ORIGINAL

The Supreme Court of Ohio

BEFORE THE BOARD OF COMMISSIONERS

ON CHARACTER AND FITNESS OF

THE SUPREME COURT OF OHIO

In re: Application of
Brenda Michelle Zimmerman

Case No. 518 12-0428

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

Pursuant to its *sua sponte* investigatory authority under Gov. Bar R. I, Sec. 10(B)(2)(e), the Board of Commissioners on Character and Fitness considered this matter based on a referral from the Board of Bar Examiners.

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 January 11, 2012.

Pursuant to Gov. Bar R. I, Sec. 12(D), the board considered this matter on February 10, 2012. By unanimous vote, the board adopts the panel report as attached, including its findings of fact and recommendation of disapproval.

Therefore, the Board of Commissioners on Character and Fitness recommends that the applicant be disapproved; that she be permitted to apply for the July 2013 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, she undergo a complete character and fitness investigation, including an investigation and report by the National Conference of Bar Examiners. The board further recommends that, prior to reapplication, the applicant must submit to a mental health evaluation by a licensed psychiatrist or psychologist chosen by the board. Additionally, the applicant must be able to demonstrate a period of sustained compliance with any treatment recommended by that mental health professional, including compliance with medication.

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

FILED
MAR 13 2012
CLERK OF COURT
SUPREME COURT OF OHIO

FILED
JAN 11 2012
BOARD OF COMMISSIONERS
ON CHARACTER AND FITNESS

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

IN RE:	)	**CASE NO. 518**
	)	
APPLICATION OF BRENDA M. ZIMMERMAN	)	**REPORT AND RECOMMENDATION OF THE PANEL**
	)	

STATEMENT OF THE CASE

1 This matter is before the Board of Commissioners on Character and Fitness pursuant to its *sua sponte* investigatory authority. The Board received a referral from the Board of Bar Examiners. Based on the applicant's unresponsive answers on the bar exam, the Board of Bar Examiners was concerned about applicant's fitness to practice law. A panel hearing was conducted on January 6, 2012. Members of the panel were Todd Hicks, representing Appellate District Eleven; Pat Apel representing Appellate District Four; and Michael Howard from Appellate District Five, who served as Chairperson.

2 The Applicant, Brenda Zimmerman, received her law degree from the University of Dayton School of Law in May 2011. She interviewed before the Dayton Bar Association on June 21, 2011. The interviewers recommended that she be accepted for admission to the practice of law subject to passing the bar exam. The only negative comment related to neglect of financial responsibilities. They noted that all of her indebtedness was student loans, that all past due credit cards were paid off in full, and that she had resolved the issue of past due attorney fees resulting from her divorce case. They noted that the applicant's only plan for paying her student loans was to obtain employment. Based on the Dayton Bar's approval, Ms. Zimmerman sat for the bar exam in July 2011.

3 Ms. Zimmerman did not pass the Bar exam because she wrote answers that were not responsive to the questions. This report will provide a series of random quotes to give the Board a sampling of Ms. Zimmerman's answers.

Q1 Bar Examiner Jones:

> "Indulge with me America. How was the law given man not enough that man has gone and perverted it. Forgive me for not walking on your footsteps and going after another. Civil law is vast and far greater than it needs to be. I have sold my soul to the Lord God of Israel rather than pass before America's legal standard. The Lord is good and His law is perfect. Both Danielle and Buddy have become false witnesses before God on the issue of Paige. They should have feared God, but were mislead by fools. Danielle could also be found guilty of stealing because the Lord would know who is righteous and just for the position and Danielle's slanderous behavior would be her end. No, the Lord has not punished man as He did when He led Israel out of the wilderness, but He has watched with sorrow and wrath from all of the horrible actions of men. Is that to say that women cannot do horrible things? Not at all, but rather man is God's creation and woman a piece of man so that when two unite, they become one heartbeat...
>
> I wish no ill will to the United States, the land that I have loved all my life, but the U.S. has defiled God on paths similar to those who persecuted His only Son, Jesus, Our Savior and beaming light, grace and glory...
>
> God has called me to challenge the laws that claimed to stand above Him, the Almighty Lord God of Israel. Again, love. And forgive me, but these will go together one answer after the next."

