ORIGINAL

The Supreme Court of Ohio

BEFORE THE BOARD OF COMMISSIONERS 10-0355

ON CHARACTER AND FITNESS OF 10-0355

THE SUPREME COURT OF OHIO

In re: Application of
Alexander Johnathin Zatik

Case No. 425

FINDINGS OF FACT AND RECOMMENDATION OF THE BOARD OF COMMISSIONERS ON CHARACTER AND FITNESS OF THE SUPREME COURT OF OHIO

This matter is before the Board of Commissioners on Character and Fitness pursuant to the appeal filed by the applicant, Alexander Johnathin Zatick, in accordance with Gov. Bar R. I, Sec. 12(B).

A duly appointed panel of three Commissioners on Character and Fitness was impanelled for the purpose of hearing testimony and receiving evidence in this matter. The panel filed its report with the board on January 19, 2010.

Pursuant to Gov. Bar R. I, Sec. 12(D), the board considered this matter on February 5, 2010. The board adopts the panel report as attached, including its findings of fact and recommendation of disapproval, with the amended recommendation that the applicant be permitted to apply for the July 2012 bar examination.

Therefore, the Board of Commissioners on Character and Fitness recommends that the applicant be disapproved; that he be permitted to apply for the July 2012 bar examination by filing a new Application to Register as a Candidate for Admission to the Practice of Law and an Application to Take the Bar Examination; and that upon reapplication, he undergo a complete character and fitness investigation in order to determine whether he possesses the requisite character, fitness and moral qualifications for admission to the practice of law in Ohio.

FILED
FEB 26 2010
CLERK OF COURT
SUPREME COURT OF OHIO

TODD HICKS, Chair, Board of Commissioners on Character and Fitness for the Supreme Court of Ohio

BEFORE THE BOARD OF COMMISSIONERS
ON CHARACTER AND FITNESS
THE SUPREME COURT OF OHIO

FILED
JAN 19 2010
BOARD OF COMMISSIONERS
ON CHARACTER AND FITNESS

In Re:
Application of
ALEXANDER JOHNATHIN ZATIK

Case No. 425

REPORT AND RECOMMENDATIONS OF THE HEARING PANEL

STATEMENT OF THE CASE

This matter is before the Board of Commissioners on Character and Fitness pursuant to an approval with qualifications by the Toledo Bar Association. On September 8, 2009, the Court appointed a panel of commissioners consisting of Patrick Apel, Judge Michael Howard and Todd Hicks. The Toledo Bar Association appointed Attorney Alan B. Dills to represent them in this matter.

The Applicant, Mr. Zatik, applied to register as a Candidate for Admission to the Practice of Law on November 12, 2008. He was interviewed by members of the Admissions Committee of the Toledo Bar Association on April 20, 2009. At the Applicant's request, he was interviewed by the entire committee on June 11, 2009. The Admissions Committee unanimously voted to approve the Applicant with qualifications. On July 29, 2009, Applicant's counsel, Mr. James Caruso, notified the Board of the Applicant's appeal of the Bar Association's recommendation.

The underlying reasons for the qualifications concerned the Applicant's juvenile felony (residential burglary), two underage alcohol convictions, use of false identification, failure to disclose the information to the University of Toledo Law School in a timely manner and his attitude toward his accountability for this conduct.

The Bar Association's Admissions Committee voted unanimously that the Applicant does "not currently demonstrate the ability to exercise good judgment in his professional affairs, nor the ability to conduct himself with a high degree of honesty, integrity, and trustworthiness in his professional relationships and with respect to all legal obligations."

The qualification placed on the approval was that the Applicant "be required to wait an additional two years past his date of law school graduation before he be permitted to re-apply to sit for the Ohio bar examination."

The panel hearing was conducted at the Ohio Supreme Court on January 8, 2010.

DISCUSSION

The Applicant, 24 years of age, began law school at the University of Toledo in the fall of 2007. He applied to four law schools in a one month period, one by written application and three, including Toledo, online. He applied to Toledo "hastily… and on a moment's notice" at the behest of a girlfriend. On his Toledo application, he did not disclose his legal problems. There was no evidence whether he disclosed on any of the other applications. Toledo was the only application available to the panel.

In October, 2007, two months after he began classes, the Applicant notified the law school of his arrests for two alcohol related incidents but did not disclose the use of a false identification or the juvenile burglary. An investigation was done by the law school resulting in the determination that he had violated the code of conduct but that it was not material because he would have been admitted anyway. He wrote a second letter in August, 2008, disclosing the burglary to the law school but claimed he did not get a response to that letter. In April, 2009, at the time he was to be interviewed by the bar association, he wrote a third letter to the law school disclosing the burglary. Again, he was notified that he had violated the code of conduct but that it was not material because he would have been accepted anyway. None of these letters are dated so it is not clear whether the last letter was written before or after the meeting with the bar interviewers.

