

**BEFORE THE DISCIPLINARY BOARD OF THE SUPREME COURT OF  
PENNSYLVANIA**

<b>IN THE MATTER OF JAMES DANIEL HARRISON</b>	:
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	: <b>No. 571 Disciplinary Docket No. 3</b>
	: <b>No. 54 DB 2000</b>
<b>PETITION FOR REINSTATEMENT</b>	: <b>Board File No. C1-99-1274</b>
	: <b>Attorney Registration No. 29575</b>
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**REPORT AND RECOMMENDATION OF HEARING COMMITTEE**

**SUMMARY OF PROCEEDINGS AND FACTS**

This matter is before the Hearing Committee on a Petition for Reinstatement filed by James Daniel Harrison (“Petitioner” or “Harrison”) on June 21, 2018. Petitioner’s reinstatement hearing was held on September 6, 2019.

On April 28, 2000, Petitioner was reciprocally disbarred by the Supreme Court of Pennsylvania based on a November 3, 1999 Order issued by the Supreme Court of New Jersey. Petitioner was disbarred because there was clear and convincing evidence that he had forged the signatures of two clients on settlement checks and knowingly misappropriated the settlement funds that were due to both clients. (RQ, Supplement to Question 3(b)). By Order dated April 28, 2000, Petitioner was reciprocally disbarred by the Supreme Court of Pennsylvania.<sup>1</sup> (RQ, Supplement to Questions 3(b) and 7). On January 7, 1999, Petitioner entered a guilty plea in the

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<sup>1</sup> Prior to his disbarment, by Order dated April 20, 1995, Petitioner received a Public Reprimand in New Jersey for negligent misappropriation and failure to keep required books and records. By Order dated February 5, 1998, Petitioner was temporarily suspended in New Jersey for failing to submit quarterly audits and court-ordered drug and alcohol testing reports. (RQ, Question 7(a) and Supplement to Question 7 (a) and (b), ODC-11).

New Jersey Superior Court of Passaic County to theft by failure to make the required disposition of property received and pled guilty to failing to disburse \$52,366.34 in funds belonging to ten (10) clients between January 1 and December 31 of 1997. On November 1, 1999, two days before he was disbarred in New Jersey, Petitioner was sentenced to a term of imprisonment of three (3) years. (RQ, Supplement to Question 9, ODC-2). Petitioner testified that he was incarcerated for eleven (11) months. (N.T. 9/6/19, 157-158).<sup>2</sup>

Petitioner has lived in a “sober house” and/or a “recovery house” since completing an inpatient rehabilitation program in New Jersey and moved to Pennsylvania in April of 2011. (N.T. 9/6/19, 218-21, ODC-8). Aside from working for one month in the spring of 2013, Petitioner has not been employed in any capacity since 2010.<sup>3</sup> (N.T. 9/6/19, 211). Between 2009 and 2012, Petitioner received Social Security Disability benefits, and from 2013 to the present, Petitioner has received Social Security Retirement benefits. (ODC-8, RQ, Question 12 and Supplement to Question 12).

During the relevant time period, Petitioner never sought employment as a paralegal, clerk or legal assistant at any law firm. (N.T. 9/6/19, 214). In or around May of 2019, Disciplinary Counsel expressed concerns to Petitioner regarding his lack of employment and/or volunteer work. Shortly thereafter, Petitioner began volunteering intermittently at his local library. Petitioner testified that he had no set hours for volunteering at the library; he testified: “I go whenever I wanted to go.” (N.T. 9/6/19, 175-77, 215-216). As of the date of the hearing,

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<sup>2</sup> In addition, on June 15, 1998, Petitioner pleaded guilty to attempting to disarm a police officer. On June 28, 1998, Petitioner pleaded guilty to possession of cocaine. (RQ, Question 9 and Supplement to Question 9).