Q2 Bar Examiner Hewitt:

> "Pardon my mess, Mr. Hewitt, but I must continue from my first because my amendment with my Lord God of Israel is far more important than everything I spent my life fighting for. God is a good God and He loves all things righteous and hates all things wicked."

Q3 Mr. Scanlon:

> "What is the value of the U.S. corporation? Indulge more with me please though you might find this waste (sic) of your time, it certainly no longer waste (sic) mine. I have given my right hand to the Lord and Our Savior Jesus Christ. The U.S. has found more amusement pretending they are not there and cannot see the sad deeds of this country."

Q4 Ms. Coulter:

> "How long will we meddle in the affairs of others having not touched our own hand on the burden. Again, I am simply continuing from one

question to the next so to honor not me, but the Lord God of Israel who placed me in this seat so that I could write a nice fine message. I do not harm flies, but I do love a good writing intrigue. The Lord gave us His Son, Jesus Christ, to be a beacon of light to all those who cannot see."

Q5 Mr. Dattilo:

"This country is riddled with such fear that even you may fear I am crazy. However, I am only crazy for God, that is God of Israel, He is my Lord, I am His witness and I will bow only to those Most High. I certainly would only throw away my life's work for God also, as I do today."

Multi-state Practice Performance Test, Answer Booklet 1, Carlotta DeFranco:

"I apologize, Ms. DeFranco, but I must praise the Lord God of Israel and His Son, my savior Jesus Christ. How appalling it is that business (sic) are overrun with the nightmare of trials that they come up with something even more appalling called arbitration... Yes, I am missing your point to do what is best for my client, but I am tired of all these games. I would not do ever such a thing that goes beyond my morals which is why I am failing here. Who wants to enter a profession of chains... Again, I am sorry, but I will not refrain from the Lord's request to write."

Multi-state Performance Test Answer Booklet 2:

"I apologize for my failure to take part in your exam and create my own for the glory of The Lord and His Son Jesus Christ. I do not mean to shame my family, friends and school who have supported me during these tough times, but I am here to glorify The Lord and I do... P.S. you may find me a little off and unwell, but I am quit (sic) at peace with my heart and my soul. I am nothing without The Lord, dust in the wind. The Ten Commandments are the only answer. Please refer to my essay number one. Thank you again. May God bless you in all you do."

4 Ms. Zimmerman appeared at the panel hearing *pro se* in spite of encouragement by the panel chair to retain counsel. The panel chair also informed her that the panel was concerned about her mental health and that she could improve her case by submitting to an evaluation with a mental health professional. She did not do so.

5 At the hearing on January 6, 2012, Ms. Zimmerman indicated that she no longer has a desire to practice law in Ohio. She said that law school had opened her eyes and the law is not a good career choice for her. She does not like the way the country is

being run. She was particularly upset about the U. S. Supreme Court decision in Kelo v City of New London that allowed the state to take private property by eminent domain. Ms. Zimmerman is currently unemployed. She has $223,000 of student loans, which she indicated keep increasing due to the interest, which she cannot pay. Her undergraduate student loans are going into default. She shared with the panel that she did not get financial aid to attend college due to her parents making too much money. She had to listen to her mother complain about that for four years.

6 Ms. Zimmerman described her divorce as a nightmare. She indicated that she felt her attorney and her husband had worked against her. Since the interviewer report from the Dayton Bar mentioned that a fee dispute with her divorce attorney had been settled, the panel asked about that. The answer was unclear, but this seemed to be an ongoing issue. Ms. Zimmerman indicated she has no desire to ever apply to take the bar again. In the middle of her testimony, she suddenly said "What is this cloud seeding, do we have the right to make it rain? Only God should make it rain." She asked if the Bay of Pigs was God's war. She acknowledged that she wasn't there. She indicated that John F. Kennedy might know, but he got shot, that Robert Kennedy got shot and that Martin Luther King got shot. She expressed dismay over "testing" that has been done on our military personnel. She did, however, acknowledge that America is better than the rest of the world.

