

**BEFORE THE BOARD OF PROFESSIONAL CONDUCT
OF THE SUPREME COURT OF OHIO**

In re: :

Reinstatement of : **Board Case No. 2014-082**

Joel David Joseph : **SCO Case No. 2012-1107**
Attorney Reg. No. 0048592

Petitioner : **Findings of Fact,**
: **Conclusions of Law, and**

Disciplinary Counsel : **Recommendation of the**
: **Board of Commissioners on**

Relator : **Grievances and Discipline of**
: **the Supreme Court of Ohio**

:

ON PETITION FOR REINSTATEMENT TO THE PRACTICE OF LAW

{¶1} This matter was heard on February 19, 2015 in Cleveland, upon the petition of Joel David Joseph for reinstatement to the practice of law pursuant to Gov. Bar R. V, Section 25.¹ The case was heard by a panel consisting of Sanford E. Watson, Lawrence A. Sutter III, and David L. Dingwell, chair. None of the panel members resides in the district in which the petitioner now resides or resided at the time of his suspension.

{¶2} The petitioner appeared *pro se*. Stacy Solochek Beckman appeared on behalf of Relator.

{¶3} On October 3, 2012, Petitioner was indefinitely suspended from the practice of law by the Supreme Court of Ohio in accordance with the reciprocal discipline provisions of former Gov. Bar R. V, Section 11(D). *Disciplinary Counsel v. Joseph*, 133 Ohio St.3d 1221, 2012-Ohio-4550. This was based upon the October 27, 2011 order of the Court of Appeals of Maryland disbaring Petitioner.

¹ Effective January 1, 2015, the Supreme Court amended Gov. Bar R. V and the Board's Procedural Regulations. This report distinguishes between the former and current versions of Gov. Bar R. V and the Procedural Regulations, as appropriate.

{¶4} The disbarment in Maryland was not permanent. Therefore, Petitioner’s reinstatement to the practice of law in Ohio was expressly conditioned upon reinstatement to the practice of law in the state of Maryland.

{¶5} Petitioner’s disbarment in Maryland was based upon a determination by the Court of Appeals of Maryland that Petitioner made misrepresentations in 2007 regarding his state of residence when applying to appear *pro hac vice* in legal proceedings pending in California Superior Court.

{¶6} According to California Superior Court rules, residents of California are not eligible to appear as counsel *pro hac vice*. The Maryland Court of Appeals determined that Petitioner falsely represented to the California courts that he was a resident of Maryland when in fact he was a resident of California.

{¶7} Petitioner presented evidence at the hearing in this matter that demonstrated that he held a Maryland driver’s license and that he had filed income tax returns in the state of Maryland during the time period in which the Maryland Court of Appeals determined that he was a resident of the state of California.

{¶8} Petitioner’s argument for reinstatement is premised upon his contention that the Maryland Court of Appeals decision disbarring him deprived Petitioner of due process of law. According to the decision of the Maryland Court of Appeals, Judge Joseph A. Dugan “overlooked” Petitioner’s proposed findings of fact and conclusions of law that were submitted in defense of the Maryland disciplinary proceeding. The Maryland Court of Appeals thereafter remanded the case to Judge Dugan who then issued an order reaffirming the previous findings of fact and conclusions of law. Judge Dugan’s decision adopted all of the disciplinary authority’s proposed findings of fact

and conclusions of law in its entirety. See, October 27, 2011 Opinion and Decision of the Court of Appeals of Maryland. See also, Verified Petition of Joel D. Joseph at p. 3.

{¶9} Petitioner filed a verified petition for reinstatement to the practice of law on October 8, 2014. Pursuant to former Gov. Bar R. V, Section 10, Petitioner requested the Court to reinstate him to the practice of law. The petition was verified by an accompanying affidavit.

{¶10} The petition states that Petitioner has sought reinstatement in Maryland and will continue to do so. However, at the time of the hearing of this matter, it was undisputed that Petitioner had not yet been reinstated by Maryland to the practice of law.

