

STATE OF MICHIGAN

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ATTORNEY DISCIPLINE BOARD

Attorney Discipline Board

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In the Matter of the Reinstatement Petition
of Lamont M. Walton, P 25800,

Petitioner.

Case No. 14-112-RP

Decided: April 11, 2017

Appearances:

Lamont M. Walton, in Pro Per
Stephen P. Vella, for the Grievance Administrator

BOARD OPINION

Ingham County Hearing Panel #2 of the Attorney Discipline Board entered an order in this matter on March 29, 2016, denying the petition for reinstatement filed by petitioner, Lamont M. Walton. Petitioner sought review of that decision by the Attorney Discipline Board in accordance with MCR 9.118. The Board has conducted review proceedings, including review of the record before the panel and consideration of the briefs and arguments presented by the parties at a review hearing before the Board on August 17, 2016

While serving as an elected treasurer of the Lansing Black Lawyers Association (LBLA), from March 2004 through April 2005, respondent made numerous unauthorized withdrawals from the State Employees Credit Union where the LBLA maintained its financial accounts totaling approximately \$8,000. On January 26, 2007, at a hearing on misconduct before Ingham County Hearing Panel #3 in Grievance Administrator v Lamont M. Walton, 06-51-GA, respondent admitted, and the parties stipulated, that his conduct in this regard was in violation of MCR 9.104(1)-(4) and MRPC 8.4(a).¹ On June 5, 2009, the hearing panel imposed a 35-month suspension of respondent's

¹ Although the original formal complaint also alleged a violation of MRPC 8.4(b) (engaging in conduct that involves dishonesty, fraud, deceit, misrepresentation, or violation of the criminal law, where such conduct reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer), the stipulation filed by the parties specifically

license to practice law, effective retroactively to July 1, 2006, the date on which respondent stipulated he would voluntarily stop practicing law.²

In its report filed March 29, 2016, the hearing panel delivered its unanimous opinion that petitioner had not clearly and convincingly demonstrated that his conduct since the order of discipline has been exemplary and above reproach; that he has a proper understanding of, and attitude toward, the standards imposed on a member of the bar and would conduct himself in accordance with those standards; and that, taking into account all of his past conduct, he could safely be recommended to the public, the courts, and the legal profession as a person fit to be trusted in the practice of law.³

Specifically, the panel found that petitioner failed to provide full and complete information to the State Bar of Illinois regarding his suspended status from the practice of law in Michigan;⁴ he engaged in a pattern of domestic abuse and continued to present anger management issues; he has a long-term history of past misconduct involving domestic violence and other personal protection orders entered against him; a long-term history of past misconduct and inappropriate behavior, which included a suspended driver's license; debt and collection lawsuits in which petitioner was a named party; arrests for prowling and breaking and entering; theft from his fraternity and the LBLA, where he held positions of trust; and a history of three grievances filed against him by clients during his short tenure as a lawyer in Illinois.

On review, petitioner requests that the panel's decision to deny his petition for reinstatement

dismissed the alleged MRPC 8.4(b) violation.

² After the January 26, 2007 hearing, the parties stipulated to adjourn any further proceedings for six months to allow respondent to pursue treatment for his cocaine dependency. As part of that stipulation, respondent agreed that he would not engage in the practice of law during that time frame. Prior to the next scheduled hearing in August of 2007, the parties again stipulated to adjourn any further proceedings for an additional six months, subject to the same conditions. Again, prior to the next scheduled hearing in June 2008, the parties stipulated for a third time to adjourn the proceedings, but this time it was because respondent had relapsed, tested positive for controlled substances, and had entered an in-patient treatment program. A hearing was finally held on December 10, 2008. While respondent again admitted to misappropriating funds from LBLA, he also voluntarily admitted that he had also misappropriated funds from his fraternity.

³ See MCR 9.123(B)(5)-(7).

⁴ Petitioner was admitted to the practice of law in Illinois pursuant to an application for admission he filed with the Illinois Board of Admission to the Bar while the underlying disciplinary action (Case No. 06-51-GA) was pending.

be reversed because the hearing panel erred in concluding that petitioner intentionally failed to comply with the admission requirements of the Illinois Bar, that he recently engaged in domestic abuse and has an anger management problem, and by considering and assessing misconduct and inappropriate behavior that occurred prior to the imposition of his 35-month suspension.

In reinstatement proceedings, the Board reviews findings of fact for proper evidentiary support. *In re McWhorter*, 449 Mich 130, 136 (1995). However, granting or denying a petition for reinstatement under MCR 9.123(B) involves "an element of subjective judgment" and the ultimate "discretionary question whether the Court is willing to present that person to the public as a counselor, member of the state bar, and officer of the court bearing the stamp of approval by this Court." *Grievance Administrator v Irving A. August*, 438 Mich 296, 311; 475 NW2d 256 (1991); *In re Reinstatement Petition of Keith J. Mitan*, 12-2-RP (ADB 2013). With regard to reinstatement proceedings, this Board has previously articulated that taken together, subrules (5)-(7) of MCR 9.123 "require scrutiny of the reinstatement petitioner's conduct, before, during, and after the misconduct which gave rise to the suspension or disbarment in an attempt to gauge the petitioner's current fitness to be entrusted with the duties of an attorney." *In re Reinstatement of Arthur R. Porter, Jr.*, 97-302-RP (ADB 1999). Applying both the standard of review and the criteria articulated in *Porter*, and based upon the record below, we find that there is proper evidentiary support for the hearing panel's conclusions that petitioner did not carry his burden of proof as to the criteria found in MCR 9.123(B)(5)-(7) by clear and convincing evidence.

