

# The Supreme Court of Ohio

12-0430

BEFORE THE BOARD OF COMMISSIONERS

ON CHARACTER AND FITNESS OF

THE SUPREME COURT OF OHIO

In re: Application of  
Robin Leigh Burch

Case No. 501

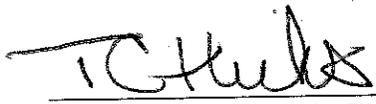
FINDINGS OF FACT AND  
RECOMMENDATION OF THE BOARD OF  
COMMISSIONERS ON CHARACTER AND  
FITNESS OF THE SUPREME COURT OF  
OHIO

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. The panel filed its report with the board on February 1, 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, with the amended recommendation that the applicant be permitted to apply for the February 2013 bar examination.

Therefore, the Board of Commissioners on Character and Fitness recommends that the applicant be disapproved; that she be permitted to apply for the February 2013 bar examination by filing an Application to Take the Bar Examination; and that upon reapplication, she undergo review and interview by the appropriate local bar association admissions committee.



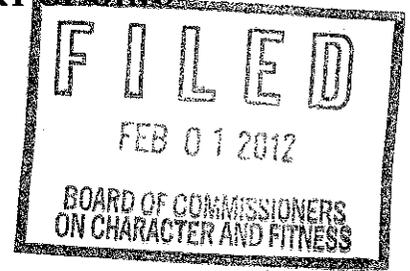
TODD HICKS, Chair, Board of Commissioners  
on Character and Fitness for the Supreme Court  
of Ohio

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MAR 13 2012  
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**THE BOARD OF COMMISSIONERS ON  
CHARACTER AND FITNESS OF THE SUPREME COURT OF OHIO**

**IN RE APPLICATION OF  
ROBIN LEIGH BURCH**

**Case No. 501**



**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 October 27, 2011, at which the Applicant was represented by Michael R. Keefe and the Cincinnati Bar Association was represented by Robert G. Hyland and Angela Stearns.

**Statement of Facts**

The Applicant is a 2010 graduate of the University of Cincinnati College of Law. She was interviewed by two teams of interviewers from the Cincinnati Bar Association in connection with her application to take the July 2010 bar examination. The focus of their questions was a report received from the law school discussing some incidents that the school felt reflected upon the applicant's fitness to practice law in light of Ohio's essential eligibility requirements. See Ex. C. The school's memorandum catalogued the following conduct:

- the applicant failed to comply with requirements in courses taken in the Spring of 2008, the Spring of 2009 and the Fall of 2009. Each of these failures resulted in her receiving an Unauthorized Withdrawal, Failing Grade;
- the applicant made comments during the field placement portion of a Judicial Externship class critical of the court process and its participants. These comments were made in the courtroom so that others in the courtroom could hear them;

- in seeking permission to exceed the 16 credit hour limit for a semester, the applicant failed to advise the Dean that she had not completed course work from the previous semester;
- the applicant, without permission, signed the name of the externship's lawyer/instructor to a court document; and
- the applicant looked up information in court files that she had access to by reason of the externship and shared it with others.

As reflected in the various reports of the interviewers, they were concerned not simply with the applicant's conduct, but more importantly with her attitude that the rules did not apply to her, her failure to accept responsibility, her "compulsive" need to excuse her behavior, and her difficulty being forthright when asked direct questions. For these reasons both sets of interviewers recommended that the applicant be disapproved. The applicant then appeared before an eight-member review panel pursuant to the internal procedures of the Cincinnati Local Admissions Committee. After questioning the applicant and her character witness, this review panel recommended the applicant be approved.

At the hearing before this panel, the issues addressed again arose out of the law school's memorandum. Additionally, there were questions regarding how the applicant's depression and attention deficit disorder contributed to her conduct or otherwise affected her fitness to perform as a lawyer. Subsequent to being disapproved and apparently at the recommendation of the Cincinnati committee, the applicant consulted with OLAP. Because she had already had a longstanding diagnosis of depression and attention deficit disorder, OLAP did not do any assessment of its own. The applicant did sign a two-year mental health contract with OLAP, and has substantially complied with the contract's requirements. Although OLAP had no

objection to her being admitted, it also candidly admitted that its only information regarding the applicant was what she self-reported to it.

