

The Supreme Court of Ohio

BEFORE THE BOARD OF COMMISSIONERS

ON CHARACTER AND FITNESS OF

THE SUPREME COURT OF OHIO

11-1663

In re: Application of
Christopher Stanley Christman Webber

Case No. 497

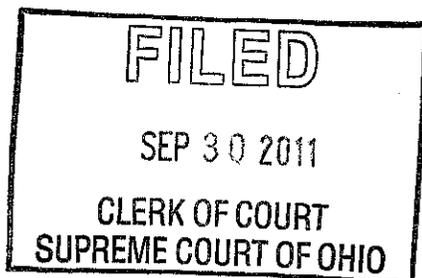
FINDINGS OF FACT AND
RECOMMENDATION OF THE BOARD OF
COMMISSIONERS ON CHARACTER AND
FITNESS OF THE SUPREME COURT OF
OHIO

This matter is before the board pursuant to its *sua sponte* investigatory authority. Gov. Bar R. I, Sec. 10(B)(2)(e).

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. A hearing was held on June 23, 2011, and at the conclusion of testimony, the applicant moved to withdraw his application. The panel filed its report with the board on July 8, 2011.

Pursuant to Gov. Bar R. I, Sec. 12(D), the board considered this matter on July 8, 2011. The board denied applicant's motion to withdraw his application and adopted the panel report as attached, including its findings of fact and recommendation of disapproval with permission to re-apply in two years by completing a new and accurate application. The adopted recommendation further provides that the applicant should not practice law in Ohio, including but not limited to, seeking admission *pro hac vice* in Ohio or registering for corporate status. In addition, due to the applicant's admission that he practiced law in Ohio without authorization, the board amended the panel recommendation to require that upon reapplication the applicant be required to sit for the Ohio bar examination. Accordingly, the applicant would not be permitted to apply for admission without examination pursuant to Gov. Bar R. VI, Sec. 3(C), which precludes out-of-state attorneys who perform legal services for their Ohio employers but fail to register for corporate status from applying for admission without 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 2013 bar examination by filing an Application to Register as a Candidate for Admission to the Practice of Law and an Application to Take the Bar Examination; and that, in the interim, he should not practice law in Ohio.

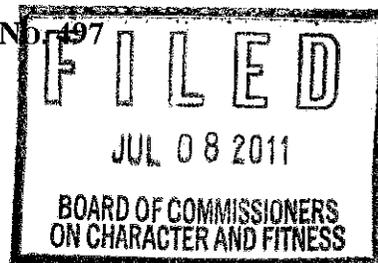


TODD HICKS, Chair, Board of Commissioners
on Character and Fitness for the Supreme Court
of Ohio

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

IN RE APPLICATION OF CHRISTOPHER STANLEY CHRISTMAN
WEBBER

CASE No. 197



PANEL REPORT AND RECOMMENDATION

Introduction

The matter is before a panel of the Board of Commissioners on Character and Fitness pursuant to the Board's *sua sponte* authority under Rule I, Section 10. A panel, consisting of G. Scott McBride, Todd C. Hicks and Suzanne K. Richards, held a hearing on June 23, 2011, at which Mr. Webber appeared *pro se* and the Akron Bar Association was represented by Judge Kim R. Hoover.

Statement of the Case

Mr. Webber is applying to be admitted upon motion. The initial concern causing the Board to decide to review the applicant was raised by his failure to disclose two DUI convictions on his Ohio application. The disquiet was not occasioned by the DUI's themselves, both of which date back to the early 1990's, but rather by what appeared to be some dissembling by the applicant as to why he did not disclose. Based upon the testimony at the hearing, the concern was well founded.

That Mr. Webber had doubts about how to answer the question at issue, No. 23. B., is puzzling. That question states:

Have you ever been charged with any alcohol-or drug-related traffic violations, regardless of when they occurred.

Despite acknowledging that it was a straightforward, unambiguous question, Mr. Webber decided not to respond to it accurately. During his interview with the local admissions committee he indicated that he had already given the information to the National Conference of Bar Examiners (NCBE) at the time he applied in 2001 to be admitted in Michigan. He also told the interviewers that his sister, an Ohio lawyer, had advised him to answer the way he did. From the interviewers' reports, it is unclear why he thought providing it to the NCBE almost ten years earlier was significant with regard to his application in Ohio. However, in any event, his story changed during his testimony at the hearing. First, the applicant, when pressed regarding his explanation that he was essentially relying upon the advice of counsel (his sister) stated that he had in fact never shown her the Ohio application nor discussed with her the precise question at issue. Rather, he apparently indicated to her he was questioning how to respond to one of the application's inquiries and his sister merely told him to follow the directions. Ultimately, the applicant retracted his statement that he relied upon his sister or upon her as a lawyer in responding to the inquiry.

