

ORIGINAL

The Supreme Court of Ohio

BEFORE THE BOARD OF COMMISSIONERS

11-1323

ON CHARACTER AND FITNESS OF

THE SUPREME COURT OF OHIO

In re: Application of
Jeffrey Vincent Gueli

Case No. 426

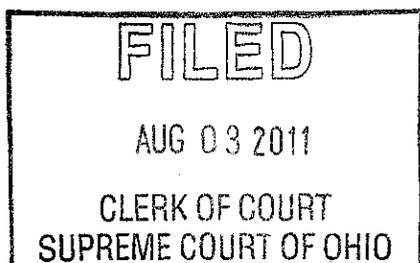
FINDINGS OF FACT AND
RECOMMENDATION OF THE BOARD OF
COMMISSIONERS ON CHARACTER AND
FITNESS OF THE SUPREME COURT OF
OHIO

This matter is before the board pursuant to the appeal filed by the applicant, Jeffrey Vincent Gueli, in accordance with Gov. Bar R. I, Sec. 12(B).

A duly appointed panel of three Commissioners on Character and Fitness was impaneled for the purpose of hearing testimony and receiving evidence in this matter. The panel filed its report with the board on June 28, 2011.

Pursuant to Gov. Bar R. I, Sec. 12(D), the board considered this matter on July 8, 2011. By unanimous vote, the board adopts the panel report as attached, including its findings of fact and recommendations, with the amended recommendation that the applicant be permitted to file a new Application to Register as a Candidate for Admission to the Practice of Law no sooner than November 1, 2013, prior to filing an Application to Take the Bar Examination for the July 2014 bar examination.

Therefore, the Board of Commissioners on Character and Fitness recommends that the applicant, Jeffrey Vincent Gueli, be disapproved, and that he be permitted to reapply to take the July 2014 Ohio bar examination upon filing a new Application to Register as a Candidate for Admission to the Practice of Law no sooner than November 1, 2013, followed by an Application to Take the Bar Examination for the July 2014 bar examination. The board further recommends that the applicant continues treatment with Dr. Wolf and Mr. Hunkins and follows their treatment recommendations, and that the applicant enters into a contract with the Ohio Lawyers Assistance Program (OLAP) for a three-year period and fully complies with all terms and conditions of that contract and the recommendations of OLAP.



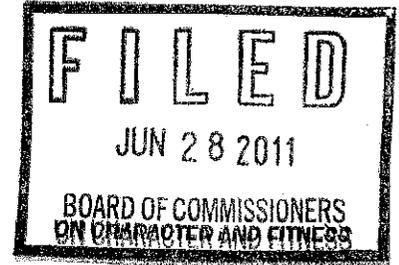
A handwritten signature in black ink, appearing to read "T. Hicks".

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

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

IN RE: APPLICATION OF
JEFFREY VINCENT GUELI

CASE NO. 426



PANEL REPORT AND RECOMMENDATION

Introduction

The matter is before a panel of the Board of Commissioners on Character and Fitness on applicant's appeal from a recommendation of disapproval by the Cleveland Metropolitan Bar Association. The members of the panel appointed to hear the appeal are the Honorable Nancy D. Hammond, Gregory L. Arnold, and Suzanne K. Richards, chair. At the hearing held on April 20, 2011, the applicant, Mr. Gueli, represented himself and Ms. Susan Audey represented the Cleveland Bar Association.

The Bar Association in a thorough memorandum set forth its multiple concerns concerning the applicant's fitness for admission to the Bar. See Admissions Committee Report of Disapproval. Based upon both its initial interview and the hearing held before the Bar Association's appeals sub-committee, the Bar Association had two primary concerns. First, it found the applicant had unresolved mental health issues, specifically that he appeared delusional with no real sense of reality. Second, the applicant evidenced an inability to take responsibility for his financial obligations and affairs.

For the reasons discussed below, the panel agrees with the Bar Association that Mr. Gueli does not presently possess the fitness to be admitted to the practice of law in Ohio.

