

IN THE SUPREME COURT OF PENNSYLVANIA

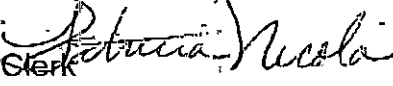
In the Matter of : No. 1338 Disciplinary Docket No. 3  
: :  
: No. 186 DB 2007  
SCOTT ALAN WESTCOTT : :  
: Attorney Registration No. 60730  
: :  
PETITION FOR REINSTATEMENT : (Allegheny County)

ORDER

PER CURIAM:

AND NOW, this 23<sup>rd</sup> day of November, 2009, upon consideration of the Report and Recommendations of the Disciplinary Board dated September 23, 2009, 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 23, 2009  
Attest:   
Chief Clerk  
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

In the Matter of : No. 1338 Disciplinary Docket No. 3  
: No. 186 DB 2007  
SCOTT ALAN WESTCOTT : Attorney Registration No. 60730  
: (Allegheny County)  
PETITION FOR REINSTATEMENT :  
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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 of December 10, 2008, the Supreme Court of Pennsylvania suspended Scott Alan Westcott for a period of five years, retroactive to June 19, 2002. This suspension was based on Mr. Westcott's criminal conviction on March 8, 2002 for driving under the influence, driving while operating privilege is suspended or revoked, and

his criminal conviction on May 13, 2003 for forgery, criminal trespass, tampering with public records or information, unsworn falsification to authorities, escape, and criminal mischief.

On December 17, 2008, Mr. Westcott filed a Petition for Reinstatement to the bar of the Supreme Court of Pennsylvania, and filed a Supplement to Petition for Reinstatement on December 19, 2008. Office of Disciplinary Counsel filed a Response to Petition for Reinstatement on December 29, 2008 and did not oppose the Petition.

A reinstatement hearing was held on February 24, 2009 before a District IV Hearing Committee comprised of Chair James D. Chiafullo, Esquire, and Members William F. Ward, Esquire, and Mark E. Mioduszewski, Esquire. Petitioner was represented by Dennis M. Blackwell, Esquire. Petitioner testified on his own behalf and presented the testimony of eight witnesses and a stipulation as to the testimony of two witnesses.

The Committee filed a Report on June 15, 2009 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 July 18, 2009.

## II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner is Scott Alan Westcott. He was born in 1964 and was admitted to practice law in the Commonwealth of Pennsylvania in 1991. Petitioner's current

business address is 801 Vinial Street, 3<sup>rd</sup> Floor, Pittsburgh PA 15212. He is subject to the jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

2. By Order of June 19, 2002, the Supreme Court ordered that Petitioner be transferred to inactive status pursuant to Rule 301(a), Pa.R.D.E. The Court also referred to the Board the criminal conviction of Petitioner for the charges of Driving Under the Influence, Driving While Operating Privilege is Suspended or Revoked, and False Identification to Law Enforcement Officers, which occurred on March 8, 2002.

3. By Order dated March 10, 2008, the Court referred to the Board the conviction of Petitioner of the crimes of Forgery, Criminal Trespass, Tampering with Public Records or Information, Unsworn Falsification to Authorities, Escape, and Criminal Mischief, which occurred on May 13, 2003.

4. By Order of the Court dated December 10, 2008, Petitioner was suspended from the practice of law for a period of five years, retroactive to June 19, 2002, the date Petitioner was placed on inactive status by the Court.

5. Petitioner's criminal conviction on March 8, 2002 resulted in 90 days to 23 months incarceration followed by probation.

6. Petitioner's conviction on May 13, 2003 resulted in one to four years incarceration, followed by seven years of probation. The underlying criminal conduct involved Petitioner forging a court order purportedly signed by the Honorable Robert Gallo, which would allow Petitioner an increase in hours on his daily work release schedule.

7. Petitioner has paid all financial obligations associated with his sentence and has fully complied with all terms of his probation. Petitioner will continue to be subject to random visits and urinalysis until May 13, 2010.

8. Petitioner has a lengthy history of alcoholism and alcohol abuse.

9. Previous to his five year suspension, Petitioner received a Private Reprimand in 2001 for his convictions on two separate occasions for driving under the influence of alcohol.

10. Petitioner has been sober since December 3, 2004.

11. Petitioner is involved with Alcoholics Anonymous and the Calix Society, which is a Catholic organization that helps with addiction issues. He organizes a weekly AA meeting in the Allegheny County jail for inmates.

12. Petitioner expressed sincere remorse for his criminal conduct and reflected on the embarrassment he caused to himself, his family, friends and the bar.

