ORIGINAL

IN THE SUPREME COURT OF OHIO

In re:	:	
Application of	:	Case No. 2014-1555
Joseph Victor Libretti, Jr.	:	

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BRIEF OF AMICI CURIAE CITIZENS' INSTITUTE FOR LAW AND PUBLIC POLICY OHIO JUSTICE AND POLICY CENTER CURE-OHIO IN SUPPORT OF APPLICANT JOSEPH V. LIBRETTI, JR.

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INTERESTS OF AMICI CURIAE

The mission of the **Citizens' Institute for Law and Public Policy** ("the Institute"), is to advance "equal justice under law" for those whose past includes a criminal conviction. As such, the Institute seeks to empower people with criminal records with quality education and to speak with a collective, unified and educated voice through, among other things, advocacy by and for educated and rehabilitated people with criminal records. There are approximately 92 million people with criminal records in the United States, with approximately 800,000 more released from state and federal prisons annually, a fourfold increase between 1973 and 2001 (Sweig, 24 and Travis and Visher, 89). Employment of people with criminal records who have paid their dues is the key social policy that substantially reduces recidivism (Sweig, 195), providing benefit not only to those with a criminal record but to society as a whole.

The **Ohio Justice & Policy Center (OJPC)** is a non-profit law office working to create fair, intelligent, and redemptive criminal justice systems. OJPC seeks to address root causes of crime, decrease recidivism, address unconstitutional conditions of confinement, and promote successful community reentry of formerly incarcerated individuals. OJPC performs this work through zealous client-centered advocacy, innovative policy reform, and cross-sector community education. OJPC's Second Chance Project focuses on expanding opportunities for people with criminal records to contribute to their communities.

CURE-Ohio (Citizens United for Rehabilitation of Errants) is a state chapter of National CURE, a non-profit prisoner advocacy group. Our mission is to educate the

Ohio public and elected leaders about the need for responsible prison management, humane treatment of prisoners, fairness in the parole process, and training in job and life skills for Ohio prisoners so that they can become productive members of society. Our expectation is that once released, a restored citizen can be become a productive member of society without the barriers of his or her prison record. CURE believes that the isolation of prisoners, the destruction of their support systems, and barriers to gainful employment discourage rehabilitation. When someone takes the initiative to further their education or to build a professional career, he or she should not be denied that chance.

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ARGUMENT

I. WHITE COLLAR REENTRY CANDIDATES FACE SUBSTANTIAL COLLATERAL CONSEQUENCES OF CONVICTION THAT SHOULD NOT IMPEDE THEIR ABILITY TO FULLY REENTER CIVIL SOCIETY AND USE THEIR SKILLS FOR SOCIETY'S AND THEIR BENEFIT.

The term "white collar" usually refers to non-manual, salaried workers employed in professional and clerical occupations.[2] For purposes of the following discussion the term "white collar reentry candidate" will include both individuals who have committed felonies while serving in a profession typically considered a "white collar" one, such as law, banking, or real estate, and individuals who are entering a white collar profession with a previous felony conviction for the first time. All individuals with a felony conviction are subject to what are known as "collateral consequences of conviction," i.e., results of that conviction that go beyond the direct penalty imposed for the conviction itself. Collateral consequences can include loss or restriction of a professional license, ineligibility for student loans, housing assistance, and federal contracts, and loss of voting rights and jury duty eligibility. Moreover, such consequences tend to last indefinitely, long after an individual is fully rehabilitated, and can significantly affect business and employment opportunities. *See* Berson, *Beyond the Sentence—Understanding Collateral Consequences*, Nat'l Inst. Of Justice Journal 25, 25 (Sept. 2013). Employers may actively screen out those with a prior conviction, viewing it as a negative predictor of unobservable traits such as honesty or dependability, and may fear liability for any criminal actions committed by their employees on the company's time. *See* Raphael, *Improving*

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[2] The Collins English Dictionary (10th Ed. Unabridged, 2009) (accessed 27 Apr 2014 at http://www.collinsdictionary.com/dictionary/english/white-collar).

