

IN THE SUPREME COURT OF PENNSYLVANIA

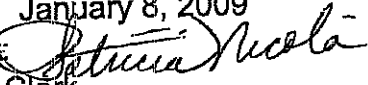
In the Matter of : No. 705 Disciplinary Docket No. 2
: (No. 49 RST 2008)
:
JOSEPH A. IOVINE : No. 58 DB 1988
:
: Attorney Registration No. 27117
PETITION FOR REINSTATEMENT :
: (Philadelphia)

ORDER

PER CURIAM:

AND NOW, this 8th day of January, 2009, upon consideration of the Report and Recommendations of the Disciplinary Board dated October 10, 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: January 8, 2009
Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

In the Matter of : No. 705 , Disciplinary Docket
: No. 2
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JOSEPH A. IOVINE : No. 58 DB 1988
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: Attorney Registration No. 27117
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

Joseph A. Iovine was disbarred on consent by Order of the Supreme Court of Pennsylvania dated December 19, 1989. Mr. Iovine filed a Petition for Reinstatement on December 14, 2007. Office of Disciplinary Counsel filed a Response to Petition for

Reinstatement on February 19, 2008, and indicated its concerns as to whether Petitioner engaged in a sufficient period of qualitative rehabilitation.

A reinstatement hearing was held on April 11, 2008, before a District I Hearing Committee comprised of Chair Michael D. Jones, Esquire, and Members Eric W. Sitarchuk, Esquire, and Barry I. Gross, Esquire. Petitioner was represented by Samuel C. Stretton, Esquire. Petitioner presented documentary evidence, the testimony of six witnesses, and testimony on his own behalf.

The Hearing Committee filed a Report on July 9, 2008 and recommended that the Petition for Reinstatement be granted.

This matter was adjudicated by the Disciplinary Board at the meeting on September 15, 2008.

II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner is Joseph A. Iovine. He was born in 1949 and was admitted to the practice of law in Pennsylvania in 1978. His current business address is 3 Georgian Drive, Cinnaminson NJ 08077.

2. Petitioner was disbarred on consent by the Supreme Court on December 19, 1989. He consented to disbarment as a result of his involvement in two separate matters. The first was a fraudulent scheme for the financial benefit of his client and himself

to help the client transfer property to defraud the Commonwealth of Pennsylvania, Thomas Jefferson University Hospital and others of money in which they had a right. The second matter involved improper activity in his handling of a guardianship. At the time that Petitioner agreed to disbarment, he was suffering from a very stressful marital and child custody situation.

3. Since Petitioner's disbarment he has not practiced law, nor held himself out as a lawyer. He properly notified all clients of his disbarment, sent certified letters within the prescribed time limits to all clients notifying them of his disbarment, fully cooperated in the transferring of all of his legal files, and filed a certificate of compliance.

4. Since Petitioner's disbarment he has been involved in a number of occupations, including business broker, realtor, owner of a dry cleaning and tuxedo rental business, and most currently, as a newspaper delivery person.

5. Petitioner and his second wife, whom he married in 1989, have a blended family of seven children. The children were young at the time of Petitioner's disbarment and he worked hard to financially maintain his large family.

6. In anticipation of the reinstatement process, Petitioner successfully completed the Continuing Legal Education credits required for reinstatement.

7. Petitioner reviews the Pennsylvania Law Weekly and other legal publications and has educated himself as to computer software related to the management of a law office.

8. Petitioner offered credible testimony at the hearing. He is extremely remorseful for his misconduct and accepts full responsibility for his actions.

9. Petitioner is confident that his readmission to the practice of law will be smooth, as he is mature and settled in his life, which he believes was not the case prior to his disbarment. He looks forward to the opportunity to practice once again and plans a general practice.

10. Petitioner presented the testimony of six witnesses.

11. Terence Patrick Smith is a certified public accountant in Philadelphia and has known Petitioner for approximately 25 years. He knows Petitioner's reputation in the community as a truthful and honest person to be excellent.

12. Mr. Smith has expressed his willingness to assist Petitioner in a professional capacity by setting up office accounts and giving financial advice.

13. Robert N. Junfola is an internal revenue agent and has known Petitioner since they were young and growing up in the same neighborhood. Mr. Junfola knows Petitioner's reputation in the community as an honest and truthful person to be very good. Petitioner is known as an upstanding family man.

14. Vincent Iovine is Petitioner's younger brother. He believes that Petitioner has an excellent reputation in the community and should be permitted to practice law.

15. The testimony of Anthony Iovine, Anthony Mazza, and Amelia Iovine was presented as a joint stipulation in that each of the individuals know Petitioner's reputation as an honest, truthful and law abiding person who should be reinstated.

