

BEFORE THE BOARD OF COMMISSIONERS
ON
GRIEVANCES AND DISCIPLINE
OF
THE SUPREME COURT OF OHIO

00-1100

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| In Re: | : | |
| Reinstatement of | : | Case No. 99-026 |
| Geoffrey Lynn Oglesby Attorney Reg. No. 0023949 | : | |
| Respondent | : | Findings of Fact, Conclusions of Law and Recommendation of the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio |
| Disciplinary Counsel | : | |
| Relator | : | |

ON PETITION FOR REINSTATEMENT TO THE PRACTICE OF LAW PURSUANT
TO GOV. BAR R. V, SECTION 10

Introduction

{¶1} This petition for reinstatement matter was heard September 20, 2011, in Columbus, Ohio, before a panel consisting of Alvin R. Bell, Judge Lee H. Hildebrandt, Jr. and John H. Siegenthaler, chair. None of the panel members is a resident of the appellate district in which Respondent resides or of the appellate district in which he resided at the time of his suspension.

{¶2} Heather Hissom represented Relator, and Respondent-Petitioner Geoffrey Oglesby appeared pro se. Reasonable notice of the hearing was given to those organizations entitled to notice under Gov. Bar R. V, Section 10(G)(2); however, only Disciplinary Counsel appeared.

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{¶3} For the reasons and on the condition stated below, the panel recommends that Respondent be reinstated to the practice of law.

Findings of Fact

{¶4} Respondent is 56 years of age, was admitted to the bar in 1982, and before being suspended in 2000 had a substantial criminal defense practice in Sandusky, Ohio. Respondent first practiced with his father, attorney Robert Oglesby, until his father's death in 1995 and later as a sole practitioner. Respondent's Supreme Court registration is current.

{¶5} In 1992, Respondent received a one-year suspension from the practice of law, with six months stayed, and one year of probation as ordered by the Supreme Court.

Disciplinary Counsel v. Oglesby (1992), 64 Ohio St.3d 39. The violations that led to this partially stayed suspension were based on a series of problems, namely; Respondent's failure to respond to a bankruptcy procedure and mortgage foreclosure against his client, failure to timely complete another client's settlement later lost due to a bankruptcy action; failure to properly maintain his IOLTA account; failure to answer interrogatories and to properly prosecute a civil action in two separate matters; and failure to properly attend to a personal injury action that he had filed.

{¶6} The case that led to this reinstatement petition was the indefinite suspension ordered by the Supreme Court on December 27, 2000 in *Disciplinary Counsel v. Oglesby*, 90 Ohio St.3d 455, 2000-Ohio-94. There Respondent was found to have violated several disciplinary rules resulting from his failure to: (1) make reports and meet with his monitoring attorney as a condition of probation in the previous disciplinary case; (2) file briefs as court appointed appellate counsel in two cases; (3) file required papers in a third case resulting in a dismissed appeal; (4) timely return a \$5,000 overpayment to him made on account of a bank

error; and (5) make a court appearance for another client and to return an unearned retainer to that client.

{¶7} From that conduct, the panel and Board found numerous violations of the applicable rules and recommended that Respondent be suspended for one year and that his probation under the previous case be revoked. The Supreme Court adopted the findings and conclusions of the Board, but changed the sanction to an indefinite suspension.

{¶8} Since the 2000 indefinite suspension, Respondent has twice before petitioned for reinstatement, and on both occasions reinstatement was denied.

{¶9} On February 13, 2004, the Board agreed with the panel and recommended denial of Respondent's first petition for reinstatement. While the Board said that the evidence indicated that respondent met all the required moral, legal, educational, and CLE requirements for reinstatement, it could not find that Respondent had been rehabilitated respecting his ability to prevent a reoccurrence of the shortcomings which led to both his indefinite suspension and his previous partially stayed suspension. The Board did not find any specific conduct that paralleled the type of conduct that led to the previous suspensions, but it was concerned about Respondent's admitted deficiencies in law office management and in maintaining appropriate financial records. The Board used Respondent's errors on his personal income tax returns, his failure to timely amend the returns, and his need for an extension of time from the panel to provide his CLE records to the panel as examples of Respondent's lack of rehabilitation and lack of mental qualifications to practice law. The Board noted Respondent's concession that he could not manage and that the "nuts and bolts" were his Achilles' heel. The Supreme Court denied this first petition by a 4-3 vote in *Disciplinary Counsel v. Oglesby*, 102 Ohio St.3d 1219, 2004-Ohio-2541.