7 On cross examination she again stated that she was unemployed, that she had over $200,000 of loans, that she would like to start paying those loans, but she has no job. She indicated that she had talked to Dean Shaw and Tim Swenson from the law school. Dean Shaw had talked to her about OLAP, but the very thought of talking to those people "scared her."

8 She complained that the law school had left her high and dry before "the big test." She didn't know why she had to take a review course. If that was all one had to

do to pass the exam, why was it necessary to spend the money for three years of law school?

9 Ms. Zimmerman was asked whether she was, or ever had been, on medication. She indicated that she does not take medication. She has childhood trauma that is deeply buried, but she feels it needs to stay that way. In undergraduate school she went to a counselor due to an abusive boyfriend. The counselor prescribed Paxil and Trazodone. She took it for a week but didn't like it. She said, "No one needs a permanent smile on their face that hurts." She opined that the counselor who prescribed the medication should have taken it. She also saw a school counselor during her second year of law school at the request of Dean Shaw. She did not feel that counselor was helpful.

10 When asked if she had ever written an exam like this during law school, she said no, that this is the first time she had ever put God down on a piece of paper. She indicated she had never read the Bible before because a man wrote it. She credits her law school education with helping her to now understand the Bible. She shared with the panel that she knew why it was not appropriate to answer the bar exam questions in the way that she did.

11 Ms. Zimmerman was asked when she decided that she would not make any effort to answer the questions. She indicated it was either the night before or the morning of the exam; "the signs were there and led her." She prayed very hard, she did not want to throw away her future. She indicated that she was raped as a child and, because of that, had always wanted to go to law school. However, the Lord forbade her from answering the questions. She is now adverse to the practice of law because lawyers take all the power away from the person.

12 The panel did notice a discrepancy in Ms. Zimmerman's reporting of various traffic tickets. On her registration application she reported five traffic violations, plus a

special Illinois remediation violation due to three speeding tickets in one year. Four of the five tickets were in Illinois. In her law school application she reported seven traffic violations, six of which do not correspond with the ones reported on her registration application. All the ones reported to the law school in the fall of 2008 should have been on her registration application, but only one was. The panel had intended to ask her about this discrepancy, but this issue pales in comparison to the mental health issue.

13 Mr. Apel asked Ms. Zimmerman if she was firm in her commitment not to ever reapply for the practice of law. He shared with her that times do change and people make different decisions based on changing times. She indicated she was firm in her commitment not to reapply. In her closing statement she became quite emotional and angry. She criticized the Board of Commissioners for our decision in the well-publicized case where we did not permit an applicant to take the bar because he had outstanding student loan debt and no plan to repay it. She indicated that she was not making any money, but we allowed her to take the Bar. Why couldn't he take the Bar when he was making $12 an hour as a public defender? She again criticized the Kelo eminent domain case and contrasted it with The Supreme Court of Ohio's eminent domain decision, which she felt was proper. She indicated that she had applied for a job at the Supreme Court, with what the panel believes was the attorneys' services department. However, someone told her that she could not handle that job and care for her children because she did not live in Columbus. During her closing argument it sounded like this was part of a job interview at the Supreme Court, but the panel later determined that she was perhaps referring to the interviewer from the Dayton Bar Association.

14 The panel felt some sympathy for the applicant because of her long desire to practice law and the struggle that she has gone through to obtain her undergraduate degree, her master's degree and her law degree. However, her mental health issues and her current attitude are very clearly huge obstacles to her being able to do so. At

this point she does not intend to ever practice law, although there was no indication of what she does intend to do. She has no job. A portion of her loans are in default. She has two children. She indicated she wants to be able to walk them to school without having to worry about bombs dropping on their heads.

RECOMMENDATION

The Panel recommends that the applicant be disapproved. She should be permitted to reapply when she is able to show the requisite character and fitness, but not before the July 2013 bar. Prior to approval to sit for the bar, she should complete a new registration application and undergo another complete Character and Fitness investigation, including a new NCBE report. Prior to reapplication, applicant must submit to a mental health evaluation by a licensed psychiatrist or psychologist chosen by the Board. She must be able to demonstrate a period of sustained compliance with any treatment recommended by that mental health professional, including compliance with medication.

Attorney Todd Hicks

Attorney Patrick Apel

Judge Michael L. Howard, Chairperson