On March 24, 2007, while his underlying disciplinary matter in Michigan was pending, petitioner submitted an application to the Illinois Bar to be admitted to practice law in Illinois on motion, pursuant to Illinois Supreme Court Rule 705. On October 15, 2007, petitioner provided additional documents to support his application for admission. Included in those documents was a certificate from the Michigan Supreme Court certifying that petitioner had been licensed to practice law in Michigan in December 1975 and remained in good standing since. On December 6, 2007, Petitioner submitted an attorneys' questionnaire on which, in answer to the question "Has your professional conduct ever been called into question by a client, a court, a bar association, another lawyer, or any other person?" petitioner stated:

I recall an opposing attorney filing a grievance against me in about 1989. I cannot recall the specific complaint [sic] however it was responded to by myself and it determined [sic] to be meritless by the Michigan Attorney Grievance Commission. The second situation pertains to a current probationary matter. From about 2004 to 2005 I took money from a bank account in which I was the treasurer for the Lansing Black Lawyers Assoc. I used the money to pay personal expenses including giving money to a relative (my Aunt Judy) and purchasing my drugs. I admitted wrongdoing when confronted and I subsequently [sic] repaid money I took. All records are with Michigan Attorney Grievance Commission, 243 W Congress, Detroit, Michigan 48226.

Petitioner also answered affirmatively questions that asked whether disciplinary charges were now pending against him and whether he had previously been disciplined, but in response to the next question that requested further details, he simply referenced the reader to "see [the quote] above." Petitioner answered affirmatively that he understood that he "must immediately disclose in writing to the Character and Fitness Committee any events occurring and facts arising after the date of the submission of this document that may bear on my character and fitness," as required by Illinois Supreme Court Rule 708(e).

On the character and fitness questionnaire, petitioner advised that he had been placed on "probation" effective "01/28/2007," that the matter was "Adjourned without date," and that he was "being drug tested, required to attend drug counseling and prohibited from practicing law pending his drug treatment." Although petitioner referenced the disciplinary proceeding on his questionnaire, it was not a "probationary matter," nor had an order of discipline been entered placing him on probation effective January 28, 2007. Under Illinois Supreme Court Rule 708(e), petitioner had a continuing duty to supplement, update, and report fully and completely to the Illinois Bar and Character and Fitness Committee throughout the application process. The fact that petitioner was no longer considered a member in good standing with the State Bar of Michigan, once the order of discipline was issued in June 2009, should have been reported to the Illinois Bar and Character and Fitness Committee.

In February 2011, petitioner was required to submit an updated application. It appears from the record that at that time, he was no longer in compliance with the requirements of Illinois

Supreme Court Rule 705(d) as he was no longer a member in good disciplinary standing and on active status in Michigan "at the time of application." Petitioner's failure to disclose this important information was not only a violation of the duty imposed on applicants under the Illinois Supreme Court Rules, it was also conduct directly contrary to the requirements of MCR 9.123(B)(5) and (6).

With regard to petitioner's past "domestic incidents," he contends that the panel should only have been able to analyze his conduct going back to when his discipline was originally imposed; July 1, 2006. Clearly, as indicated by *Porter*, the scrutiny involved in reinstatement proceedings is of conduct "before, during and after the misconduct." Purposefully, the rule does not place any time limitations on a hearing panel's responsibility to engage in such scrutiny. The evidence admitted in the reinstatement proceedings indicates that petitioner engaged in abusive conduct from July 1, 2006 through at least June 2014. The hearing panel's report references the following findings:

The panel finds that petitioner engaged in a pattern of domestic abuse and that he continues to present anger management issues, which have been long-standing in duration. . .The panel was gravely concerned by petitioner's testimony that he and his wife continued to have significant arguments up to the present time, and he elaborated in great detail a recent screaming match in which a security guard arrived at the door. Petitioner admitted pushing his wife on other occasions and acknowledged her claims that she became bruised. At the time of the second hearing date, petitioner was no longer living with his wife and was still in counseling for anger management issues. [3/29/16 Report, p 6.]

Petitioner did present the testimony of his therapist and testified on his own behalf that he is trying to change his past conduct and better the relationship he has with his wife. We encourage petitioner to continue his sustained recovery, his efforts to change, and suggest that petitioner consider reaching out to the Illinois Partner Abuse Intervention Services to further his efforts in this regard. While petitioner's efforts to change are commendable, the fact remains that there is evidentiary support in the record for the panel's findings as referenced above.

Our review of this matter must combine and balance the applicable standard of review, recognition of the element of subjective judgment which is applicable to MCR 9.123(B) and, the measure of discretion granted to us with regard to our ultimate decision. *In the Matter of the*

Reinstatement Petition of Robert A. McWhorter, 92-83-RP (ADB 1994). In this matter, the hearing panel's report sufficiently demonstrates an exercise of subjective judgment, which included a thorough assessment of petitioner's character, demeanor, and credibility. That, combined with what appears to us to be proper evidentiary support in the record, leads us to conclude that the panel's findings that petitioner has not demonstrated by clear and convincing evidence the requirements of MCR 9.123(B)(5)-(7) is fully supported by the record.

Board members Louann Van Der Wiele, Dulce M. Fuller, Rosalind E. Griffin, M.D., Rev. Michael Murray, James A. Fink, and Barbara William Forney, concur in this decision.

Board members Lawrence G. Campbell, John W. Inhulsen, and Jonathan E. Lauderbach were absent and did not participate.