{¶10} Five years later on February 13, 2009, the Board again agreed with the panel and recommended denial of Respondent's second petition for reinstatement. The Board was convinced that Respondent was regarded in Sandusky as a skilled professional in criminal law and was respected in his community for his dedication to the community and involvement in various volunteer activities. The Board was convinced that the appropriate restitution had been made and that all CLE requirements had been met. Nonetheless, the Board noted that Respondent had taken no CLE or other courses in law office management, had no business plan for the practice, had no definite system for case tracking and meeting deadlines, and had no accounting system in place. The Board said Respondent needed to show specific documented steps demonstrating that he has learned how to manage these details or has retained others with expertise to do it for him under his supervision. As shown in the Board report, the panel also targeted Respondent's accounting and tax reporting deficiencies which were addressed at the first hearing and continued to be problematic. The panel found that Respondent had failed to prove by clear and convincing evidence that (1) he possessed the required mental, educational and moral qualifications required, and (2) he was then a proper person to be readmitted. The Supreme Court denied the second reinstatement petition without comment in *Disciplinary Counsel v. Oglesby*, 121 Ohio St.3d 1478, 2009-Ohio-2111.

{¶11} Gov. Bar R. V, Section 10(E), which governs reinstatement proceedings, reads, in part, as follows:

(E)(1) Requisites for Reinstatement. The petitioner shall not be reinstated unless he or she establishes all of the following by clear and convincing evidence to the satisfaction of the panel hearing the petition for reinstatement:

(a) That the petitioner has made appropriate restitution to the persons who were harmed by his or her misconduct;

(b) That the petitioner possesses all of the mental, educational, and moral qualifications that were required of an applicant for admission to the practice of law in Ohio at the time of his or her original admission;

(c) That the petitioner has complied with the continuing legal education requirements Gov. Bar R. X, Section 3(G);

* * *

(e) That the petitioner is now a proper person to be readmitted to the practice of law in Ohio, notwithstanding the previous disciplinary action.

{¶12} In addition, Gov. Bar R. V, Section 10(G)(6) reads, in part, as follows:

* * * The order of reinstatement may be subject to conditions the Supreme Court considers appropriate including, but not limited to, requiring the petitioner to serve a period of probation under Gov. Bar R. V on conditions the Supreme Court determines * * *

{¶13} The parties stipulated that restitution was not an issue as it had been previously recognized to have made in the 2004 reinstatement proceedings. The panel also finds that appropriate restitution was indicated in the findings in the second 2009 reinstatement proceeding. The panel accepts this stipulation and evidence.

{¶14} The parties also stipulated that Respondent has complied with the continuing legal education requirements for reinstatement by having more than the minimum CLE hours required. The panel finds that the rules required Respondent to have 130 hours of CLE, including 22 hours of professional conduct, since his December 2000 indefinite suspension. At the hearing, the parties stipulated that Respondent had earned 177 hours of CLE, including 27.25 hours of professional conduct. Respondent also testified that he attended a seminar in California in July 2011 approved by the Supreme Court Commission on CLE for an additional 16 hours, including two hours of ethics instruction. He presented a Commission letter of September 22 as certification of this activity. The panel accepts this stipulation and evidence.

{¶15} Inasmuch as the restitution and CLE requirements for reinstatement were established, Respondent is left to show that he possesses the required mental, educational, and moral qualifications and is now a proper person for readmission to the bar.

{¶16} Respondent was employed on the faculty of Ohio Business College in Sandusky, in the paralegal program, as a guest instructor since sometime in 2008 and has been an adjunct faculty member since March 2009. He has taught courses in criminal procedure, legal research, estate planning, family law, civil procedure, torts, legal writing, and legal office procedures. Respondent also teaches a separate course at the college in business law and ethics outside the paralegal program.

{¶17} The curriculum for the office procedures course taught by Respondent is based on the book *Practical Law Office Management* with related materials. In order to prepare to teach the course, Respondent read the text book, did outside research, reviewed applicable forms, specimen client letters, time billing, calendars, document control, and related matters. Respondent also obtained materials from the Akron Bar Association, in addition to his CLE credits, on financial and practice management and law office technology. Respondent used an OSBA software program entitled *Office Keeper* as a reference source.

{¶18} From all of this, Respondent prepared an Office Procedures Manual that was in the works since 2009 and completed just prior to the hearing on his most recent reinstatement petition. He would use this manual in his practices containing text and forms relevant to client relations, conflicts, legal resources, docket and file control, financial management, client ledgers and trust accounting, billing, and professional conduct.

{¶19} Respondent introduced copies of student surveys and faculty performance evaluation forms respecting his classes taught in 2010 and 2011, showing that a great majority of

his students gave him the highest rating of “completely satisfied” while the faculty evaluations were that Respondent met or exceeded expectations in all categories.