Employment Prospects for Former Prison Inmates: Challenges and Policy, National Bureau of Economic Research, 13 (April 2010).

A white collar reentry candidate faces additional obstacles due to the nature of the work being sought. Many white collar positions such as the professions of realtor, accountant, and attorney involve a fiduciary duty that is owed by the professional to the client. A candidate for a professional license may thus be required to demonstrate a heightened level of rehabilitation as a result of a criminal conviction, beyond what would be expected from a less skilled helper-loader position. This may be the case regardless of whether the underlying offense was related to fiduciary concerns. One such example is Ohio's requirement that an applicant with a felony conviction who files an Application to Register as a Candidate for Admission to the bar prove rehabilitation and undergo a mandatory review by the Board of Commissioners on Character and Fitness, even if the applicant has been previously approved by a local admissions committee. For some felonies, the applicant must be approved by the Ohio Supreme Court itself (Gov. Bar R. I(12)(D)(5)(a)). This is in addition to consideration of the factors enumerated under Gov. Bar R. I(12)(D)(3), which are applied to all candidates.

A. The presence or absence of a criminal record is of questionable value in predicting future conduct and should not color the assessment of other factors in an applicant's candidacy.

While certainly understandable given the privileged position of attorneys within American society and the potential for harm to clients, a licensing panel must be mindful not to impose a higher standard upon an applicant with a criminal record than on one without such a record regarding particular issues that arise concerning that applicant's candidacy. In other words, panel members should ask whether the conduct that concerns them is being evaluated differently than it would if present in an application from an individual lacking a criminal record.

The lack of a criminal record definitively proves only that the person has not been caught or prosecuted for criminal activity. While it may constitute indicia that no such problem will arise in the future, the lack of a criminal record can be relied on only as indicia, not proof of character.[3] To treat the person with a criminal record otherwise is to participate in the pervasive view that even if an individual has paid his or her debt to society, the "felony filter" colors all other information received, and justifies its interpretation predominantly and negatively in the light of that history, often without an articulated rational basis for doing so.

Such a filter was arguably responsible for the result in the case of *In Re Loss*, 518 N.E.2d 981 (Ill. 1987), a decision by the Illinois Supreme Court to deny a law license to an applicant for admission to the bar named Edward A. Loss III, who had previously been a heroin addict and a petty criminal. Loss's application occurred near a time when Cook County had been under federal investigation for corruption, including bribery of judges, a factor that may have influenced the decision to deny licensure to an otherwise qualified candidate with a questionable background (In the words of the concurring opinion, "As a result of the ongoing Federal investigation into corruption in the circuit court of Cook County the media and the public have soundly condemned the legal profession for harboring too many crooks and cheats."). *Loss*, 518

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[3] See also Arnold, 73, which argues "Eliminating bar applicants with records of prior unlawful conduct will not eliminate dishonest individuals from bar membership. In fact, some have argued that applicants with records of prior unlawful conduct may be more committed to their clients and the system of justice because of prior experience on the wrong side of the law. The presumption made by the ABA and state bars that prior unlawful conduct by a bar applicant is predictive of future unlawful conduct or misbehavior as a lawyer has been criticized and remains unproven. Despite the confidence the bar may have in its ability to predict future malfeasance based on prior unlawful conduct, the fact remains that '[e]ven trained psychiatrists, psychologists, and mental health workers have been notably unsuccessful in projecting future deviance, dishonesty, or other misconduct on the basis of similar prior acts.' The lack of evidence regarding the predictive ability of prior behavior undermines the bar's assumption that in order to protect the public from unscrupulous lawyers, applicants with a history or prior unlawful conduct need to be subjected to a heightened level of character investigation or be denied bar admission."