<sup>3</sup> Petitioner was hired in March of 2013 by the Wedge Medical Center as a drug and alcohol counselor. However, Petitioner resigned that job within less than one month of being hired because the job was “not a fit” for him. (N.T. 9/6/19, 211-213, ODC-8).

Petitioner had volunteered at the Innocence Project for five (5) days, but had no set schedule for volunteering for the Innocence Project. (N.T. 9/6/19, 217-18).

Several lawyers testified on Petitioner's behalf. Stephen O'Hanlon, Esquire, testified that he knows Petitioner from Alcoholics Anonymous meetings but has never observed Petitioner working in a legal environment. (N.T. 9/6/19, 20-21, 28-29). Mark Sheppard, Esquire, testified that he also knows Petitioner from their involvement in meetings of lawyers in recovery, but Mr. Sheppard also has not observed Petitioner doing legal work. (N.T. 9/6/19, 33, 43-45). Alan Denenberg, Esquire also testified concerning Petitioner's efforts to remain sober, but also stated that he has not observed Petitioner doing any legal work. (N.T. 9/6/19, 54).

Petitioner has taken 36 CLE hours, the minimum number required to apply for reinstatement, but has never practiced law in Pennsylvania. (RQ, Question 19; N.T. 9/6/19, 235). Petitioner has not subscribed to any legal periodicals, official reporters, or advance sheets related to Pennsylvania law during his period of disbarment. (N.T. 9/6/19, 222-23). Petitioner acknowledged his lack of familiarity with the Pennsylvania Rules of Civil Procedure, but to his credit stated that he would be "cautious" with respect to taking on cases and could potentially research issues at Jenkins Law Library and rely on others lawyers to "provide guidance". (N.T. 9/6/19, 235-36). Petitioner conceded that the path to resumption of practice was unclear given that he continued to live in a "recovery house" and had virtually no assets. (N.T. 9/6/19, 234). Plaintiff suggested that he might seek employment with the Innocence Project, accept referrals from courts and accept per diem work from other attorneys. (N.T. 9/6/19, 221).

Petitioner must first demonstrate that a sufficient quantitative period of time has elapsed since engaging in misconduct during which the petitioner has engaged in qualitative rehabilitation. *See In re Anonymous (Roger M. Simon)*, No. 45 DB 84, 15 Pa. D.&C. 4th 321,

330-31 (1992). On this issue, the Hearing Committee acknowledges and accepts the testimony of Petitioner and each of the witnesses who testified on his behalf. The testimony to the effect that Petitioner, following years of struggle with alcohol and drugs, has for close to ten years successfully remained sober, was unrebutted. As a result, the Hearing Committee concludes, contrary to ODC's position, that sufficient time has passed to allow for due consideration of Petitioner's application.

However, determining whether resumption of practice is warranted also requires consideration of the four criteria for reinstatement identified in Rule 218(c)(3), specifically 1) moral qualification; 2) competency; 3) learning in the law; and 4) whether the 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. *In the Matter of Perrone*, 777 A.2d 413, 416 (Pa. 2001). The disbarred attorney must prove that the "current resumption" of the practice of law would not be detrimental to the profession, the courts, or the public. *Id.*

Petitioner has failed to prove by clear and convincing evidence that he has the competency and learning in the law required for reinstatement to the bar. *See Perrone*, 777 A.2d at 416 (listing criteria for reinstatement). Petitioner has never practiced law in Pennsylvania, and Petitioner did not engage in any legal-related work (paid or volunteer) until a few days before the hearing. Petitioner's testimony further suggests that he only began to volunteer at the public library when the issue of lack of employment or volunteering was raised by counsel for ODC several months before the hearing. (N.T. 9/6/19, 177). Petitioner did not have a clear recollection of how long he had been volunteering at the library, that he would just "go whenever I wanted to go" and that of the hearing date, he no longer volunteered at the

library. (N.T. 9/6/19, 216-17). Although Petitioner apparently has been sober for almost ten years, during this time period he did not pursue any opportunities to volunteer or work in the legal field in a non-lawyer capacity (other than approximately five days of volunteering at the Innocence Project immediately before the hearing took place). Petitioner does not have a working knowledge of Pennsylvania law and procedure, other than that which he might have acquired by occasionally observing cases at City Hall and the Criminal Justice Center. (N.T. 9/6/19, 223-24).