{¶20} In the 2009 board report recommending denial of Respondent’s second petition, there were specific findings that Respondent could not document that he had taken any CLE or other courses on office management, had no business plan for his practice, had no defined system for case tracking and meeting deadlines, and had no accounting system in place.

{¶21} Since then, Respondent has obtained three hours of CLE credit in office management and received a certificate of attendance for four additional hours in that category.

{¶22} In addition to his CLE hours and attendance, Respondent has taken several continuing education courses from the Ohio Association of Career Colleges and Schools and in-service programs through the College.

{¶23} To further address the concerns raised in the 2009 proceeding, Respondent prepared his law office business plan. In that document, Respondent reviews his educational background, his current teaching position and subjects, and his intention to continue parttime teaching while practicing law as a sole practitioner if reinstated, also on a parttime basis. Respondent intends to concentrate his practice on court-appointed representation in criminal cases and possibly as a guardian *ad litem* in probate matters.

{¶24} Respondent’s business plan contains sections on the type of practice, management, start up costs, services, marketing strategy and implementation, revenue and expenses, insurance, bookkeeping and accounting, profitability, and plan review.

{¶25} Respondent elaborated on his business plan in his testimony while attributing, but not excusing, some of his earlier management deficiencies to his practice history. Respondent’s father, also a Sandusky attorney and city prosecutor, handled the business matters for their

father-son practice while Respondent concentrated on his practice and clients. At that time, Respondent felt no need for a business plan other than doing his best for his clients. Now, Respondent realizes that a business plan gives direction with parameters, goals, and things of that nature.

{¶26} At the panel hearing, counsel for Relator homed in on what respondent had learned about law office management from the courses he teaches. Respondent now knows the importance of good record keeping, time management, adherence to deadlines, financial management, technology, bookkeeping and accounting, and good client relations. Respondent realizes the danger of taking on more work than he can handle and the benefits of the effective use of paralegals. Respondent is prepared to use a scheduling and case tracking system and has explored the use of related software programs which he had used for a short time previously.

{¶27} In the 2004 report on the first petition for reinstatement, the Board faulted Respondent for some information errors on his 2000, 2001, and 2002 federal income tax returns which he filed in February 2003. The Board found that one of the errors in the returns was Respondent's reported receipt of income from the Oglesby and Oglesby law firm although all of the evidence indicated that Respondent had not practiced law since his suspension in December 2000. The Board then noted that Respondent knew that these errors and other unspecified errors were in the returns which required him to file amended returns, but he had not done so. There was no suggestion that any of the errors involved any failure to properly report income or expenses or the tax due.

{¶28} In the 2009 report on Respondent's second petition, the Board concluded that Respondent had failed to correct serious deficiencies in his personal tax accounting and reporting methods since the 2004 report. In a footnote, the Board explained that Respondent, in response

to Relator's request for all of his W-2 and 1099 forms for the years 2000 to 2007, submitted only the two-page forms 1040 for each of these tax years. Respondent indicated at the 2009 hearing, that he received no W-2 or 1099 forms from the attorneys for whom he worked so he submitted the forms 1040 instead.

{¶29} In the current proceeding before the panel, Respondent introduced copies of his amended federal income tax returns from 2000 through 2003 together with a letter from the CPA who prepared the returns. This showed that the returns had been amended to show Respondent's occupation as a researcher not a lawyer/attorney as shown on the original returns. The letter also advises Respondent that he need not actually file the returns with the IRS since those years were closed under the code. The CPA advised that Respondent use the amended returns only for legal hearings. Regardless of this, Respondent did file the returns with the IRS prior to the panel hearing. In these amended returns, Respondent added explanations to show that he was not attributing any income to the law practice of Oglesby and Oglesby and that some income for those years was actually that of Respondent's disabled brother for whom Respondent was acting as a designated payee for social security payments.

{¶30} Prior to the 2011 panel hearing, Respondent amended his 2003 Form 1040 return for the second time and his returns for 2004 through 2007 to show the disabled brother as a dependent and to claim an increase in the earned income credit for those years. These amendments will not increase the tax for these years but could result in a refund to Respondent, although he recognizes that the refund claims may be time-barred.

{¶31} Respondent has timely filed his 2008 and 2009 tax returns and after obtaining an extension for 2010 did timely file that return on October 4, 2011.

{¶32} Respondent has no unpaid federal income tax liability except for an approximate \$9,000 balance from in 2001 to 2003, which he was paying at the rate of \$249 per month. The payment plan is in abeyance with the consent of the IRS until Respondent's reinstatement petition and the earned income tax credit claims are determined.