13. Petitioner fulfilled his Continuing Legal Education requirements for reinstatement.

14. Petitioner has been a paralegal for Dennis Blackwell, Esquire, since 2007. He is a paralegal member of the Pennsylvania Association for Justice. He reads the advance sheets, Pittsburgh Legal Journal and the quarterly opinions.

15. Petitioner presented the testimony of eight witnesses and a stipulation as to the testimony of two witnesses.

16. Paul J. Friday, PhD, is Petitioner's counselor. They have met approximately 61 times in counseling and Dr. Friday opined that Petitioner is doing very well and the chance of recidivism is miniscule.

17. Donald Teeter is Petitioner's probation officer. Petitioner has been cooperative during the period of his probation, appearing monthly as required and submitting to random visits and urinalysis.

18. The Honorable Livingstone M. Johnson is a retired Judge of the Court of Common Pleas of Allegheny County. He has known Petitioner for approximately 18 months through membership at the Downtown Athletic Club in Pittsburgh. Judge Johnson finds Petitioner to be of high moral character. Petitioner has been very remorseful and has learned from his experiences. Petitioner's reinstatement would not be detrimental to the integrity and standing of the bar.

19. Mark H. Rubenstein, Esquire, is an attorney admitted to practice in Pennsylvania since 1978. He has known Petitioner for ten years. Mr. Rubenstein is impressed with how Petitioner has accepted responsibility for his actions and consequences thereof, and believes his reinstatement would enhance the membership of the bar.

20. Brother Mark Lowery is the outreach Director at Michael's Place. He has been Petitioner's AA sponsor for four years. He meets or speaks to Petitioner at least once a week. It is Brother Lowery's opinion that Petitioner has been very sincere and committed in his recovery efforts.

21. Thomas J. O'Neil, Esquire, is an attorney admitted to practice law in the Commonwealth. He is a former founding principal and COO of Black Box Corporation. Mr. O'Neil is a Deacon in the Catholic Church and has volunteered as chaplain in the Allegheny County Jail for the past 24 years. He has known Petitioner for five years. Mr. O'Neil has no reservations concerning Petitioner's readmission to practice law in the Commonwealth.

22. Corina S. Diehl is the owner of Diehl Automotive Group and has known Petitioner for four years. It is Ms. Diehl's opinion that Petitioner has a high degree of honesty and integrity.

23. Dennis M. Blackwell is Petitioner's attorney and current employer. Petitioner has placed his sobriety and recovery first in his life. Petitioner's work product for Mr. Blackwell's law firm is excellent and Mr. Blackwell has no reservation about hiring Petitioner as an attorney with his firm.

24. Vince J. Merlot, Jr., and Edward Haser appeared on behalf of Petitioner. It was stipulated that had they testified, they would have affirmed Petitioner's high moral qualifications and integrity.

25. Office of Disciplinary Counsel does not oppose Petitioner's reinstatement.

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

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

#### IV. DISCUSSION

Petitioner seeks reinstatement to the bar of the Supreme Court of Pennsylvania following his suspension for a period of five years imposed on December 10, 2008, retroactive to June 19, 2002.

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 the administration of justice nor subversive of the public interest. Rule 218(c)(3)

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 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 for a period of five years due to criminal convictions brought about by his alcoholism and substance abuse. Petitioner's history of addiction is lengthy and serious, afflicting him throughout his adulthood and culminating in the serious crimes he committed. Fortunately, Petitioner has been able to successfully address these addictions through treatment with a sobriety counselor and participation in organizations such as Alcoholics Anonymous and the Calix Society. Petitioner has been sober since December 3, 2004.

The evidence is clear that Petitioner does not take his sobriety lightly. He continues his recovery efforts and understands that his sobriety requires a lifelong commitment. Testimony from his witnesses was credible and convincing that Petitioner is successful in his sobriety and has not suffered relapses. He has developed a strong support system to assist him in staying sober. Petitioner's remorse for his misconduct is sincere, and he truly regrets the impact of his convictions on the legal profession.

Petitioner is currently employed as a paralegal with the law firm of Blackwell, Tarantine & Certo, P.C. Petitioner's work ethic and work product are excellent and the firm

would not hesitate to employ Petitioner as an attorney following his reinstatement. Petitioner has fulfilled his CLE course requirements for reinstatement and has kept apprised of the law through his employment and his review of advance sheets and legal journals.

Petitioner has met his burden of proving 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.

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, Scott Alan Westcott, 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: September 23, 2009