The more significant information regarding applicant's mental health issues was presented by her treating psychiatrist, Dr. Paul Droessler, who indicated that he had been working with her since 2007. She began to see him when she first relocated to Cincinnati because she was in need of having her prescription depression medication refilled. Accordingly, in the beginning of their relationship he was simply doing medication management. However, after a few months, the applicant agreed to enter into psychotherapy. Dr. Droessler testified that the applicant was in need of continuing psychotherapy and medication; he described her prognosis as fair. He acknowledged that she had a tendency to be unfocused and to engage in rambling discourse rather than directly answer a question. However, he also stated that her issues in law school in failing to meet deadlines and other responsibilities were more a matter of choice by her than due to her depression or attention deficit disorder; that is, as he expressed it, she was "more unwilling than unable." Transcript, p. 88. So the more critical question becomes whether the applicant has become more willing: more willing to meet obligations, not just on those matters that she feels like doing; more willing to accept responsibility for her actions; more willing to be forthright and candid rather than self-justifying; more willing to understand that the rules apply to her whether she likes the particular rules or not.

The evidence on these questions was primarily presented by two witnesses, the applicant herself and a character witness, Ms. Nancy Ent, Program Manager for the Urban Morgan Institute affiliated with the University of Cincinnati. The Urban Morgan Institute is involved in projects relating to international human rights. Ms. Ent is responsible for its journal on human rights as well as running various internship programs. The applicant worked twenty

hours a week at the Institute, with her primary duties being to perform blue book cite checking. Ms. Ent is a strong supporter of the applicant. She said the applicant was a first-rate "blue booker" and responsibly performed her duties with the journal. Although she admitted that the applicant had some initial issues meeting deadlines, these problems were no different than other students and were resolved by Ms. Ent breaking down tasks and giving more specific deadlines. She thought that the applicant had matured since leaving law school and that her problems with meeting deadlines and taking responsibility would therefore not be repeated in the practice. Ms. Ent appeared to be an honest witness; nonetheless, the panel was not totally accepting of her opinion in this regard: because her experience with the applicant was positive, Ms. Ent was dismissive of the law school's issues, indicating she thought the school had overblown matters.

To some extent, however, the applicant's own testimony bears out the law school's and the interviewers' concerns. The applicant's disagreements with the facts set forth in the law school memo were minor and, these quibbles aside, she did not dispute the accuracy of the various events outlined in the school's report. In her testimony she vacillated from acknowledging that she had these issues to attempting to justify her right to, for example, not attend class or complete certain assignments because she was paying for law school and if she wanted to spend her time in what she considered more productive activities, she was entitled to do that. She also indicated that she was not aware that there would be such serious consequences for her actions, with the implication being that the consequences were unfair because she had no warning of them. Disturbingly, the applicant did not seem to exhibit any insight into her behavior or to express any recognition that her actions may not have been proper. Although she indicated that she would not conduct herself in this manner when a client's interests were at stake, this was not because she seemed to recognize that her behavior under the circumstances

was problematic, but rather that the circumstances of representing a client would necessarily cause her to act responsibly. The applicant expressed her view of the situation thusly:

So, I feel like, you know, there have been issue, but, I mean, I've done it. You know, I have a Bachelor of Science in math, a J.D. I mean I've been all over the world. I built a darkroom in my basement during my first year of law school.

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I mean, now is the time to be modest, but I am one of the most talented people you will ever meet. In fact, I've gotten to this point in my life and spent the last, you know, I mean, what, well over a year and a half stymied, for lack of a better term, because of two pieces of paper, you know.

And yeah, I take responsibility. I screwed up. I did some things that were stupid, not in my best interest. Of course, did I realize the consequences that were ultimately going to come? No. Did I realize some of the immediate consequence at the time? Yeah, some of them.

I agree with Nancy [Ent], some of them ended up being harsher than they should have been. You know, I'm not the only student to ever miss classes, but I am the only one who got called out for it so much.

So you know, I got on the wrong side of the wrong people. That's unfortunate, and it doesn't negate what I did. But, you know, it's just, you know, I messed up, but when it comes to — and I'll be the first to admit, I hated law school.

The difficulty with such vacillation by the applicant is that it fails to recognize that she did not just miss some classes; she repeatedly missed deadlines on significant course assignments and then because she probably would have failed the course, she withdrew from it. She conducted herself in an unprofessional manner during her judicial externship by making

untoward comments about court personnel and procedure. And, she without permission signed an attorney's name to a document to be filed with the Court. Moreover, throughout the entire process from her initial interviews through to this panel's hearing, she continued on one hand to say both "I'm responsible" but followed always by "I was treated too harshly" and "I got on the wrong side of the wrong people." At best, the applicant's attitude makes for an unattractive presentation; at worst it calls into question fitness to undertake professional responsibilities.