N.E.2d at 995. Justice Seymour Simon, a prominent Illinois jurist, resigned his seat after protesting the Court's decision not to admit Loss. Loss had graduated from law school, obtained a passing score on the bar exam, and was initially recommended for admission to the bar by a character and fitness committee, which was normally followed by an automatic admission. However, rather than admitting Loss to the bar, the Illinois Supreme Court took the unusual step of requiring him to submit an additional petition to the Court for admission, a petition it subsequently denied. In so doing, Justice Simon protested, the Court had failed to give the applicant notice of what he would need to show to meet his burden and had moreover imposed a higher standard on the applicant than upon other applicants for admission to the bar, in violation of expected standards of due process. *Id.* at 223.[4]

It is perhaps for this reason that Ohio's Gov. Bar Rule I provides that an applicant's fitness must be determined only by considering those factors that bear a reasonable relationship to the practice of law[5] and Prof. Cond. Rule 8.4 provides that a lawyer "should be professionally answerable only for offenses that indicate a lack of those characteristics relevant to law practice" (Comment 2). It is those factors that are relevant to the resolution of an applicant's candidacy in both the legal and pragmatic sense, rather than past convictions or actions unrelated to the profession in question which may or may not bear any relationship to a candidate's ability to competently and vigorously discharge his or her professional obligations.

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[4] After being denied admission to the bar in Illinois, Ed Loss subsequently became an attorney in Arizona, where he practiced until his death in 2009, recognized by his peers by receiving a Martindale Hubbell AV rating for excellence in ethical standards and legal ability.

[5] Gov. Bar Rule I provides that "In determining an applicant's character, fitness, and moral qualifications for the practice of law, the admissions committee shall not consider factors that do not directly bear a reasonable relationship to the practice of law." This is in accordance with the 8-0 decision of the United States Supreme Court in *Schware v. Board of Bar Examiners of New Mexico*, 353 U.S. 232 (1957), which held that a state "may require good moral character or proficiency in its law, before it admits an applicant to the bar; but any qualification must have a rational connection with the applicant's fitness or capacity to practice law."

B. White collar reentry candidates receive insufficient support during the reentry process yet present a tremendous untapped resource.

Although white collar reentry candidates remain a tremendous untapped resource in terms of their skills and the opportunity to give back to the community, there is a dearth of formal reentry assistance for those engaged in the process, in comparison to blue collar reentry programs.[6] The vast majority of reentry programs for people with criminal records focus on basic job training skills and things like literacy, timeliness and resume-building for individuals who may not have developed those skills before entering prison. A reentry program for a white collar position or profession, even a non-fiduciary one, is likely to require an advanced set of "soft" skills, including business and social judgments and the unwritten rules of a particular occupation, that may need to be learned or relearned regardless of educational attainment. These may be at odds with some of the adaptations a former prisoner may have had to develop in order to survive. A white collar reentry candidate without guidance as to the acceptable boundaries and strategies to best obtain entry or reentry to a profession may inadvertently obstruct his or her candidacy through missteps attributable to this lack of practical knowledge. However, due to the presence of the felony conviction, any convictions may instead be automatically attributed to negative traits and viewed primarily through the lens of the past conviction in search of more potentially criminal behavior.

In order to effectively evaluate an applicant's candidacy, a licensing panel charged with this responsibility must be able to distinguish between true and irremediable character and behavioral issues that negatively reflect upon a candidate's suitability for licensure, and conduct that may indicate a simple lack of experiential judgment regarding the proposed profession of entry. If that conduct can be remediated with the imposition of particular conditions of licensure

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[6] See fn3.

such as a probationary period, or by a delay in the licensing process, it should.[7] To do otherwise may result in unjustifiable denial of an applicant's candidacy based on factors not related to the practice of an individual profession. This would deprive not only the candidate of the opportunity to fully reintegrate into society, but deprive society of the candidate's future reparative contributions, and the legal community of a talented colleague.