16. Office of Disciplinary Counsel does not oppose the reinstatement.

III. CONCLUSIONS OF LAW

1. Petitioner's misconduct is not so egregious as to preclude reinstatement.

Office of Disciplinary Counsel v. Keller, 506 A.2d 872 (Pa. 1986).

2. Petitioner engaged in a sufficient period of qualitative rehabilitation during his disbarment. In re Matter of Verlin, 731 A.2d 600 (Pa. 1999).

3. 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, and 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).

IV. DISCUSSION

Petitioner seeks reinstatement to the bar of the Supreme Court of Pennsylvania following his disbarment on consent in 1989 for violations of the Rules of Professional Conduct in two matters.

Petitioner's request for reinstatement to the bar following disbarment is initially governed by the standard set forth by the Supreme Court of Pennsylvania in Office

of Disciplinary Counsel v. Keller, 506 A.2d 872 (Pa. 1986). The Keller opinion articulates a threshold question which must be addressed before the reinstatement requirements of Pa.R.D.E. 218(c)(3)(i) are examined. This threshold inquiry is whether the magnitude of the breach of trust would permit the resumption of practice without a detrimental effect upon the integrity and standing of the bar or the administration of justice, nor be subversive of the public interest. Keller thus requires a determination that the underlying misconduct is not so offensive as to preclude reinstatement.

In the instant matter Petitioner's disbarment on consent arose from his conduct in two unrelated matters. In one matter Petitioner assisted a client in transferring property to avoid a judgment. A disciplinary action was brought against him and he faced a recommendation by the Disciplinary Board of a one year suspension. Concurrently, another matter came to light concerning Petitioner's mishandling of a guardianship. Petitioner chose to be disbarred on consent rather than face another disciplinary action.

In both of the disciplinary matters Petitioner damaged the public's confidence. Nevertheless, Petitioner's misconduct is not so egregious as to be an outright bar to the consideration of his petition for reinstatement. In the Matter of Verlin, 731 A.2d 600 (Pa. 1999) (attorney's misconduct in assisting a personal injury client in impersonating a dead man at deposition was not so egregious that it precluded consideration of petition for reinstatement after eight years of disbarment); In the Matter of Costigan, 664 A.2d 518 (Pa. 1995) (attorney's participation in concealment of assets from the rightful heir was not so egregious that it precluded consideration of petition for reinstatement).

Having concluded that Petitioner's misconduct is not so egregious as to preclude consideration of his reinstatement request, the Board must determine whether Petitioner met his burden of proving by clear and convincing evidence that his resumption of the practice of law at this time would not have a detrimental impact on the integrity and standing of the bar, the administration of justice or the public interest, and that he has the moral qualifications, competency and learning in the law required for admission to practice law in Pennsylvania. Pa.R.D.E.218(c)(3)(i). In order to make this determination, the Board considers the quantity of time that has passed since Petitioner was disbarred and his efforts at a qualitative rehabilitation. In the Matter of Verlin, 731 A.2d 600 (Pa. 1999). The challenge presented to Petitioner is showing by clear evidence that sufficient time has passed to dissipate the detrimental impact of this conduct on the public trust. In the Matter of Perrone, 777 A.2d 413 (Pa. 2001).

Petitioner was disbarred on consent on December 19, 1989. At the time of the reinstatement hearing on April 11, 2008, Petitioner had been disbarred for more than 18 years. Following his disbarment, Petitioner worked at various occupations in order to support his large family. These occupations included business broker, realtor, business owner, and newspaper delivery person. Petitioner did not practice law or hold himself out as a lawyer during his disbarment.

Petitioner expressed credible remorse for his actions that resulted in disbarment and fully admitted his misconduct. Petitioner truly regrets the actions that

altered the path of his professional life. Notwithstanding that he is 59 years old, he relishes the opportunity to start anew in the legal profession.

The record in this matter supports the conclusion that Petitioner's 18 years of disbarment have been a time of qualitative rehabilitation sufficient to dissipate the impact of the original misconduct on the public trust.

To ready himself for the reinstatement process, Petitioner took Continuing Legal Education courses, reviewed the Pennsylvania Law Weekly and other legal publications, and sharpened his computer skills. In support of his reinstatement request Petitioner presented the testimony of several character witnesses who testified credibly as to Petitioner's remorse and state of mind following disbarment. Terence Smith and Robert Junfolo have known Petitioner for many years through neighborhood connections and neither witness hesitates to recommend Petitioner for reinstatement to the bar. Family members offered credible testimony as to Petitioner's dedicated efforts to maintain and support his family and his excellent reputation in the community.

The Board concludes that Petitioner has met his burden to show that he is fit and qualified to practice law in the Commonwealth of Pennsylvania and so recommends that the Petition for Reinstatement be granted.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that Petitioner, Joseph A. Iovine, 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: 
Gary G. Gentile, Board Member

Date: October 10, 2008

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