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Supreme Court of Ohio

In Re the Reinstatement
of Joel D. Joseph
To the Practice of Law in Ohio

Case No. 2012-1107

FILED
OCT 08 2014
CLERK OF COURT
SUPREME COURT OF OHIO

VERIFIED PETITION OF JOEL D. JOSEPH
FOR REINSTATEMENT TO THE OHIO BAR

Joel D. Joseph hereby petitions the Supreme Court of Ohio for reinstatement to the bar of Ohio. Mr. Joseph was suspended on October 3, 2012 based on his disbarment from the Maryland Bar. *Disciplinary Counsel v. Joseph*, 133 Ohio St.3d 1221, 2012-Ohio-4550.

Petitioner has not previously filed a petition for reinstatement with this court. There are no formal disciplinary proceedings pending against me. The only term of probation that was entered was that I could not file this petition for two years and that two-year period has expired. I have complied with the continuing education requirements of Gov. Bar R. X, Section 3(G).

The following are entitled to receive certified copies of the disciplinary order from the Ohio Supreme Court are:

- Ohio State Bar Association;
- United States Court of Appeals for the Sixth Circuit; and the
- Los Angeles County (California) Bar Association.

Petitioner is 66 years old and has never been disciplined before except for the Maryland proceeding. Mr. Joseph's father passed away recently in the Cleveland area and Joel D. Joseph, along with his two sisters, is a party to a case against the attorney who misappropriated funds

from the estate *Joseph v. Teitlebaum*, CASE NO. CV 12 787727, Court of Common Pleas of

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Cuyahoga County, Ohio. Trial is scheduled in this case for December 15, 2014. Petitioner would like to be able to represent his sisters in this case, and for this reason, among others, seeks reinstatement to the Ohio Bar by December 1, 2014.

Petitioner has sought reinstatement in Maryland and will continue to do so. But the Maryland Court of Appeals has not yet reinstated petitioner. The Ohio Supreme Court has the right, and petitioner believes in this case, the duty, to reinstate petitioner to the bar. Mistakes committed by other courts should not be magnified by this Court or by the disciplinary committee.

I. Mr. Joseph has an Outstanding Record as an Attorney and Public Citizen

Mr. Joseph was born and raised in the Cleveland area where he graduated from Cleveland Heights High School in 1966. His family was in the manufacturing business, making automobile parts and parts for other equipment. He earned his BA degree in Economics at Northwestern University in 1970 and his law degree from Georgetown University in 1973.

In 1989 Mr. Joseph started the Made in the USA Foundation with matching grants from the United Auto Workers and the Ford Motor Company. Mr. Joseph continues to work for the Made in the USA Foundation to protect and create jobs in Ohio and the United States. Mr. Joseph started the Made in the USA Foundation because he believes that if we lose our manufacturing base the United States will become a second-rate and poorer nation.

Mr. Joseph is also a prolific author who has written 15 books, mostly about the law. His most recent book is the fourth edition of *Black Mondays: Worst Decisions of the Supreme Court* was published this year. Justice Thurgood Marshall wrote the foreword to this book.

Mr. Joseph has litigated hundreds of important cases in 25 jurisdictions. Petitioner will not burden the court with a recitation of all of these, but will note two landmark cases that he

initiated. *Kwikset v. Superior Court*, 246 P.3d 877 (California Supreme Court 2011) 51 Cal.4th 310, 120 Cal.Rptr.3d 741. In this case brought by Mr. Joseph, the California Supreme Court ruled that consumers have standing to challenge false “Made in the USA” labels on packaging, and are injured in fact if product is not in fact made in USA.

Rosner v. United States, 231 F.Supp. 2d 1202 (S.D. Fla. 2002). In this case brought by Joel Joseph, the court ruled that class of Hungarian Jews could sue the United States for property taken from the Hungarian Gold Train in 1945. German Nazis and Hungarian Arrowcross stole property from Hungarian Jews. A train carrying most of this property was seized by the U.S. Army in May, 1945. The United States had obligations under international law to attempt to return the property to its rightful owners, but never did. The United States government settled the case for \$25.5 million and issued a formal apology. This was the only successful holocaust case brought against the United States.

II. The Maryland Trial Court that Heard Mr. Joseph’s Case

Deprived Him of Due Process of Law

The Maryland Court of Appeals *exclusively* relied on the findings of Judge Joseph A. Dugan to whom it had referred the case. Judge Dugan *copied verbatim* the proposed findings of fact and conclusions of law submitted by the Maryland Attorney Grievance Commission. Docket No. 34, October 10, 2010. Judge Dugan did not even consider petition’s proposed findings of fact and conclusions of law. When the Maryland Court of Appeals ordered Judge Dugan to consider Mr. Joseph’s proposed findings of fact and conclusions of law he still did not change one word of his opinion. Docket 37, December 29, 2010 and Docket 39, January 25, 2011.