Statement of the Case

Mr. Gueli is a 2005 graduate of Stetson Law School. Following his graduation, he took and passed the Florida bar, and was admitted in Florida later that year. His first employment was in the Office of the State Attorney in Florida where his tenure was short — from September 2005 until March 2006 — and not particularly sweet. He got cross-wise with his superiors after they refused him permission to prosecute criminal charges against a teacher for alleged abuse of a child. Because he failed to investigate sufficiently before filing charges, failed to review the charges with a supervisor before filing and discussed the case with the media, he was reprimanded. Mr. Gueli's testimony regarding these events exhibited what would be a continuing pattern — that is, testifying one way on an issue and when questioned changing his testimony. Despite admitting that he interviewed no witnesses to the alleged incident between the teacher and the student, Mr. Gueli was convinced that the teacher should be charged. When his supervisors did not agree, he took the file and went to the press to argue his case. Initially, Mr. Gueli stated that he was not aware of any policy that would preclude him from talking with the press. However, when questioned about this, he admitted that during his orientation training he had been told about a policy regarding statements to the media.

Following this problem with his superiors and for reasons that are not entirely clear, Mr. Gueli began to believe that lawyers in the Office of the State Attorney were corrupt and unethical. This, according to Mr. Gueli, caused him to resign from his position with the State Attorney in March 2006. He then set up his own practice, working out of his apartment from March 2006 until November 2006. During this time period, it appears Mr. Gueli became increasingly delusional. In May 2006, he drank an alcoholic beverage in the Atlanta airport

while traveling home to Ohio for a visit. He believed that the authorities laced his drink with a deadly narcotic. Convinced of the unethical and criminal behavior of his supervisors in the Office of the State Attorney, he filed grievances against his former supervisors with the Florida Bar in June 2006, but dismissed them a month later. He began during this time to write letters to the press. When these were not acted upon, he thought that the State officials were blocking his access to the press by some sort of shenanigans with the Post Office. His beliefs that lawyers at the State were out to get him caused him to file a lawsuit in federal court naming as defendants the United States, President George Bush, the State of Florida, Governor Jeb Bush, and his former supervisor, State Attorney Earl Moreland. The lawsuit asserted claims under RICO and for a denial of his First Amendment rights arising out of his contentions that his mail, in particular his letters to the Associated Press, were being interfered with by these various defendants or their agents. Mr. Gueli followed up the filing of the lawsuit with letters to the FBI in which he made irresponsible and unprofessional statements. For example, he referred to the three individual defendants in the lawsuit as the "three stooges." See Exhibit 1. In November 2006 the federal court dismissed the lawsuit. At his hearing before the Cleveland Bar Association, Mr. Gueli represented that he had voluntarily dismissed the lawsuit when in fact it had been involuntarily dismissed by the court. Despite the dismissal, Mr. Gueli continued to believe that defendants were out to get him.

Shortly after filing his lawsuit, Mr. Gueli was pulled over for speeding and when the police officer noticed an open can of beer in his automobile, he was arrested for driving under the influence. While ultimately acquitted of the DUI charge, he thought that the stop and arrest were orchestrated by the authorities because of his filing the federal lawsuit. There were other similar instances where Mr. Gueli convinced himself that the defendants were out to get

him. For example, one of his neighbors tragically committed suicide. Mr. Gueli perceived this as a situation in which the man had been hired to kill Mr. Gueli but, being unable to carry through on the hit, had killed himself instead.

Following the dismissal of his lawsuit, Mr. Gueli in November 2006 left Florida and returned to Ohio where he remained until approximately April 2007. From November until February, Mr. Gueli was unemployed. He then obtained temporary employment with Litigation Management. Although he indicated that he performed essentially paralegal-type duties, on the Ohio application he listed his position as a lawyer.¹ The form filled out by Litigation Management indicated it was a temporary position; however, Mr. Gueli testified that he could have stayed with Litigation Management but voluntarily quit in April 2007 to return to Florida. He was not able to obtain employment in Florida until August 2007 when he began to work as a lawyer for a solo practitioner. Three months later he was terminated from this position for below average work. At that point, November 2007, he returned to Ohio.

In late 2006, the Florida Bar filed two separate complaints against Mr. Gueli arising from his arrest for DUI and his filing of, and conduct with regard to, the federal lawsuit. The two complaints were thereafter consolidated. Mr. Gueli's behavior regarding his dealings with the Florida Bar raises some concerns. First, in response to the complaints, he sent the Bar some inflammatory letters threatening to sue it. (Threats of litigation over perceived slights or actions that he didn't agree with would become repeated behavior for Mr. Gueli.) Additionally, he did not appear for two hearings scheduled by the Bar. His comments in his correspondence to the Bar as to why he did not attend the two hearings are reflective of the attitude he showed during its proceedings:

¹ For a short time, again through a placement agency, Mr. Gueli was employed in 2008 at AEP. He again listed his position as lawyer in the application. Once more, he claims that he was not functioning as a lawyer. The panel questions Mr. Gueli's candor in connection with the information he provided concerning these two employments.