**Recommendation**

Rule I of the Rules for the Government of the Bar makes diligence, trustworthiness and reliability litmus tests for fitness to be admitted to the practice of law. A candidate must demonstrate that she meets this standard by clear and convincing evidence. The panel does not believe that applicant has met her burden. To state it colloquially, the applicant just does not seem to "get it." Perhaps, Ms. Ent is right: that what will prevent the applicant from being disregardful of professional obligations in the future is simply to mature. In the hopes that this is true, the panel thinks that a little more time to mature is appropriate. It therefore recommends that the applicant not be approved for admission at this time, but that she be able to apply for the July 2012 bar examination.

  
G. Scott McBride, Panel Member

  
Todd C. Hicks, Panel Member

  
Suzanne K. Richards, Panel Chair



We report here incidents we find to reflect on the ten enumerated Essential Eligibility Requirements for the Practice of Law adopted by the Board of Commissioners on Character and Fitness (herein the "Board Requirements").

1. In the spring semester of 2008, Robin's Professor in the class Lawyering II, Advocacy, awarded Robin the grade of UWF (Unauthorized Withdrawal, Failing) because the Professor concluded that Robin had been irregular in attending the class and failed to complete assignments on a timely manner. We find this incident to potentially reflect on Board Requirements 7 and 9.

2. In the spring semester of 2009, Robin's Professor in the Judicial Externship class awarded her a grade of F for the field placement portion of the class. The Professor assigned this grade because the supervisor of her field placement, a Judge for a Juvenile Court, had recommended this grade after rating Robin as unacceptable on all work habits. Further, Robin had failed to submit a paper that was part of her assigned duties for the Court. The Judge reported to the supervising Professor that Robin had made inappropriate comments in the courtroom about court process, and uninformed criticism of the Court, the judges, the magistrates, and procedures. We find this incident to potentially reflect on Board Requirements 3, 7, and 10.

3. In the fall of 2009, Robin's Professor in the Wills, Trusts, and Future Interests class awarded Robin the grade of UWF (Unauthorized Withdrawal, Failing) after she missed many entire class sessions, was tardy for several other class sessions, and failed to participate in class. He further reported that she failed to recite an assigned case, all in violation of the statement of policies for the class without an adequate excuse for this behavior. We find this incident to potentially reflect on Board Requirement 9.

4. At the beginning of the spring semester of 2010, the Associate Dean for Curriculum and Student Affairs granted Robin permission to take 18 credit hours, the number of credits she needed in order to graduate at the end of the semester. Students must obtain such permission when they seek to exceed 16 credits. The Associate Dean granted this permission despite her concern that Robin would not be able to successfully complete such a heavy load given her past problems with attendance, tardiness, and completing work assignments. Robin made the following representation to the Associate Dean:

I know that it is my responsibility to attend all of my classes and if something comes up to communicate with my professors before problems arise. I also know that it is my responsibility to complete my assignments on time. I know that I have had problems in the past, but I will do my best to get on top of things from the beginning.

Several weeks after she granted Robin's request to take 18 credits, the Associate Dean saw Robin's transcript on the day they were released. She learned that Robin had been awarded an Incomplete in a 3-credit class for the fall semester because she had not completed the required course project. Robin had not told the Associate Dean that she had not completed the required project, and in fact she had not even completed the first draft of this project. The Associate Dean would not have granted permission to Robin to take 18 credits in the spring had she known that Robin had not completed a major project from the fall semester that would add significantly to her work load in the spring. When Robin was asked why she had not disclosed such a relevant fact to the Associate Dean, Robin responded that she didn't think of it. This project remained incomplete as of this writing on March 8, 2010. Because we found Robin's response implausible, we find this incident to potentially reflect on Board Requirement 4.

5.

On March 17, 2010, Robin's legal externship supervisor contacted the instructor for the legal externship course and conveyed the following:

- Robin utilized an office template to create a discovery document, and signed the supervisor's name to it without her permission;
- Robin is keeping a public blog <http://criminaldefenseweekbyweek.blogspot.com/>
- Robin utilized a password that her extern supervisor created so that Robin could access detailed information on the Clerk of Courts website. Robin used the password, while with a group of friends, to look up information about other people she knew 'for fun.'
- Robin took individual client files home to work on them;
- Robin didn't show up for work last Friday, and is supposed to come in next week and go to court with the extern supervisor on March 24, 2010.

The legal externship instructor also indicated that during the initial course meeting the student/externs are informed that they should never sign a pleading and, therefore, Robin's action was inappropriate.

Further, each extern is required to submit a journal chronicling the first half of their externship placement. Instead of the Word document submitted by all other externs Robin submitted screen captures of her blog. The instructor requested that Robin comply with the course requirements. We find these incidents to potentially reflect on Board Requirements 3, 4, and 5.