If permitted to regain or attain a professional status, even with delay or conditions, white collar reentry candidates present an unparalleled opportunity to make just not victims "whole" if ever possible, but to make the community more "whole" through application of the principles of restorative justice, namely: 1. The opportunity to empower the lawbreaker to achieve his or her own reparation; 2. To achieve reconciliation if possible with any victims; and 3. To deploy the lawbreaker as "human capital" who works on behalf of the justice system. Sweig, 30. Studies indicate that application of restorative justice principles can reduce recidivism at higher rates than retributive models. Sweig, 178. Specifically, a University of Pennsylvania meta-analysis of 11 studies showed recidivism was 27 percent lower among participants in a restorative justice program than among defendants who were not involved. Sweig, 179. Even if an argument can be

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[7] For example, some states admit candidates to the practice of law conditioned upon temporary supervision by an approved member of the bar or completion of specific actions designed to cure any moral or character deficiencies, or participation in medical or addiction treatment (Rhode Island); or requiring mentoring or supervision, office management and debt counseling, or any other condition deemed appropriate (Idaho, Tennessee, North Dakota). Others provide either for conditional admission subject to monitoring or for presumptive admission upon the expiration of a set period of time following bar passage for those with character and fitness concerns (Indiana). Still others follow an adverse decision on fitness with the opportunity to comply with an objective list of actions in order to become fit, to provide additional information, or to request a redetermination after passing the bar exam (Texas). While automatic imposition of conditional status due to mental health concerns has been found to violate the Americans With Disabilities Act, those with felony records have no similar legal protection with respect to bar admissions (though they may constitute a protected class for purposes of Title VII employment decisions under recently issued Equal Employment Opportunity Commission guidelines). A bar panel thus enjoys a great deal of flexibility in tailoring admission conditions to a particular candidate it chooses to conditionally admit or to defer pending completion of those conditions.

made that white collar recidivism is generally lower than in the general lawbreaker population, the argument for applying restorative justice principles to white collar crime is no less compelling, especially when restorative justice offers reparative opportunities for the community that transcend the prevention of recidivism. *Id.*

It is estimated that prison records and felony convictions so greatly impair former lawbreakers' employment prospects that America sustains between $57 billion and $65 billion annually in lost output. Sweig, 26. Yet employment post-release is a crucial component of rehabilitation. Difficulty finding a job contributes to parole failure, which is in turn related to the re-incarceration rate. Raphael, 48. Given the high financial and social cost of incarceration, and the arguable lack of benefit to individual victims of mere incapacitation of offenders, the benefits of an effective reentry policy resulting in successful employment clearly extend beyond any benefit accrued by the former inmate alone.

On a broader level, surely it is preferable to have educated and capable white collars working to help heal the community as a whole, rather than costing taxpayers money while socially unproductive and/or unemployed, particularly when restorative justice practices have been shown to reduce recidivism. Accomplishing this, however, means leveling the education and employment playing field so those with criminal records (at most recent estimate almost one-third of the U.S. population including white and blue collar, with an average employment rate of 50%) can get back to work. Sweig, 154. For white collars, that work will often involve a professional license. The Institute would urge any licensing panel to carefully weigh the benefit of barring an earnest applicant who has demonstrated rehabilitation from licensure against the cost of thus precluding an opportunity not only for the applicant but for the community as a whole to benefit from that licensure.

II. THE OHIO BAR SHOULD ACTIVELY SUPPORT WHITE COLLAR REENTRY, AND SHOULD CONTEXTUALLY APPLY THE CHARACTER AND FITNESS FACTORS LISTED IN GOV. BAR RULE I(12)(D)(3) IN SO DOING.

The Ohio bar should actively support white collar candidates for reentry into professions. *The Professional Ideals for Ohio Lawyers and Judges* published by the Supreme Court of Ohio Commission on Professionalism calls upon attorneys to, inter alia, improve our laws and legal system, assist in educating the public concerning Ohio's laws and legal system, comment publicly on the law, use other appropriate methods to effect positive change in Ohio laws, and promote equality for all persons. *See The Professional Ideals for Ohio Lawyers and Judges*, at 12. Active support for white collar reentry, and in particular, proper application of the factors enumerated in Ohio Bar. R. I (12)(D)(3) to white collar reentry candidates as part of a character and fitness determination, serves these aspirational ideals.