I did not attend the July 26, 2007 hearing. On that date I was living approximately 250 miles from Tampa and had no access to a vehicle, and did not see why I should make extraordinary efforts to attend the hearing when I had been acquitted of the criminal charge which your letters indicated was the basis for the hearing. I did not attend the August 23, 2007 hearing either. On that date I had just begun a new job and had accrued no time off. I did not see why I should make extraordinary efforts to attend the hearing when I had been acquitted of the criminal charge which your letters indicated was the basis for the hearing.

See Exhibit 2, footnote 5.

Eventually, the Bar in May 2008 recommended a diversion to the Florida Lawyers' Assistance program. Mr. Gueli agreed to this. However, Mr. Gueli failed to submit to an evaluation by Florida's program by the prescribed date. Instead, as noted, he had by this time left Florida to come back to Ohio. Florida eventually accepted his obtaining an evaluation and any recommended treatment in Ohio since he had indicated to Florida that he was going to continue to reside in Ohio. Mr. Gueli characterized Florida's action as closing its file unless he failed to get an evaluation. Actually, the Florida recommendation that Mr. Gueli accepted recommended a diversion to Florida Lawyers' Assistance, Inc., his acceptance of any recommendation it made for a contract, and compliance with all FLA, Inc.'s recommendations during the diversion period. Florida's finding then stated that "[i]f respondent successfully complete[d] the diversion recommended hereunder, this disciplinary file shall remain closed." See Exhibit 3. As noted, at Mr. Gueli's request, Florida accepted his request to undergo an evaluation and treatment in Ohio. Specifically, it found after a review of the OLAP contract that he signed that it was sufficient to satisfy FLA's program. As discussed below, however, Mr. Gueli did not ultimately comply with the contracts he signed with OLAP.

In early 2009, Mr. Gueli, who was still suffering from paranoia delusions, sought psychiatric treatment with a psychiatrist, Dr. Wolf and a therapist, Paul Hunkins. Based upon the medical records submitted in connection with the panel hearing, it is clear that alcohol contributed to and compounded Mr. Gueli's paranoiac views, his employment problems and his inclination to respond inappropriately to the Bar and to others with whom he dealt. At the time he returned for the final time to Ohio, he still was very much under the belief that the President of the United States and the Governor of Florida had been instrumental in tampering with his mail, lacing his drink with a narcotic, and trying to have him killed. Dr. Wolf diagnosed Mr. Gueli at this time as having major depression with psychotic features. After treating with Dr. Wolf and Mr. Hunkins for several months and apparently in response to the Florida Bar proceedings, Mr. Gueli signed the first of two contracts with OLAP in April 2009. While this was OLAP's mental health contract, see Exhibit 6, it did provide that he was to refrain from alcohol as well as other mood altering drugs.

Treatment by Dr. Wolf and Mr. Hunkins was impacted by Mr. Gueli's failure to stay on his prescribed medication and by his excessive drinking which tended to retard the efficacy of the medications and fuel his delusions. From January until March 2010 Mr. Gueli was in an intensive outpatient treatment program for his alcohol dependency at Glenbeigh, a part of the Cleveland Clinic. Throughout his participation in this program, Mr. Gueli was resistant to the treatment. His non-responsiveness to the program and his poor prognosis are specifically discussed in Glenbeigh's discharge summary. Interestingly, Mr. Gueli denies that he knew he was having problems in the program.

As a result of his continuing issues with alcohol, in June 2010, Mr. Gueli entered into a second OLAP contract, this one OLAP's chemical dependency contract. It again required

him to refrain totally from all mood altering substances, including alcohol; to obtain a sponsor within two weeks of the date of the contract; to submit to random alcohol screens, and to participate in the AA program. Virtually from the onset of the contract, Mr. Gueli violated its terms. He did not get a sponsor within two weeks. Indeed, he did not ultimately get a sponsor until December 2010, some 6 months after he signed the contract. He missed random screening tests that were scheduled because he did not call in as required. He failed two of the six tests he did take. When it was clear that the AA meetings and the outpatient treatment he had received were not working, OLAP's Mr. Caimi, after consultation with Dr. Wolf and Mr. Hunkins, recommended Mr. Gueli seek inpatient treatment. Mr. Gueli flatly refused to participate in an inpatient program. When Mr. Caimi pushed the issue, Mr. Gueli sent him an e-mail that initially said he was not willing to enroll in an inpatient program because he did not have the money to do so. However, he immediately followed this excuse with his real reason:

Even if inpatient treatment were free, I would still decline to enroll in it -- I see no reason to spend thirty days in a hospital when I'm not ill. For the past several weeks I have been drinking between zero and ten alcoholic drinks per week -- I do not find that is indicative of an illness which requires hospitalization. I am not ill and I do not belong in a hospital. I understand that is OLAP's recommendation, as well as the recommendation of Dr. Wolf, that I enroll in residential treatment. Nevertheless, I will not be enrolling in any such treatment.²

Exhibit 9.

Despite explicitly stating in this e-mail that he understood that Dr. Wolf was also recommending inpatient treatment, Mr. Gueli testified at the hearing that Dr. Wolf thought it was a bad idea and she was against it. Dr. Wolf herself testified that she never was against inpatient treatment. Likewise, despite Mr. Caimi advising Mr. Gueli that Mr. Hunkins also favored

² Inpatient treatment is residential treatment and does not necessarily mean a hospitalization as characterized by Mr. Gueli.

inpatient treatment, Mr. Gueli at the hearing said Mr. Hunkins was also against it. Once again, Mr. Hunkins testified that he did not tell Mr. Gueli that he was against inpatient treatment. See Exhibits 10, 11, 12. Because of Mr. Caimi's persistence on the issue of inpatient treatment, Mr. Gueli sent him a letter reminiscent of the correspondence to the Florida Bar — he threatened to sue Mr. Caimi. See Exhibit 13. At this point in time, Mr. Gueli was not in compliance with the OLAP contract. He had not gotten a sponsor; he was not calling in daily to see if he was scheduled for a urine test; he was not attending AA meetings regularly; and most significantly, he was drinking. Because of his non-compliance, the OLAP contract was terminated in August 2010. When questioned about the effect of this termination on his Florida Bar proceedings, Mr. Gueli testified that he had advised Florida that his OLAP contract was terminated. Despite having previously been asked to provide all documents pertinent to the Florida case, Mr. Gueli had not produced such a letter at the time of the hearing and was asked to provide it. Following the panel hearing, the panel was provided a letter dated September 4, 2010. Frankly, it is difficult to determine the authenticity of this letter. It looks like an original, albeit it is not signed. Of greater concern, however, is the content of the letter even assuming it was sent to Florida. In it, he reports that he is progressing well not only with his depression and paranoid delusions, but also with his alcoholism. Specifically, he claims that he has been regularly attending AA meetings since February 2010. This is not true as the AA attendance records document. See Exhibit 8. In fact, in August 2010, he attended only 6 meetings and in September and October 2010, he attended no meetings. He does report that Mr. Caimi terminated his OLAP contract but says that this was done solely because he would not go into inpatient treatment — not because of his non-compliance with the terms of the contract — and he did not go into a residential treatment program because Dr. Wolf advised against it.

Characterizing Mr. Caimi's demand for inpatient treatment as "irrational," Mr. Gueli claims to have completely abstained from alcohol except for a brief relapse in March 2010. This likewise was not true. In fact, in his e-mail to Mr. Caimi dated August 5, 2010, see Exhibit 9, Mr. Gueli admits that he was drinking up to 10 drinks a week depending on the week. Even at the hearing, Mr. Gueli indicated that he continues to drink a low alcohol beer. That it is very low in alcohol does not alter the fact that there is alcohol in the drink and each of the professionals testified that they absolutely recommend against an alcoholic such as Mr. Gueli drinking any alcohol. But, as in the past, Mr. Gueli continues to believe that his alcoholism is under control when he has either limited the number of his drinks per week or is only drinking a low alcohol beverage.

His lack of honesty in his report to Florida is mirrored in his lack of honesty to Dr. Wolf and Mr. Hunkins. Each of them testified and their notes reflect that Mr. Gueli was telling them he was attending AA meetings when he was not. While each of them opined that so long as he continued with his medications and his therapy and psychiatric sessions, he should be able to practice law, each admitted that his lack of honesty impacted their opinion. While Dr. Wolf acknowledged that the fact that he was still not reporting reliably to her was a "revelation," she was reluctant to allow it to impact significantly her opinion. She felt it did not change her opinion about his ability to comprehend and make reasonable judgments. On the issue of truthfulness, she said that drinking was a problem in society; however she also commented that if an alcoholic who isn't getting themselves into trouble but isn't attending meetings as they claim can't be a lawyer this would disbar a lot of lawyers in the state. Unfortunately, her response misses the critical importance that truthfulness and honesty play in the profession. Mr. Hunkins on the other hand was very clear that if Mr. Gueli was not truthful about his drinking and his

attendance at meetings, it would change his opinion. In his opinion, it reflected on his character and made it inappropriate to serve as a member of the bar of the State.

