

THE SUPREME COURT OF OHIO

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

RESPONSE OF CMBA TO APPLICANT’S MOTION TO SUPPLEMENT

The Cleveland Metropolitan Bar Association (“CMBA”) respectfully submits that Applicant Joseph Libretti’s so-called Motion to Supplement should be denied.

Virtually all of the so-called Motion to Supplement supplements nothing in Libretti’s application. Rather, the Motion is principally a pretextual vehicle (1) for additional (and repetitive) argument, and (2) for dumping extra-record materials into the pleadings. Moreover, Libretti has already made these or similar arguments – before the Panel, in his Motion to Strike, in his Motion to Extend Seal, in his Opening Brief, and (after foregoing the opportunity to raise them in his own Reply Brief) through an amicus reply brief.

Much could be (and previously has been) said in response to the rhetoric (including half-truths and spin) in Libretti’s so-called Supplement, but a full response would further enhance the risk that the central points might be further obscured. The central points are these: As the unanimous Panel and in turn the Board found, (1) Libretti failed to carry his burden “of proving by clear and convincing evidence that he possesses the requisite character and moral qualifications to be a member of the Ohio Bar” (Report at p. 5), and (2) Libretti was neither truthful nor forthcoming throughout the bar application process, including in his application (*e.g.*, Report at p. 10), in his CMBA interview (*e.g.*, Report at p. 9 & n.7; *see* Report at p. 8 n.6),

at the hearing (Report at 13 (“Stated bluntly, after observing Libretti for a number of hours on the witness stand, the panel did not trust Applicant to be truthful or forthcoming”)), and in his first post-hearing supplement (Report at 11 n. 8).¹ See In re Application of Baudendistel, 141 Ohio St.3d 101 at ¶20 (Ohio 2014) (honesty and integrity are of “paramount importance ... in the legal profession and [have] primacy in assessing the character and fitness of an applicant for admission to the bar”).

Indeed, Libretti has twice admitted his failure to carry his burden of proof, and, though both guarded and limited, he has twice admitted his lack of candor. (Libretti Reply at unnumbered p. 2 (filed January 27, 2015); Motion to Withdraw at 2 (filed before BCCF on February 3, 2014)).

In addition to this track record, the rhetoric in Libretti’s so-called Supplement demonstrates a continuing lack of candor, a failure to truly accept responsibility for the misconduct that so disturbed the Panel, and in itself raises serious doubt about the sincerity of the limited expressions of contrition professed in his February 2014 Motion to Withdraw and January 2015 Reply.

¹See Cuyahoga Cty. Bar Assn. v Wise, 108 Ohio St. 3d 164 at ¶24 (2006) (“Unless the record weighs heavily against a hearing panel’s findings, we defer to the panel’s credibility determinations, inasmuch as the panel members saw and heard the witnesses firsthand”). *Accord* Disciplinary Counsel v. Pappas, 141 Ohio St. 3d 1 at ¶16 (2014).

CONCLUSION

There comes a time when continuing to pile (and repeat) rhetoric on top of rhetoric needs to end. Though doing so is apparently one of Libretti's litigation tactics,² it is respectfully submitted that time has passed here.

Libretti's so-called Motion to Supplement should be denied.

Respectfully Submitted:

s/ Paul G. Crist

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² See, e.g., the Panel's Report at pp. 13-15; CMBA Ex. 29 = U.S. v. Libretti, 2001 US App. Lexis 21412 at *7 (10th Cir. Oct. 3, 2001), cert. denied, 535 U.S. 945 (2002) (Libretti "merely rehashes his previous arguments."); CMBA Ex. 18 = Libretti v. Wyoming Attorney General, 2003 U.S. App LEXIS 3000 at **9 to **12 (10th Cir. Feb. 19, 2003) ("On three separate occasions" – in 1994, 1996, and 1998 – the 10th Circuit rejected identical claims, and thus dismissed current claim as both barred by res judicata and frivolous.).

CERTIFICATE OF FILING AND SERVICE

The undersigned certifies that the foregoing RESPONSE OF CMBA TO APPLICANT’S

MOTION TO SUPPLEMENT was e-filed this 2nd day of February, 2015 via:

https://www.supremecourt.ohio.gov/e-filing
Office of the Clerk
Supreme Court of Ohio
65 South Front Street, 8th Floor
Columbus, Ohio 43215-3431

And that copies were emailed to the listed email address if any and/or mailed to the individual first named in each category below this 2nd day of February, 2015 to:

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