

ORIGINAL

BEFORE THE SUPREME COURT OF OHIO

COLUMBUS BAR ASSOCIATION,

*

CASE NO. 06-491

Disciplinary Case

Relator,

v.

DEREK FARMER, ESQ.

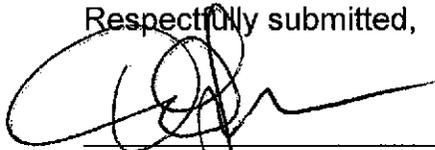
Respondent.

FILED
 APR 16 2009
 CLERK OF COURT
 SUPREME COURT OF OHIO

RESPONDENT'S APPLICATION FOR
TERMINATION OF PROBATION

Now comes the Respondent, Derek Farmer, and in accordance Rule 5, Section 9(D) of the Rules for the Government of the Bar, moves the court for an Order terminating his probation in this matter. The probationary period of one year was imposed by this Court's Order of Reinstatement filed on April 1, 2008. Attached to this Application is the Respondent's Affidavit of Compliance.

Respectfully submitted,



David C. Greer (0009090)
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 6 North Main Street
 Dayton, Ohio 45402-1908
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Attorneys for Respondent Derek A. Farmer

RECEIVED
 APR 16 2009
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 SUPREME COURT OF OHIO

CERTIFICATE OF SERVICE

This is to certify that the Relator has been served with the foregoing by mailing a copy thereof to its attorneys Terry K. Sherman, 52 West Whittier Street, Columbus, OH 43206; Don Ruben, 165 East Livingston Ave., Columbus, OH 43215; Bruce A. Campbell, Bar Counsel, Columbus Bar Association, 175 South Third Street, Suite 1100, Columbus, OH 43215 and A. Alysha Clous, Assistant Bar Counsel, Columbus Bar Association, 175 South Third Street, Suite 1100, Columbus, OH 43215-5134 this ~~15th~~ day of April, 2009.

BIESER, GREER & LANDIS, LLP

By: 

Attorneys for Respondent
Derek A. Farmer

BEFORE THE SUPREME COURT OF OHIO

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* AFFIDAVIT

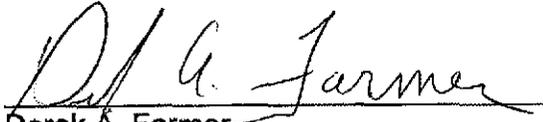
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STATE OF OHIO)
) SS:
COUNTY OF FRANKLIN)

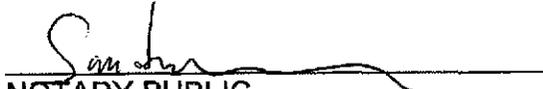
Derek A. Farmer, being first duly sworn, deposes and says:

1. I am the Respondent in this matter.
2. My one year probationary period was commenced by this Court's Order of Reinstatement filed on April 1, 2008.
3. I have complied with the conditions of probation as set forth in that Order.
4. No formal disciplinary proceedings are pending against me.
5. I have paid all costs of these proceedings as ordered by this Court.
6. I was recently reinstated to practice in the United States District Court for the Southern District of Ohio as appears from the Order of Judge Marbley attached hereto as Exhibit A.

7. I request that the probationary period previously imposed by this Court be terminated.


Derek A. Farmer

14th Sworn to before me by Derek A. Farmer and by him subscribed in my presence this
day of April, 2009.


NOTARY PUBLIC

SANDRA J. FINUCANE
Attorney at Law
Notary Public, State of Ohio
My Commission has No Expiration Date
Section 147.03 R.C.

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN THE MATTER OF:

DEREK A. FARMER (#0071654)

:
:
:
:
:

Case No. 1:06mc85

JUDGE ALGENON L. MARBLEY

OPINION AND ORDER

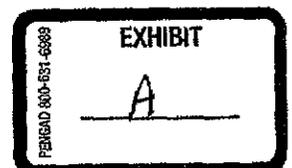
I. INTRODUCTION

This matter is before the Court on the Motion for Readmission to the Bar by Respondent Derek A. Farmer. For the reasons set forth below, this Court **GRANTS** Respondent's Motion, and **ORDERS** Respondent be **REINSTATED**.