An Application to Register As a Candidate for Admission by a person with a felony conviction perhaps uniquely illustrates the challenges and opportunities inherent in white collar reentry. On the one hand, someone with first-hand experience of the criminal justice system will possess unparalleled credibility in the attorney's capacity as a counselor advising clients on the potential consequences of continuing down an unwisely chosen life path regardless of the outcome of a particular case, as well as in the attorney's capacity as an advocate uniquely equipped to evaluate the options and legal strategies available to a client caught up in the criminal justice system. On the other hand, such an applicant must overcome the inherent suspicion of a professional community sworn to uphold the rule of law, toward one whose past contains documented evidence that he or she has broken the law, in order to be admitted to its membership. Explication of factors that may be noticed in the application process and dossier of those previously subject to incarceration may be instructive.

A. The Court should recognize the documented stages of a former prisoner's reentry into civil society as such and not confuse them with a lack of candor or remorse.

Visher and Travis (94) have identified four stages in the prison experience that affect the reentry process: pre-prison circumstances (demographics and any mental health or substance abuse history), in-prison experiences (length of stay, maintaining ties with family and friends, job training), immediate post-prison experiences (moment of release experiences and immediate survival needs such as housing), and post-release integration (employment, re-adaptation to family roles, participation in larger civil society such as voting, volunteering and neighborhood involvement). The last stage, that of full integration back into the outside world, is an understandable reversal of the adaptations an inmate must inevitably make to the prison environment, which is typically characterized by a complete lack of control and social status, as well as an unwritten set of norms or "prison code" to which an inmate must adapt in order to survive and stay safe in an institutional environment. Aspects of the code include not showing fear, not trusting, not informing, avoiding fights by looking capable, keeping your problems to yourself, and not sharing personal information or showing emotions that might indicate weakness, such as sadness, fear or shame. *See* Karp, *Unlocking Men, Unblocking Masculinities: Doing Men's Work in Prison*, The Journal of Men's Studies, Vol. 18 No. 1, 66, 67, and 78 (Winter 2010).

As marginalized individuals with the lowest status in the wider society and without the resources "normally available for the enactment of manhood, men in prison are forced to reconstitute their identity and status using the limited available resources." Phillips, quoted in Karp at 66. Common strategies include the adoption of a masculine role such as that of scholar, skilled tradesman, or an expert in legal matters and prisoners' rights (sometimes known as a

"jailhouse lawyer"), but the most universal is a hypermasculine public façade, often referred to by inmates as a "mask" or "armor" adopted as a survival strategy that covers a more nuanced private identity and that protects the inmate from revealing vulnerabilities and weaknesses that might provide an opening for exploitation or domination. *Id.* at 66, 77. This construct has relevance for two aspects of the bar admission process: 1. a licensing panel's evaluation of a candidate's candor and remorse regarding the events leading to a conviction based on his or her demeanor, and 2. whether a candidate has engaged in prisoner litigation to any significant extent.

In attempting to reenter—or to enter for the first time—a profession with its own particular professional culture, a former inmate must transition from one set of unwritten norms to another in order for reentry into civil society as a professional to be successful. In contrast to the opaque social veneer necessary to adapt to incarceration, the unwritten norms of civil society include displaying a openness in gestures and demeanor in order to inculcate trust in a business context. Attorneys must adapt themselves to the necessity of displaying complete and utter deference before a licensing or disciplinary authority, even under circumstances where their integrity and worth is questioned in a harsh and demeaning fashion as may happen during the bar admissions process. An adaptive response in this context—utter deference and submission—would have made an inmate an easy target for abuse, exploitation, and possibly death while incarcerated. A former inmate who is providing full and accurate information on a bar application to the best of his or her ability and is prepared to undergo an extensive investigative process and possibly a required hearing in order to demonstrate fitness is already far along in the process of deconstructing a documented survival strategy acquired of necessity and of being re-integrated back into civil society. However, he or she may lack the nuanced knowledge to implement unwritten rules most attorneys who have been through the bar approval process have

encountered that favor such things as expansive answers to inquiries over literal ones and unquestioning submission to a jurist or other authority, even one behaving in a disrespectful or abusive fashion. He or she may also be challenged by the lingering effects of post-traumatic stress.