ODC cites to *In the Matter of Kirk Douglas Rhodes*, No. 170 DB 2002 (D. Bd. Rpt. Apr. 22, 2014) (S. Ct. Order Sept. 30, 2014). *Rhodes* is directly on-point. As in this case, the petitioner practiced law in New Jersey and was disbarred due to his misappropriation of client funds. Mr. Rhodes sought readmission in Pennsylvania. The Board rejected the petition for reasons which are equally applicable here. As explained by the Board:

On review of the record, we are fully persuaded that the concerns [of the Hearing Committee] regarding Petitioner's competency to return to—or perhaps more accurately stated to “begin”—the practice of law in Pennsylvania are valid. Petitioner has never practiced law in Pennsylvania. He has not studied or reviewed any materials pertinent to Pennsylvania law, *i.e.*, advance sheets, legal periodicals and reporters. He has suggested no mentors or practitioners in Pennsylvania to support his commencement of practice in the Commonwealth. ... The record is clear that Petitioner has not met his burden of proof to show the competency and learning in the law required for admission to practice law in Pennsylvania.”

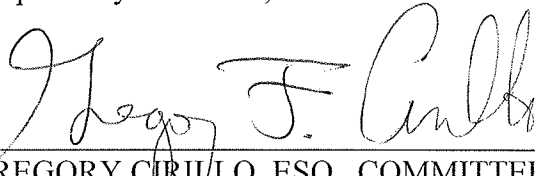
Board Report, pp. 14-15. *Rhodes* is indistinguishable from this case. As in *Rhodes*, Petitioner has not met his burden of proof to show the competency and learning in the law required for admission to practice law in Pennsylvania. Although Petitioner testified that he was unlikely to pursue work where he might have to hold client funds due to his past history (N.T. 9/6/19, 233), the Hearing Committee does not conclude the Petitioner's stated willingness, as of the hearing

date, to limit his practice of law is sufficient to assure the Hearing Committee that Petitioner is fit to practice law in the Commonwealth.

The Hearing Committee agrees with ODC that the cases cited by Petitioner in support of his request for reinstatement are distinguishable. In the cases cited by Petitioner, the attorney seeking reinstatement undertook various and significant steps to ready himself for the practice of law in Pennsylvania. Although the Hearing Committee acknowledges Petitioner's consistent and commendable involvement in organizations which assist lawyers (and non-lawyers) who suffered from alcohol or drug addiction and admires Petitioner's work in this regard, such activities, standing alone, are insufficient to demonstrate a readiness to practice law in Pennsylvania. The majority of the testimony offered by Petitioner on behalf of himself and by the witnesses who testified on his behalf related to Petitioner's struggles with addiction and apparently successful efforts to remain sober and re-build his relationships with family members.<sup>4</sup>

For the reasons set forth above, the Hearing Committee recommends that the Petition for Reinstatement be denied.

Respectfully submitted,



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GREGORY CIRILLO, ESQ., COMMITTEE CHAIR  
HOWARD DWOSKIN, ESQ., COMMITTEE MEMBER  
ANDREW J. SOVEN, ESQ., COMMITTEE MEMBER

Dated: December 18, 2019

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<sup>4</sup> The Hearing Committee acknowledges Petitioner's interest in being reinstated to restore his professional reputation and improve his relationships with family members. The Hearing Committee does not question the credibility of the witnesses who testified on Petitioner's behalf to the effect that Petitioner has worked hard to remain sober and has devoted time and energy to assist other lawyers whose careers also have been negatively impacted by substance abuse. However, Rule 218(c)(3) constrains the Hearing Committee to conclude that Petitioner's application does not satisfy the requirements for reinstatement.