At the hearing Mr. Webber offered a slight variation on his statement regarding his relying on previously reporting to the NCBE. He testified that he recalled reading in the instructions to the exam application some type of statement that indicated if he had previously disclosed information, then he needn't disclose it again.¹ When confronted with a copy of the instructions to the application, Mr. Webber conceded that they contained no such statements. Indeed, the instructions could not have been clearer about the requirements for disclosing information. In bold letters, the directive to applicants is to "answer each question on this questionnaire fully and truthfully." To reinforce this message, the instructions go on to state that

¹ The applicant was at a loss to explain why he re-disclosed other information on his application, but applied the alleged instructions only to Question No. 23.B.

“any omission, untruthful answer or incomplete answer may result in your being denied the privilege of taking the bar examination and practicing in the State of Ohio.” And, in fact, with respect to Question No. 23 itself, the instructions emphasize that it is one of the questions that “must be fully answered regardless of expungements, bond forfeitures, dismissals or similar terminations. . . .” These instructions leave little room for doubt as to how the applicant should have responded to Question No. 23. Ultimately, the applicant provided no clear explanation for why he chose to hide his two DUI convictions from Ohio. But what was clear is that he simply was not being forthright in his testimony.

During the course of his testimony, one other issue surfaced and once again Mr. Webber was not particularly forthcoming in addressing the issue. As noted, he is seeking admission without examination. Rule I, Section 9 sets forth the requirements for such an admission. These include the requirement that an applicant has practiced law in another jurisdiction for a specified period of time and additionally has not engaged in the unauthorized practice of law. In connection with the submission of his application,² Mr. Webber submitted an affidavit dated October 30, 2009 in which he averred that he was corporate counsel for an Ohio corporation located in Ashland, Ohio and that he had held the position since July 2009. He further outlined the various duties he performed as corporate counsel, including counseling the company on all contracts or other documentation of legal significance and composing, revising, and advising on international contract issues. Because the affidavit raised some question as to whether Mr. Webber had been practicing law in Ohio, the panel inquired of him about his position with the company. Initially, he seemed to indicate that he accepted a position as corporate counsel but then actually took another position in operations until he could be admitted

² The applicant had to resubmit his application several times because it was incomplete or contained omissions. He initially submitted an application in November 2009 and his completed application was finally accepted in June 2010.

in Ohio. Only when confronted with his affidavit did he concede that he had in fact acted as general counsel for the company for some period of time, performing all of the duties listed in the affidavit. In this regard, it is worth noting that as late as August 2010, the President of the company completed an inquiry form from the NCBE that was seeking to confirm Mr. Webber's employment and he affirmed the applicant's position was that of corporate counsel. This panel's primary concern is not with the issue of whether Mr. Webber was engaged in the unlawful practice of law because that is a matter for determination by the Supreme Court. Rather again the panel is bothered by the applicant's inability to answer in a straightforward manner questions about his role and activities since he has been in Ohio.

At the conclusion of the testimony, Mr. Webber moved to withdraw his application. The panel advised him it would take the motion under advisement and make a recommendation to the Board which would decide the matter.

Recommendation

Addressing first the applicant's motion to withdraw, the panel recommends that the motion be denied. The concerns in this matter focus on the credibility and honesty of the applicant. For this reason the panel is reluctant to allow the applicant to withdraw. It seems that the purpose of the rule — the protection of the public — is better served by having this matter resolved by the Board so that the Supreme Court has the opportunity to hear and decide Mr. Webber's application without examination.

With respect to the applicant's character and fitness, the panel concludes that he has not shown by clear and convincing evidence his character, fitness and moral qualifications for admission. The touchstone for determining an applicant's character, fitness and moral qualifications is conduct that justifies trust. As Rule I summarizes it, a candidate has to manifest

honesty, trustworthiness and reliability. Mr. Webber has not done this. As observed above, it is inexplicable why he did not simply respond fully and accurately to Question No. 23. Equally puzzling is why having made that omission, he was unable to state simply and truthfully why he made the omission. But in any event his failure to do so impacts the very essence of standard of honesty the legal profession must demand of its practitioners. Accordingly, the panel does not recommend that the applicant be approved. The panel further recommends that Mr. Webber be allowed to re-apply in two years by completing a new and accurate application. In the interim, the applicant should not in any way practice law in Ohio, including but not limited to, seeking admission pro hac vice in any Ohio court or registering for corporate status.



G. Scott McBride, Panel Member



Todd C. Hicks, Panel Member



Suzanne K. Richards, Panel Chair