II. BACKGROUND

On November 1, 2006, the Ohio Supreme Court, pursuant to Gov. Bar R. V(6)(B)(3), suspended Respondent for a period of two years with one year on stayed conditions. Respondent was charged with two counts of misconduct. The first involved Respondent's representation of Charles Martin, at the behest of various members of Martin's family. The details of this representation are set forth in *Columbus Bar Assn. v. Farmer*, 855 N.E.2d 462, 465-70 (Ohio 2006). The second involved Respondent's representation of Searcy Rutledge, Jr., in post-conviction proceedings. The details of this representation are set forth in *Farmer*, 855 N.E.2d at 470-71.

Pursuant to the Model Rules of Disciplinary Enforcement, as adopted by this Court, this Court "shall impose the identical discipline [imposed by the Ohio Supreme Court] unless the respondent-attorney demonstrates" certain conditions. *See* Rule II(D). On November 16, 2006, this Court issued an Order directing Respondent to show cause, if he has any, as to why this



Court should not impose a similar suspension from the practice of law. After various conferences and filings, and with the receipt of two and a half banker's boxes composing the full record before the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio, the matter became ripe on April 12, 2007. The matter was under consideration when it became moot by the Respondent's reinstatement in the Ohio state courts on April 1, 2008.¹

Respondent has been the subject of a suspension for more than three months in the state courts and a de facto suspension in this Court during the pending of his challenge. Therefore, Respondent is subject to the provisions of Local Rule VII(A)-(F). On June 24, 2008, Respondent moved for re-admission to the Bar of the United States District Court for the Southern District of Ohio.

III. LAW AND ANALYSIS

Pursuant to Local Rule VII(C):

Petitions for reinstatement by a disbarred or suspended attorney under this Rule shall be filed with the Chief Judge of this Court. Upon receipt of the petition, the Chief Judge shall promptly refer the petition to counsel and shall assign the matter for prompt hearing before one or more Judges of this Court. . . . The Judge or Judges assigned to the matter shall within 30 days after referral schedule a hearing at which the petitioner shall have the burden of demonstrating by clear and convincing evidence that he has the moral qualifications, competency and learning in the law required for admission to practice law before this Court and that his resumption of the practice of law will not be detrimental to the integrity and standing of the bar or to the administration of justice, or subversive to the public interest.

The reinstatement hearing was originally slated for February 2, 2009. Jonathan E. Coughlan, Disciplinary Counsel of the Supreme Court of Ohio, was appointed to serve as counsel for this Court in conducting the reinstatement hearing. Respondent was represented by David Carr Greer. Both attorneys Coughlan and Greer informed the Court that they did not believe a

¹Respondent was thereby placed on monitored probation for a period of one year.

hearing was necessary, and that reinstatement court be decided solely on the papers. Attorney Coughlan indicated to this Court that the reinstatement was unopposed. The hearing was thereby cancelled, with the matter to be decided solely on the papers.

Respondent indicates in his Response in Support of Motion for Readmission:

The State disciplinary proceedings . . . taught Mr. Farmer a significant and positive lesson. He understands that a lawyer must not only dedicate himself to the rights of his clients. He must also document his efforts with written fee agreements and contemporaneous time records. The decision in his disciplinary cases is equally important to the bar in general in making it clear that while the disciplinary rules do not mandate record-keeping as an ethical issue, good record-keeping may be essential to a lawyer's defense when ethical issues are asserted.

Based on the evidence in the record, this Court finds that Respondent has shown by clear and convincing evidence that he has the moral qualifications, competency, and learning in the law required for admission to practice law before this Court. This Court also finds that Respondent's resumption of the practice of law will not be detrimental to the integrity and standing of the bar or to the administration of justice, or subversive to the public interest.

IV. CONCLUSION

Because this Court finds Respondent fit to resume practice of law, Respondent's Motion for Reinstatement is **GRANTED** and Respondent is thereby **REINSTATED**.

IT IS SO ORDERED.

s/ Algenon L. Marbley
ALGENON L. MARBLEY
UNITED STATES DISTRICT JUDGE

Dated: April 10, 2009