After having adapted to a level of emotional over-control, a former inmate may find the necessity to avoid engaging in open communication with others or to express vulnerability or candid emotions, once acquired, can be difficult to relinquish. Haney, *The Psychological Impact of Incarceration: Implications for Post-Prison Adjustment*, University of California, Santa Cruz, 8, 10 (December 2001). This adaptation has been noted to cause difficulties with promoting "trust and authenticity" within the family post-release (Haney 15) but applies to other contexts as well. For example, an important part of the bar admissions experience is the panel's evaluation of a candidate's remorse as a demonstration of his or her rehabilitation. Remorse in the outside world is expected to be accompanied by tears and wringing of hands, and not by a stoicism that has been termed "emotional flatness" (Haney 15) and that occurs both in individuals experiencing post-traumatic stress and in those who have experienced incarceration. It must be stressed that these are natural and normal adaptations to the unnatural and abnormal environment of prison life (Haney 6), and are found among incarcerated populations regardless of the reason for the incarceration, including among prisoners of war who clearly are not incarcerated due to their own "fault." DeVeaux, *The Trauma of the Incarceration Experience*, 48 Harvard C.R.-C.L. L. Rev. 257, 282 (2013). An admissions panel that rates a candidate's level of remorse based on a view of expressive norms—in others words judging what remorse should look like based on what it looks like in those who have not experienced post-traumatic stress or the trauma of incarceration—that does not take into consideration the context of a former prisoner's experience

risks seriously misjudging the nature and extent of a candidate's remorse. The Institute would urge any licensing panel to consider actions that demonstrate rehabilitation over subjective evaluations of a candidate's reserved demeanor in determining remorse as a component of character and fitness.

B. The Court should understand prisoner litigation in its context and not interpret it as abuse of legal process or as vexatious litigation.

Some white collar reentry candidates, particularly those applying for attorney licensure, may have engaged in pro se prisoner litigation, or even have functioned as a "jailhouse lawyer", an individual, usually self-taught, who provides other inmates with information. The essential and non-frivolous nature of this sort of litigation is discussed by Shon Hopwood, Gates Public Service Law Scholar at the University of Washington. Hopwood previously spent more than a decade in federal prison for bank robbery, learned the law while in prison, successfully assisted a fellow prisoner in drafting a petition for certiorari to the United States Supreme Court which was granted, and attended law school upon his release.[8] *See* Hopwood, *Slicing Through the Great Legal Gordian Knot: Ways to Assist Pro Se Litigants in Their Quest for Justice*, 80 Fordham L. Rev. 1229 (2011). Hopwood describes the drastic consequences of the strict one-year statute of limitations on post-conviction remedies, which constitute the principal way prisoners can challenge such clear errors as improper sentencing calculation or an attorney's failure to file a timely notice of appeal. Issues such as access for medical treatment may otherwise go unaddressed if not undertaken by a prisoner alone or with a fellow prisoner's assistance. *Id.*

Jailhouse lawyers have been found to be an essential component of access to the court system by indigent prisoners. For example, if an inmate requires the assistance of a jailhouse

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[8] The case, a 9-0 victory for the petitioner, is *Fellers v. United States*, 540 U.S. 419, 285 F.3d 721 (2004).

lawyer in order to access the courts and there is no adequate alternative, it must be provided. See *Johnson v. Avery*, 393 U.S. 483 (1969), which invalidated as unconstitutional a prison rule that prohibited prisoners from assisting each other in preparing habeas corpus petitions. This rule has not limited to situations in which an inmate requires assistance because he is illiterate. *Wainwright v. Coonts*, 409 F.2d 1337 (5th Cir. 1969). *See also Cross v. Powers*, 328 F.Supp. 899 (W.D. Wis. 1971), which invalidated an absolute restriction on an inmate having possession of another inmate's legal paperwork, in effect banning jailhouse lawyers; *Buise v. Hudkins*, 584 F.2d 223 (7th Cir. 1978), holding impermissible a prisoner's transfer in retaliation for acting as a jailhouse lawyer; *Storseth v. Spellman* 654 F.2d 1349 (9th Cir. 1981), holding that jailhouse lawyers may assist in preparing and filing pleadings but may not file them on behalf of another; and the extensive list of cases footnoted in Boston and Manville, *Prisoners' Self Help Litigation Manual*, Oxford University Press (2010), 245-7.

