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IN DISCIPLINARY DISTRICT VI
OF THE
BOARD OF PROFESSIONAL RESPONSIBILITY
OF THE
SUPREME COURT OF TENNESSEE

BOARD OF PROFESSIONAL
RESPONSIBILITY
RW
EXEC. SEC.

IN RE: JOCELYN D. MIMS, BPR # 023786
An Attorney Licensed
to Practice Law in Tennessee
(Sumner County)

No. 2016-2581-6-AJ(30.4d)

JUDGMENT OF THE HEARING PANEL

This matter was tried before the Hearing Panel of the Board of Professional Responsibility of the Supreme Court of Tennessee on April 17, 2017, at the offices of Bradley, Arant, Boult Cummings, 1600 Division Street, Nashville, Tennessee. This cause was hearing pursuant to Rule 9, Section 30, of the Rules of the Tennessee Supreme Court. The Hearing Panel members are Jerry Vincent Smith (Chair), Kim Rene Helper, and David Kozlowski. Disciplinary counsel Alan D. Johnson represented the Board of Professional Responsibility; attorney Lela M. Hollabaugh represents petitioner Mims. Petitioner Jocelyn Mims was present at the hearing.

After considering the entire record, testimony of witnesses including the petitioner, stipulations of fact, exhibits, and arguments represented, and after a through deliberation, the Hearing Panel makes the following findings of fact and conclusions of law, rendering its judgment in this cause.

PROCEDURAL BACKGROUND

Petitioner Jocelyn Mims, who had been disbarred by a lawyer of the Tennessee Supreme Court on August 18, 2009, filed a Petition for Reinstatement on May 12, 2016. The Board of Professional Responsibility filed its Answer on June 1, 2016. The Hearing Panel was appointed by the Board of Professional Responsibility on June 17, 2016.

Following the scheduling conference, this matter was originally set for trial on September 26, 2016. However, the parties jointly moved for a continuance to address a specific issue and that request was granted. An Amended Scheduling Order was filed on February 7, 2017. Both parties submitted pre-trial briefs. The parties also stipulated to certain facts.

This matter was tried before the Hearing Panel on April 17, 2017. The Hearing Panel considered testimony of witnesses, including the testimony of the petitioner, and the arguments of counsel. The matter was taken under advisement at that time.

FINDINGS OF FACTS

1. Jocelyn D. Mims is a resident of South Carolina. Her Board of Professional Responsibility number is 023786.

2. On November 21, 2008, petitioner Mims pled guilty in the Criminal Court for Sumner County to one count of conspiracy to

introduce contraband into a penal institution and one count of attempted introduction of a contraband into a penal institution. She was sentenced to a total term of two years confinement.

3. By Order entered on August 18, 2009, the Tennessee Supreme Court disbarred petitioner Mims.

4. Jocelyn D. Mims has complied with all requirements and conditions of her guilty plea and has satisfied all conditions of her disbarment, including payment to the Board of Professional Responsibility for all costs assessed.

5. Regarding CLE for the years 2011, 2012, 2013, 2014, and 2015, she has submitted forms to claim the out-of-state exemption.

6. Since losing her license to practice law, she attempted to increase her knowledge of the law and has successfully completed distance learning CLE as stipulated by the parties.

7. Jocelyn D. Mims has consulted mental health professionals to assist her in addressing long standing issues with her depression; she has been receiving regular counseling for her depression.

8. With treatment, her depressive disorder has diminished.

9. Her mental health providers recommended that she continue to participate in a regular program to assist her in dealing with her depression, for which she has been receiving regular counseling.

10. Through her voluntary participation in programs designed to assist others in meeting the basic demands of daily life, she demonstrated genuine compassion for the needs of the less fortunate. For example, she participated in Volunteers in Medicine in South Carolina, a program that offers medical services to low income persons.