While the events themselves most likely would not have caused problems, the bar association and the panel were concerned about the Applicant's candor in the disclosure of the events.

DISCLOSURE OF BURGLARY

The first event, the burglary in 2002, was not disclosed until the time of the applicant's initial interview with the bar association. The Applicant stated that he "slid under the garage door" of an ex-neighbor's house, watched television for a few hours

then left. He stated that his "crime" inside the house was the theft of cable (watching the basketball game on television).

During the examination by the bar association and at the panel hearing, the Applicant described his relationship with this family as close. He stated that he was friends with the son and daughter in the family, that he house-sat for them at times, and that he was in the house often. He stated that on the day in question he went to the home to visit, found no one there, and entered through the garage door. He admitted that there was a question of computer usage and that he was traced by computer forensics. In addition, it was disclosed that the owner of the house was retired from the U. S. government, possibly the CIA, and may have had sensitive materials on his computer.

At the panel hearing, it was disclosed for the first time:

- that he had an accomplice (although, in one letter, he mentioned the presence a friend),
- that when no one answered the door, he circled the house to see if anyone was home,
- that he had talked by cell phone to the daughter whom he described as a friend and learned that the family was on vacation in Washington, DC, (he did not mention to her or ask for permission to enter the home)
- that he had to slide under the garage door (it was too low to crawl under) after determining that no one was home and he raised the door for his accomplice to enter,
- that these "ex-neighbors" had moved away a year and a half earlier and had recently moved back,
- that his accomplice was not charged or tried for this offense,
- that he pled denial and was tried and convicted before the juvenile court
- that, although he wrote them a letter of apology, he has not spoken to the family since the burglary.

The Applicant was not altogether clear about whether he did not understand the question concerning arrests or convictions or whether he simply did not answer candidly. He stated that he applied to Toledo as an afterthought and did not recognize the question.

Later, in the bar association's interview, he stated that he discussed the matter with a lawyer. Upon further questioning, he stated that he talked to his father about it and his father advised him that it was sealed and he should not put it on the application.

The question on the application was as follows: "Have you ever been charged with, arrested for, or convicted of (either as an adult or as a juvenile) the violation of any law?"

The Applicant finally stated that he saw the question, knew what it said, talked to his father, and then failed to disclose. When asked why, he stated, "I don't know. It was a mistake."

DISCLOSURE OF ALCOHOL RELATED INCIDENTS

The alcohol related incidents occurred when he was an adult and he was prosecuted in the Medina Municipal Court. (Bar counsel was under the impression that "under-age" meant he was a juvenile.) The Applicant did not disclose the arrest or conviction in the first incident in August, 2003, on his application but notified the law school two months after classes began. He stated that he had discussed the matter with a friend who advised him to disclose. He described the offense as an incident in which he was driving in a friend's car and was pulled over and the officer found beer in the trunk. He stated that it was his fault because he had put himself in a "compromising situation."

However, upon further questioning, the Applicant divulged to the bar association that he had purchased the beer with his cousin's false identification (which he had been using for three months) and that the police observed the purchase. He was charged with using the false identification as well as underage possession.

The second alcohol related incident involved a party at his parents' house in July, 2004. The Applicant stated to the law school in his first letter that some of his friends acted irresponsibly and the police came. The Applicant stated that "he was in charge of the house, took full responsibility for my friends' actions and suffered the consequences." At the panel hearing, the Applicant admitted that he had brought some of the beer and his friends had brought some and that juveniles and other underage persons were drinking at the party.

In addition, the Applicant filed his application to register on November 12, 2008. His letter to the Toledo Law School disclosing his alcohol related offenses was sent in October 2007. He claimed that his disclosure of the burglary first came in August , 2008, in his second year of law school. Despite the claims of sending these two letters after realizing that he had not fully disclosed these matters on his law school application, he answered Question 5 C on page 4 of his Application to Register as a Candidate in the negative. The question reads: "Have you ever failed to answer fully and truthfully all questions on an application for admission to any educational institution?"

CONCLUSIONS AND RECOMMENDATIONS

In accordance with the factors enumerated in Gov. Bar R. I, section 11(D) (3) and (4), the panel finds that the Applicant did not prove by clear and convincing evidence that he had the character or fitness to practice law in the State of Ohio.

It is the opinion of the panel, based upon the testimony and the exhibits submitted at the hearing, that the Applicant has not been candid in his disclosure in his application to the University of Toledo Law School or in his testimony before the bar association interviews and the panel hearings. The panel agrees with the Toledo Bar Association's Admission Committee that the incidents by themselves do not necessarily call for qualifications, but that the lack of honesty, trustworthiness and reliability with regard to his applications to law school and his testimony before the admissions committee and this panel call for a period of maturation.

The panel further recommends that the Applicant be permitted to apply for the July, 2011 bar examination.

Judge Michael L. Howard

Todd C. Hicks

Patrick Apel, Chair