{¶33} Respondent testified as to his remorse and provided evidence of his community involvement, his good character and reputation, and his ability as a lawyer when he was practicing. Respondent introduced a commendation award received in 2010 from a Sandusky civic organization. This award recognized Respondent's family history, his blood relationship to several lawyers, his former practice starting when he joined his father in 1982 and the later racial integration of that practice, his present positions as college instructor and researcher, his numerous board memberships, and his long time church affiliation. Also noted, was Respondent's teaching at legal seminars and even his activity in a program to introduce the game of golf for under-privileged children.

{¶34} Respondent presented twelve supporting letters, first used in the 2009 proceeding, from judges, prosecuting attorneys, practicing attorneys, and a Sandusky city official. These letters praised Respondent's passion for the practice, knowledge of the law, courtroom conduct, fairness, work habits, ethics, his value to the community, writing skills, and volunteer mock trial program participation.

{¶35} Respondent also presented recent letters of support and recommendation from Lorain County Common Pleas Judge James Burge who said Respondent is intelligent, hardworking, and thoughtful; from State Representative Dennis Murray who said respondent is a much needed resource for underserved clients, is accepting and remorseful, is now more mature, sober, and reflective than before and over the past eleven years continues to apply his time to

worthy causes; from Wilson Forney of Erie County Family Health services commending Respondent's membership and valuable participation on that Board; from Paul Sowers, General Education Department head at Ohio Business College, who recites the overwhelmingly positive student response to Respondent's teaching style, his honesty, expertise, intelligence, wealth of experience, commitment, and professionalism, and from Cleveland Municipal Court Judge Charles Patton who feels that respondent has corrected his past problems and emphasizes respondent's active participation in National Bar Association/NAACP CLE Seminars, his unselfish volunteerism to community activities, and his continuing as a student of the law. All of these letters urge that respondent be reinstated to the practice of law.

{¶36} Respondent resolves to establish a law practice that would be both successful and compliant with applicable standards while addressing the unmet needs of the Sandusky community.

{¶37} Relator's counsel extensively cross-examined Respondent on his tax return issues, what he learned from his teaching about law office management, scheduling and bookkeeping, and how Respondent would implement what he learned if he regained his license. However, Relator took no position on whether reinstatement should be granted.

{¶38} The panel finds that Respondent's testimony and introduction of the business plan and office procedures manual, which he intends to implement in his practice, satisfies the concerns raised in the previous proceedings and those of this panel. Likewise, the panel finds that Respondent has had prepared and filed the amended federal income tax returns found necessary in the previous proceedings and also addressed by this panel.

{¶39} The panel finds from Respondent's testimony and the other evidence that Respondent (a) possesses all of the mental, educational and moral qualifications that were

required of an applicant for admission to the practice of law in Ohio at the time of his original admission, and (b) is now a proper person to be readmitted to the practice of law in Ohio, notwithstanding the previous disciplinary actions.

{¶40} The panel further finds from the stipulations and other evidence that Respondent has (a) made appropriate restitution to the persons who were harmed by his misconduct, and (b) has complied with the continuing legal education requirements of Gov. Bar R. X, Section 3(G).

Conclusions of Law

{¶41} The panel concludes by clear and convincing evidence that Respondent has met all of the applicable requirements for reinstatement mandated by Gov. Bar. R. V, Section 10(E) as to restitution, the mental, educational and moral qualifications, the CLE compliance, and his being a proper person for readmission. While somewhat concerned by Respondent's belated attention to his relatively minor income tax omissions, the panel does not believe that this failure comes close to negating the overall merit of Respondent's petition. The panel does believe however, and Respondent agrees, that if reinstated, he should serve a period of probation.

{¶42} The panel recommends that Respondent be reinstated to the practice of law, subject to serving a one-year probationary period under the supervision of Relator pursuant to Gov. Bar. R. V, Section 9.

BOARD RECOMMENDATION

Pursuant to Gov. Bar R. V, Section 10(G)(4), the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio considered this matter on December 1, 2011. The Board adopted the Findings of Fact, Conclusions of Law, and Recommendation of the panel and recommends that Respondent, Geoffrey Lynn Oglesby, be readmitted to the practice of law in the State of Ohio, subject to serving a one-year probationary period under the supervision of

Relator pursuant to Gov. Bar. R. V, Section 9. The Board further recommends that the cost of these proceedings be taxed to Respondent in any disciplinary order entered, so that execution may issue.

Pursuant to the order of the Board of Commissioners on Grievances and Discipline of The Supreme Court of Ohio, I hereby certify the foregoing Findings of Fact, Conclusions of Law, and Recommendation as those of the Board.



**RICHARD A. DOVE, Secretary
Board of Commissioners on
Grievances and Discipline of
The Supreme Court of Ohio**