11. She has undertaken to maintain her competence in the practice of law by serving as a volunteer with the Georgia Law Services program, during which she demonstrated the ability to analyze legal issues and where she improved her legal writing skills.

12. She was forthright in admitting the facts which formed the basis of her disbarment. She accepted full responsibility for her actions.

13. She demonstrated genuine remorse for her actions to medical providers, her friends, her employers, her supervisors, and at the hearing of this cause.

14. She recognizes her own limitations and has attempted to address them before seeking readmission to the bar.

15. Since her disbarment, she worked in both paid and unpaid positions. In all of these, she had access to confidential information, which she has acted responsibly to preserve and protect.

16. Her supervisor at Georgia Legal Service, her health care providers, and her friends find her to be diligent, honest, trustworthy, and compassionate.

17. Prior to the incident resulting in the loss of her license, she had no prior disciplinary issues.

18. Counsel for the Board stated that the readmission of Jocelyn D. Mims would not, in his opinion, be detrimental to the public interest.

CONCLUSIONS OF LAW

19. The grant of a license to practice law or the reinstatement of a lawyer who has been disbarred is a privilege, not a right. Culp v. Board of Professional Responsibility, 007 S.W. 3d 201, 211 (Tenn. 2013); Murphy v. Board of Professional Responsibility, 924 S.W. 2d 643, 647 (Tenn. 1996).

20. In order to have her law license reinstated, the petitioner must demonstrate

by clear and convincing evidence that [she] has the moral qualifications, competency and learning in the law required for admission to practice law in this state, that the ~~resumption of the practice of law within the state will not~~ be detrimental to the integrity and standing of the bar or the administration of Justice, or subversive to the public interest, and that the petitioning attorney has satisfied all conditions set forth in the order imposing discipline, including payment of costs and incurred by the Board in the prosecution of the preceding disciplinary proceeding...

Tenn. Sup. Ct. Rule 9, § 30.4(d)(1). In summary, the applicant for reinstatement must show that she has

(1) the moral qualifications and (2) the competency and learning required to practice law in this state and (3) that...her resumption of the practice of law...will not be detrimental to the integrity and standing of the bar or the administration of justice or subversive to the public interest.

Milligan v. Board of Professional Responsibility, 301 S.W. 3d 619, 630 (Tenn. 2009). By allowing reinstatement under certain circumstances, the Supreme Court Rule demonstrates that disbarred attorneys who have shown change may be offered a second chance.

21. The clear and convincing evidence standard is

more exacting than the preponderance of the evidence standard, [but] it does not require such certainty as the beyond a reasonable doubt standard.

Clear and convincing evidence eliminates any serious or substantial doubt concerning the correctness of the conclusions to be drawn from the evidence.

O'Daniel v. Messier, 905 S.W. 2d 182, 188 (Tenn. Ct. App. 1995); see also, Hughes v. Board of Professional Responsibility, 259 S.W. 2d 631, 641 (Tenn. 2008).

22. The parties stipulated and Hearing Panel so concludes ~~that petitioner Jocelyn Mims has satisfied all conditions set forth~~ in the Order disbarring her, including payment to the Board of all costs assessed. Tenn. Sup. Ct. Rule 9, § 30.4(d)(1).

23. The first aspect of reinstatement, moral qualifications, requires the Hearing Panel to consider, among other factors, whether the petitioner has shown remorse and "an awareness of prior wrongdoing"; consideration is also given to the activities in which the petitioner has engaged while not practicing law following disbarment. Milligan, 301 S.W.3d, at 632. Petitioner Mims presented proof at the hearing, through her own testimony and the testimony of witnesses, that she is remorseful for her actions which led to the criminal conviction and the ultimate disbarment. Petitioner has shown an awareness of the events that led to her wrongdoing and has made efforts, primarily continuing and long term mental health counseling, to address those issues. And, petitioner Mims has shown a "moral change" as evidenced by her volunteer activities with Volunteers in Medicine in South Carolina and, more recently, her volunteering at Georgia Legal Services in Savannah. The witnesses presented by the petitioner had knowledge of the wrongdoing that led to disbarment and had personal knowledge of the petitioner's activities since the disbarment. The Hearing Panel therefore concludes that petitioner has presented clear and convincing evidence that she has the moral qualifications to resume the practice of law.