Based solely on Judge Dugan's opinion the Court of Appeals disbarred Mr. Joseph on October 27, 2011. 422 Md. 670, 31 A.3d 137 (2011). Mr. Joseph was accused of lying to a California court, claiming that he was a Maryland resident in a motion to proceed pro hac vice. Judge Dugan found that Mr. Joseph was not a Maryland resident in 2007 despite the fact that he paid Maryland taxes in 2007 and was registered to vote in Maryland. At all relevant times petitioner believed that he was a bona fide Maryland resident. (Mr. Joseph lived in Maryland from 1980 until 2007 raising three children there.)

The Third Circuit ruled in *In re: Community Bank of Northern Virginia*, holding that it is "highly disapproved of" for judges to adopt the briefs of parties in a "verbatim or near verbatim" fashion. *In re: Community Bank of Northern Virginia*, 418 F.3d 277, 300, 319 (3rd Cir. 2005). In *Bright v. Westmoreland County*, the Third Circuit also had harsh words for a judge which unilaterally adopted the recommendations of one party:

Judicial opinions are the core work-product of judges. They are much more than findings of fact and conclusions of law; they constitute the logical and analytical explanations of why a judge arrived at a specific decision. They are tangible proof to the litigants that the judge actively wrestled with their claims and arguments and made a scholarly decision based on his or her own reason and logic. When a court adopts a party's proposed opinion as its own, the court vitiates the vital purposes served by judicial opinions. We, therefore, cannot condone the practice used by the District Court in this case. 380 F.3d 729, 732 (3rd Cir. 2004).

A 1964 U.S. Supreme Court case called a judge who adopted a party's findings of facts verbatim "not the product of the workings of the district judge's mind" and noted the findings of fact had been "mechanically adopted by the district court." *United States v. El Paso Natural Gas Company*, 376 U.S. 651, 656, 657 (1964).

The late Judge James Skelly Wright was favorably quoted by the U.S. Supreme Court for instructing judges to avoid the blanket adoption of lawyer's arguments:

I suggest to you strongly that you avoid as far as you possibly can simply signing what some lawyer puts under your nose. These lawyers, and properly so, in their zeal and advocacy and their enthusiasm are going to state the case for their side in these findings as strongly as they possibly can. When these findings get to the courts of appeals they won't be worth the paper they are written on as far as assisting the court of appeals in determining why the judge decided the case. *United States v. El Paso Natural Gas Company*, 376 U.S. 651, 657, fn4 (1964) (internal citations and quotations omitted).

Similarly, in a 1985 ruling the U.S. Supreme Court noted that “[w]e, too, have criticized courts for their verbatim adoption of findings of fact prepared by prevailing parties, particularly when those findings have taken the form of conclusory statements unsupported by citation to the record.” *Anderson v. Bessemer City*, 470 U.S. 564, 572 (1985).

III. Continuing Legal Education and Ethical Practices

The petitioner keeps up on all aspects of law, including the reading of every Supreme Court decision. In order to revise *Black Mondays: Worst Decisions of the Supreme Court* in 2014, the petitioner reads all U.S. Supreme Court decisions on a regular basis.

Concerning legal ethics, Mr. Joseph recently took a course in Professional Responsibility and took the Multistate Professional Responsibility Examination. He scored 108. Passing in Ohio is 85.

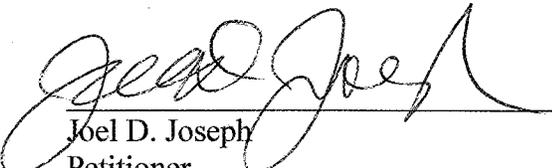
IV. Conclusion

Petitioner has been disciplined enough for a minor infraction of the rules. Petitioner disputes that he violated that rules at all. Petitioner has been suspended by this court for more than two years without a hearing.

Petitioner only represents the interests of the Made in the USA Foundation and others who seek job creation in the United States (as well as his sisters).

This court does not have to blindly rubber stamp the erroneous decision of the Maryland Court of Appeals. This court should look behind the decision to see that the petitioner is a good lawyer and a good representative of the State of Ohio and that his suspension should be ended. For all of these reasons the petitioner should be reinstated to the Ohio Bar.

Respectfully submitted,



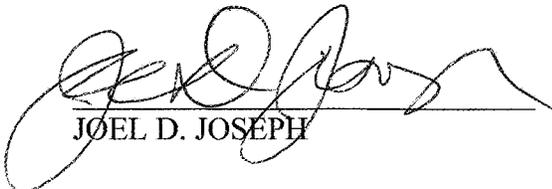
Joel D. Joseph
Petitioner
11950 San Vicente Blvd. Suite 220
Los Angeles, CA 90049
(310) 820-2211

I affirm, under the penalties for perjury, that all facts in this petition are, to the best of my knowledge, accurate and truthful.


JOEL D. JOSEPH

CERTIFICATE OF SERVICE

I hereby certify that I have mailed a copy of this petition this 6th day of October, 2014 to Scott Drexel, Disciplinary Counsel, 250 Civic Center Drive, Suite 325, Columbus, Ohio 43215.


JOEL D. JOSEPH

ACKNOWLEDGMENT

State of California
County of Los Angeles)

On October 6th 2014 before me, Yelena Osadchaya Notary Public
(insert name and title of the officer)

personally appeared Joel D. Joseph
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature *Yelena Osadchaya* (Seal)