A prisoner who has engaged in jailhouse or other forms or pro se litigation may incur the suspicion of a licensing panel of having attempted to engage in the unauthorized practice of law or of engaging what in the outside world is known as vexatious litigation. It is crucial to remember that the knowledge and judgment acquired by practicing attorneys through the licensing process and early years of practice is not accessible to a layperson who is engaging in the sole form of permitted advocacy available to him or her. The Institute would urge any licensing panel to deem it inappropriate to impute knowledge of attorney ethics and judgment regarding appropriate filing practices to a non-licensed layperson who is relying on knowledge gained largely, if not exclusively, from textbooks, in order to engage in an activity that has been recognized by the United States Supreme Court and other federal courts as being of practical value.

C. Practical experience utilizing white collar skills or other conditions imposed are part of the licensing process can bridge the reentry gap and increase a candidate's professional judgment while providing a larger social benefit.

In these and other ways, a former inmate may be ill-prepared for the unwritten social mores of the re-entry profession of choice, and the different route to bar candidacy taken by the candidate is an appropriate consideration in evaluating whether an applicant's candor and expression of remorse is a reflection of character and fitness or merely of experience —or inexperience. It has been argued that sentences for white collar felons should specifically include an obligation to utilize white collar skills to benefit the community. Sweig, 184. Whether enacted as part of a criminal sentence or as part of the licensing process, conditional or otherwise, such an undertaking would also provide the opportunity to bridge the disconnect between institutional life and life on the outside, as well as the disconnect between the social veneer that must be adopted in the prison environment and that which is necessary for a successful reentry, including successful navigation of the licensing process.

The informed judgment of the bar panel is essential to appropriately evaluating the risks and potential contributions an applicant with a felony conviction can make to the legal profession.

CONCLUSION

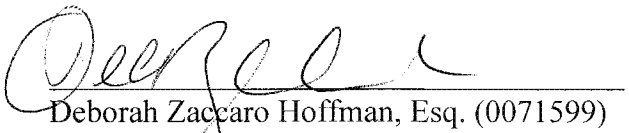
Amici curiae respectfully request the Court consider all the issues raised above in its evaluation of applicants with a felony conviction, and that it approve those applicants unconditionally in the absence of any present conduct rationally related to the practice of law that would prevent them from effectively practicing as a licensed attorney subsequent to passing the bar examination.

In light of the information presented, the Institute would also urge that applicants with felony records who will not be unconditionally approved to sit for the bar examination be given a deferral of between six months and two years whenever possible, during which they would be expected to continue to demonstrate behavior consistent with the fitness standards established by Gov. Bar R. I and, if deemed appropriate by the Court, to cure any concerns raised during the character and fitness process, rather than being forever precluded from sitting for the examination.

The Citizens' Institute for Law & Public Policy is grateful for the opportunity to provide the enclosed information in consideration of the important issues raised by this Application.

Dated: October 29, 2014

Respectfully submitted,



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CERTIFICATE OF SERVICE

A true copy of the foregoing Amicus Brief has been served by U.S. mail this 29 day of October, 2014 upon the following:

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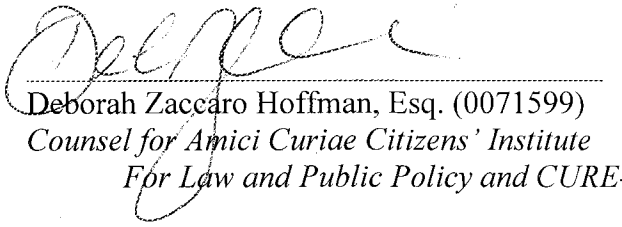

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