While this report has discussed at length Mr. Gueli's mental health, alcohol and honesty issues, the Bar Association also had concerns with his financial responsibility. Mr. Gueli has lived at home totally supported by his parents since 2008. He has remained unemployed except for some small periods of work at restaurants from which he has been terminated. This lack of employment is compounded by his failure to present any evidence that he has made real efforts to obtain employment. He has credit card debt of \$15,000 and other debt of \$3,500 plus deferred student loans. This debt is all delinquent, long-standing and he has not taken any steps to get work and establish a plan for paying off his past debts and paying his current expenses. His only response when asked what steps he has taken was to advise the panel that on the way to the hearing he talked with his father about helping. This is a thirty year old adult who has not taken any action to live on his own or support himself for almost three years. Despite the fact that he and his doctors agree that his paranoia and delusions have been successfully treated by medication, he still has not sought to become self-sustaining.

Recommendation

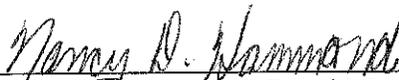
Under the factors enunciated in Rule 1, Mr. Gueli simply has not shown by clear and convincing evidence that he possesses the character and fitness necessary to be admitted to the practice of law in Ohio. Rule 1, Section 11 (D). His paranoia and delusions appear to have been treated by psychiatric care and medication (which he will continue to need for the rest of his life). His alcohol dependency, however, is a different issue. He has steadfastly resisted effective treatment for this disease. He resisted the Glenbeigh program; he repeatedly and continually breached his obligations under his OLAP contract; he refused inpatient treatment at

the time that other alternatives had failed; and even today he continues to drink alcohol in the form of low alcohol beer.

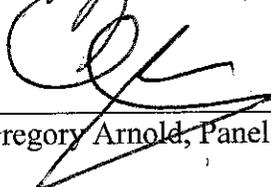
Admittedly, for some period of time, finding and keeping gainful employment would have been difficult for Mr. Gueli. There could legitimately be a difference of opinion when that time ended, but it appears that for some period of time he has been capable of holding a job, and yet his lack of genuine effort to seek gainful employment continues today. Instead, he seems to have decided that he would simply wait until he took the bar. In the meantime, he continues to be supported by his parents, to ignore his past debts and, more importantly, continues to take no responsibility for supporting himself in any meaningful way.

The most important factor, however, that makes Mr. Gueli unfit at this time is his inability to know or tell the truth. He has not been truthful with Dr. Wolf and Mr. Hunkins; he was not truthful with Mr. Caimi; and even during the hearing there were repeated instances where he testified to matters that simply were not accurate. When questioned, he would inexplicably simply state that he must be wrong but that is what he remembered or thought at the time he made the statements. It brings to mind an observation made by then Senator Patrick Moynihan: "You are entitled to your own opinion, but you are not entitled to your own facts." That is precisely what Mr. Gueli does: he creates his own facts. And he holds to his views until challenged by incontrovertible evidence to the contrary. It is unclear to the panel whether Mr. Gueli always knows that he is creating his own facts, whether he is just being careless, and/or whether his mental health issues contribute to his perception of reality, but in any event it is clear that he presently is not a person upon whom clients, courts, adversaries and others can rely. To the contrary, he presently manifests "a deficiency in honesty, trustworthiness . . . [and] reliability. . . ." Rule 1, Section 11 (D).

The panel therefore recommends that Mr. Gueli not be approved for admission at this time and that he not be permitted to re-apply for admission until January 2014 (allowing him if approved to take the July 2014 bar examination). It is further recommended that, in the interim, he continue treatment with Dr. Wolf and Mr. Hunkins and follow their treatment recommendations. Finally, he shall further enter into a contract with OLAP for a three-year period and fully comply with all terms and conditions of that contract and the recommendations of OLAP.



Nancy D. Hammond, Panel Member



Gregory Arnold, Panel Member



Suzanne K. Richards, Panel Chair