduct violated Rules of Professional Conduct 1.1, 1.3, 1.4(a), 1.4(b), 1.5(b), and 8.4(c).

5. Petitioner had never been previously disciplined prior to the two year period of suspension.

6. Since his suspension, Petitioner has not practiced law or held himself out as an attorney.

7. During his suspension, Petitioner acted as an administrator for two estates. Prior to accepting this employment, Petitioner contacted Samuel Stretton,

Esquire, for legal advice on the propriety of his doing so. Mr. Stretton informed him that there was nothing prohibiting him from acting as an administrator.

8. Harold Thompson requested Petitioner to act as the executor of his father's estate. Mr. Thompson was aware that Petitioner was suspended from the practice of law and Petitioner suggested to Mr. Thompson that he might want legal counsel. Petitioner did not give any legal advice to Mr. Thompson. Mr. Thompson expressed satisfaction with Petitioner's accomplishment of his duties, stating that the estate was concluded and all beneficiaries received what was due.

9. Kathlene Tucker requested Petitioner to act as administrator of the estate of her mother, Susan Ford. Ms. Tucker has known Petitioner since he was young, as Ms. Tucker's mother had worked for Petitioner's father as a legal secretary. Ms. Tucker knew Petitioner was a suspended attorney, and in fact had testified on Petitioner's behalf at his disciplinary hearing. Petitioner did not give legal advice to Ms. Tucker. Petitioner concluded the estate and helped Ms. Tucker to settle disputes between herself and her sister.

10. Petitioner was cross-examined by Office of Disciplinary Counsel regarding the estate administration fees in the Ford Estate that came out to be more than 5%. Petitioner notified Ms. Tucker and her sister each time he took the fees and stated that there were difficulties with the estate, which caused him to take more money to compensate for his additional time.

11. Neither Mr. Thompson nor Ms. Tucker complained of excessive fees in the handling of the estates. Both individuals praised Petitioner's work.

12. Petitioner was questioned regarding several letters in the estate files that addressed him as "Esquire." Petitioner indicated that he informed all persons that he was suspended from the practice of law and did not hold himself out as an attorney.

13. In addition to administering the two estates, Petitioner taught high school age students at the Mathematics, Civics and Science Charter School in Philadelphia

14. Petitioner testified on his own behalf.

15. He expressed sincere remorse for his past misconduct and admitted that he used extremely poor judgment during that time period.

16. In reference to the matter for which he was suspended, Petitioner fully admitted that he misused the funds of the estate during the representation. Petitioner explained that he was having some personal difficulties and financial problems, but understood that such was not an excuse. Petitioner repaid all of the monies.

17. Petitioner complied with all requirements of the Rules of Disciplinary Enforcement and notified all clients of his suspension and sent a timely Certificate of Compliance to the Disciplinary Board.

18. Petitioner took his required 36 hours of credits for his reinstatement, including 12 hours of ethics.

19. Petitioner reviewed the Legal Intelligencer, the Pennsylvania advance sheets, and the Philadelphia Bar magazine in order to maintain currency in the law.

20. If reinstated, Petitioner intends to conduct a general practice of law in Philadelphia.

21. Petitioner offered the testimony of ten character witnesses, including several attorneys and a former Philadelphia Court of Common Pleas judge.

22. These witnesses all testified credibly that they know people in their respective communities who know Petitioner, and among these people, his reputation as a peaceful, truthful, law abiding citizen is excellent.

23. These witnesses support Petitioner's reinstatement to the practice of law.

24. Petitioner has consistently been involved in community activities during his legal career and he intends to continue his participation in such endeavors if reinstated.

III. CONCLUSIONS OF LAW

1. Petitioner has met his burden of proof 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.

2. Petitioner has met his burden of proof by clear and convincing evidence that his 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.

IV. DISCUSSION

Petitioner seeks reinstatement to the bar of the Supreme Court of Pennsylvania following his suspension for a period of two years imposed on 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 the 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 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 was suspended from the practice of law as a result of charging excessive fees in an estate matter and demanding loans from the estate. The evidence demonstrated that within 14 months of opening an estate, Petitioner obtained \$32,773 in estate funds, well in excess of his claimed fee of \$7,478. Petitioner retained the proceeds of the decedent's rental account and caused checks to be issued to him at a real estate settlement and by the executrix. Petitioner characterized some of these payments as loans, but he failed to provide documentation or security, set interest rates or repayment terms and pay interest or principal. In addition, Petitioner failed to administer the estate competently and diligently by failing to promptly pay, or resolve any outstanding issues related to, the decedent's outstanding taxes, resulting in the accrual of interest and penalties. He further failed to communicate with the executrix. Petitioner did eventually complete restitution in 2004.

During the time frame of his suspension, Petitioner acted as an administrator in the Estates of Harold Thompson, Sr., and Susan Ford. He was requested to do so by persons who understood him to be a suspended attorney, but who nevertheless sought his assistance. Prior to accepting this employment, Petitioner confirmed with an attorney, Samuel Stretton, Esquire, that he was permitted to act as an administrator. There is no evidence that he held himself out as a licensed attorney or that he attempted to practice law.

Office of Disciplinary Counsel raised issues concerning Petitioner's handling of the Thompson and Ford Estates, in particular his handling of the fees to be charged.

There was no written evidence of the fee to be charged, merely a verbal indication from Petitioner to Mr. Thompson and Ms. Tucker that a 5% fee would be charged. In fact, in the Ford Estate, Petitioner took more than 5% as his fee. He testified that there were some difficulties with the Ford Estate which caused him to take more money to compensate for his time. The Hearing Committee found this testimony to be credible, as does the Disciplinary Board. Neither Mr. Thompson nor Ms. Tucker objected to the fees, or to any aspect of Petitioner's fulfillment of his duties as administrator. Both were pleased by the job Petitioner did and indicated that the Estates were timely concluded and beneficiaries paid. While the Board is cognizant of Office of Disciplinary Counsel's objections due to the fact that Petitioner was suspended for taking excessive fees, we conclude that his actions do not mirror those that resulted in his suspension, nor do they pose an obstacle to reinstatement.

In addition to his administration of the Estates, Petitioner taught at a charter high school in Philadelphia for one year. At the time of the reinstatement hearing he was unemployed.

In preparation for his reinstatement hearing, Petitioner fulfilled his required Continuing Legal Education courses and reviewed various legal publications to maintain his currency in the law. He intends to engage in a general practice of law in Philadelphia and to resume his participation in local bar activities.

Petitioner offered the testimony of ten character witnesses, all of whom testified credibly as to Petitioner's excellent reputation in the community as an honest, law-

abiding person. These witnesses had no hesitation in recommending Petitioner's reinstatement to the practice of law.

Petitioner testified credibly on his own behalf. There is no doubt that he is remorseful for his misconduct. Although he offered the explanation that at the time of the misconduct he was suffering from personal and financial difficulties, he rightly concluded that these problems were no excuse for his unethical conduct. Petitioner has been practicing law since 1972 and has no previous discipline but for the instant events. He had been extensively involved in public service and community activities for many years and has much to offer to his community.

The record demonstrates that Petitioner met his burden of proof with 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, and he has further demonstrated 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.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that Petitioner, Richard B. Moore, 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: 

Stewart L. Cohen, Board Member

Date: December 23, 2008

Board Members Gentile, Jefferies, Bevilacqua and Leonard did not participate in the adjudication.