{¶11} The burden is on Petitioner to show by clear and convincing evidence that he should be reinstated to the practice of law. Petitioner must establish that he possesses all of the mental, educational, and moral qualifications that were required of an applicant for admission to the practice of law at the time of his original admission, and that he is now a proper person to be readmitted to the practice of law in Ohio, notwithstanding the previous disciplinary action. Petitioner must also show by clear and convincing evidence that he has complied with the continuing legal educational requirements as prescribed by Gov. Bar R. X, Section 3(G).

{¶12} Additionally, based upon the order of suspension, Petitioner must show that he has complied with the order of the Supreme Court of Ohio stating that he has been reinstated to the practice of law in the state of Maryland.

{¶13} Based on the evidence presented, the panel unanimously finds that Petitioner has satisfied all of the requirements for reinstatement to the practice of law in Ohio, except one. Petitioner has still not been reinstated to the practice of law in the State of Maryland. Therefore, the panel is unable to recommend that Petitioner be reinstated to the practice of law in the state of Ohio.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

{¶14} Petitioner was admitted to the practice of law in the state of Ohio on March 14, 1980.

{¶15} At the hearing, Petitioner testified that although he petitioned for reinstatement in the state of Maryland, that petition was denied, and he has not been reinstated to the practice of law in the State of Maryland. Hearing Tr. 21.

{¶16} The October 3, 2012 order of the Supreme Court of Ohio expressly conditions Petitioner's reinstatement to the practice of law in Ohio upon first being reinstated to the practice of law in the state of Maryland.

{¶17} Following the filing of Petitioner's Verified Petition in this matter, but prior to the hearing, Petitioner filed a motion with the Supreme Court of Ohio to reconsider its October 3, 2012 order setting forth the condition of first being reinstated to the practice of law in the state of Maryland.

{¶18} On December 30, 2014, the Supreme Court of Ohio denied Petitioner's motion to reconsider. See, *Disciplinary Counsel v. Joseph*, 141 Ohio St.3d 1424, 2014-Ohio-5734.

{¶19} The Supreme Court of Ohio has now twice determined that Petitioner must first be reinstated to the practice of law in the State of Maryland as an express condition of his reinstatement to the practice of law in the state of Ohio.

{¶20} The Supreme Court of Ohio has previously held in reciprocal discipline cases that the failure to be reinstated in the reciprocal jurisdiction, when such is a condition to reinstatement to the practice of law in Ohio, is grounds to deny a petition for reinstatement in Ohio. *In re Bustamonte*, 100 Ohio St.3d 39, 2003-Ohio-4828 at ¶6.

{¶21} Although the panel believes that Petitioner has satisfied all other requirements to be reinstated to the practice of law in the state of Ohio, and would not otherwise hesitate to recommend his reinstatement, the panel must be mindful of the express condition ordered by the Supreme Court of Ohio that has not been satisfied by Petitioner.

{¶22} Based on the foregoing, the panel determines by clear and convincing evidence that: (1) Petitioner possesses all of the mental, educational, and moral qualifications that were required of an applicant for admission to the practice of law in Ohio at the time of his original admission; (2) Petitioner has complied with the continuing legal education requirements of Gov. Bar R. X, Section 3(G) and has complied with the order of the Supreme Court with the sole exception of obtaining reinstatement in the state of Maryland; and (3) Petitioner has not been reinstated to the practice of law in the state of Maryland, and thus is not a proper person to be readmitted to the practice of law in Ohio based solely upon the condition of reinstatement that was ordered by the Supreme Court of Ohio on October 3, 2012 and reaffirmed on December 30, 2014.

PANEL RECOMMENDATION

{¶23} The panel unanimously recommends that Petitioner not be readmitted to the practice of law in Ohio.

BOARD RECOMMENDATION

Pursuant to Gov. Bar R. V, Section 25, the Board of Professional Conduct of the Supreme Court of Ohio considered this matter on April 10, 2015. The Board adopted the findings of fact, conclusions of law, and recommendation of the panel and recommends that the reinstatement petition of Joel David Joseph be denied. The Board further recommends that the cost of these proceedings be taxed to Petitioner.

Pursuant to the order of the Board of Professional Conduct of the Supreme Court of Ohio, I hereby certify the foregoing Findings of Fact, Conclusions of Law, and Recommendation as those of the Board.

A handwritten signature in black ink, appearing to read "Richard A. Dove", written over a horizontal line.

RICHARD A. DOVE, Director