24. The legal competence factor of the reinstatement standards requires the petitioner to show that she has the understanding and knowledge of the law to be admitted to practice

law in Tennessee. Hughes, 259 S.W. 2d, at 644-645. The parties stipulated and the Hearing Panel finds that petitioner Mims had completed long distance continuing legal education courses in 2016 and 2017 and that she had submitted forms to claim the out of state exemption to the continuing legal education mandate for the years of 2011 through 2015. Petitioner was not disbarred because she did not have the competency to practice law. Petitioner presented testimony from the managing attorney of Georgia Legal Services explaining that Ms. Mims demonstrated an understanding of the law during the time when she volunteered at that legal aid program. The Hearing Panel concludes that petitioner has presented clear and convincing evidence that she has the requisite competency to resume the practice of law in Tennessee.

25. The third factor requires consideration of

the impact, if any, that [her] reinstatement, in the context of [her] wrongs, will have on the integrity and the public trust in our system of jurisprudence. That assessment is more subjective in nature...

Hughes, 259 S.W. 3d, at 646. The petitioner must present specific facts and circumstances from witnesses who know both of the wrong doing and her efforts at rehabilitation and demonstration of remorse. See, Murphy v. Board of Professional Responsibility, 924 S.W. 2d 643, 647 (Tenn. 1996). Completion of the petitioner's sentence following conviction for the activities which led to

disbarment is not, by itself, sufficient to show that petitioner should be reinstated. Id.

26. Petitioner Jocelyn Mims, through her testimony at the hearing, made it clear that she takes responsibility for the actions which led to her disbarment and is remorseful for those actions. While the actions that led to disbarment are directly related to the petitioner's role as an attorney, her change of lifestyle and her continuing efforts to address the problems that she experienced demonstrate that she may resume the practice of law without having a detrimental effect on the integrity of the bar or the administrative of justice. No proof presented at the hearing is to the contrary. The Hearing Panel concludes that the petitioner presented clear and convincing evidence that her reinstatement will not have a detrimental effect on the integrity or standing of the bar or the administration of justice or be subversive to the public interest.

JUDGMENT

Based on these Findings of Facts and Conclusions of Law, petitioner Jocelyn Mims license to practice to law should be reinstated. As a condition of that reinstatement, Ms. Mims shall continue her mental health treatment with quarterly updates being submitted to the Board of Professional Responsibility. In

addition, she shall provide evidence to the Board of her completion of all 2016 CLE requirements.

IT IS SO ORDERED.

Hearing Panel Members:

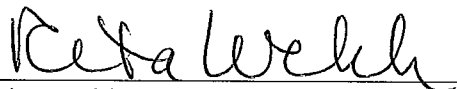
Jerry V. Smith (by permission OIC)
Jerry Vincent Smith, Chair

Kim R. Helper
Kim Rene Helper

David Kozlowski
David Kozlowski

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been sent to Petitioner, Jocelyn Mims, 267 Seabrook Drive, Hilton Head Island, SC 29926, and to her Counsel, Lela Hollabaugh, 1600 Division Street, Suite 700, Nashville, TN 37203, by U.S. First Class Mail, and hand-delivered to Alan D. Johnson, Disciplinary Counsel, on this the 17th day of May, 2017.



Rita Webb
Executive Secretary

NOTICE

This judgment may be appealed pursuant to Tenn. Sup. Ct. R. 9, § 33 (2014) by filing a Petition for Review in the Circuit or Chancery court within sixty (60) days of the date of entry of the hearing panel's judgment.
