

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

In re:

Reinstatement of

Board Case No. 2010-053

**Carolyn Kaye Ranke
Attorney Reg. No. 0043735**

SCO Case No. 2011-0379

Petitioner

**Findings of Fact
and Recommendation of the
Board of Professional Conduct
of the Supreme Court of Ohio**

Disciplinary Counsel

Relator

ON PETITION FOR REINSTATEMENT TO THE PRACTICE OF LAW

{¶1} This matter was heard on July 13, 2015 in Columbus, upon the petition of Carolyn Kaye Ranke for reinstatement to the practice of law pursuant to Gov. Bar R. V, Section 25. The panel consisted of Jeff M. Davis, Keith A. Sommer, and Judge John R. Willamowski, chair. None of the panel members resides in the district in which Petitioner now resides or resided at the time of his suspension.

{¶2} Petitioner was present at the hearing, represented by Richard S. Koblentz. Michelle R. Bowman appeared on behalf of Relator.

{¶3} For the reasons stated below, the panel recommends that the petition for reinstatement be granted.

FINDINGS OF FACT

{¶4} Petitioner was admitted to the practice of law in the state of Ohio on November 6, 1989.

Petitioner's Prior Case

{¶5} On September 22, 2011, Respondent was indefinitely suspended from the practice of law by the Supreme Court of Ohio. *See Disciplinary Counsel v. Ranke*, 130 Ohio St.3d 139, 2011-Ohio-4730. The case was presented to the Board and Supreme Court as a default judgment matter pursuant to former Gov. Bar R. V, Section 6(F).

{¶6} The Court concluded that Petitioner violated the following rules: As to Count One, Prof. Cond. R. 1.8(e) [providing financial assistance to a client for expenses other than court or litigation costs]; Prof. Cond. R. 1.15(a)(2) [failing to maintain a record for each client on whose behalf funds are held]; Prof. Cond. R. 1.15(a)(5) [failing to perform and retain a monthly reconciliation of the funds in her trust account]; and Prof. Cond. R. 1.15(d) [failing to promptly deliver funds or other property that the client is entitled to receive]. As to Count Two, Prof. Cond. R. 1.2(a) [intentionally failing to seek the lawful objectives of her clients]; Prof. Cond. R. 1.3 [diligence]; Prof. Cond. R. 1.4(a)(3) [failing to keep the client reasonably informed about the status of a legal matter]; Prof. Cond. R. 8.4(d) [conduct is prejudicial to the administration of justice]; and Prof. Cond. R. 8.4(h) [conduct that adversely reflects on the lawyers fitness to practice law]. As to Count Three, Prof. Cond. R. 8.1(b) and Gov. Bar R. V, Section 4(G) [failure to cooperate].¹

PANEL RECOMMENDATION

{¶7} Gov. Bar R. V, Section 25(D)(1) establishes the requirements for reinstatement from an indefinite suspension. It provides in relevant part:

The petitioner shall not be reinstated unless he or she establishes all of the following by clear and convincing evidence to the satisfaction of the panel hearing the petition for reinstatement:

¹ Although not referenced in the joint stipulations, the Board notes that Petitioner was disciplined by the Supreme Court prior to imposition of the indefinite suspension in 2011. *See Cleveland Metro. Bar Assn. v. Ranke*, 127 Ohio St.3d 126, 2010-Ohio-5036 [public reprimand for a single violation of former DR 6-101(A)(3) based on her failure to obtain client consent before deciding against responding to a motion for summary judgment].

(a) That the petitioner has made appropriate restitution to the persons who were harmed by his or her misconduct;

(b) That the 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 or her original admission;

(c) That the petitioner has complied with the order of suspension;

(d) That the petitioner has complied with the continuing legal education requirements of Gov. Bar R. X;

* * *

(f) That the petitioner is now a proper person to be readmitted to the practice of law in Ohio, notwithstanding the previous disciplinary action.

{¶8} The suspension order issued by the Supreme Court set forth the following additional conditions that Petitioner must satisfy prior to reinstatement: payment in full of the costs of the proceedings taxed to the respondent, plus any interest accrued, which, at the time of the suspension order was \$12.99.

{¶9} The parties submitted agreed joint stipulations for the record in this matter. After setting forth Petitioner's indefinite suspension, the parties agreed that:

- Except the current petition, Petitioner has not filed any other petition for reinstatement to the practice of law since the date of her suspension.
- Petitioner is in full compliance and is current with her continuing legal education requirements pursuant to Gov. Bar R. V, Section 25(D)(1)(d). Stipulated Ex. A 1-3.
- No formal disciplinary proceedings are currently pending against Petitioner.
- Petitioner has fully complied with the order of suspension including, but not limited to, payment of costs and the deposit for costs of the instant matter pursuant to Gov. Bar R. V, Section 25(D)(1)(a) and (c).

{¶10} The parties share the reasonable belief and opinion and stipulated that Petitioner (1) currently possesses the requisite character and fitness to practice law in the state of Ohio, (2) is now a proper person currently capable of being an attorney who will perform competently and behave in an ethical and legal manner as an attorney if reinstated to the practice of law, and (3)

fully understands the nature of her actions in the underlying action, that she acted improperly, and is remorseful for her misconduct.

{¶11} The parties recognize and acknowledge that, while not excusing her misconduct, the circumstances underlying Petitioner’s misconduct and her failure to respond to Relator’s complaint were, to a significant degree, occasioned by her diagnosis with cancer and undergoing necessary life-saving medical treatment that impacted the degree of attention she should have given to her attorney disciplinary matter at the time. As evidence of the extensive medical treatment, Petitioner received during the time period giving rise to the facts resulting in her suspension, the parties stipulated to the authenticity, introduction, and admissibility as evidence the packet of numerous “Explanation of Benefits” insurance statements. Stipulated Ex. B. In addition, the parties stipulated to the authenticity, introduction, and admissibility into evidence the correspondence from Petitioner’s physician, Lois J. Teston, dated February 23, 2015 that states Petitioner is now disease-free and without any physical limitation. Stipulated Ex. C.

{¶12} In further support of her current possession of the requisite character and fitness to practice law, the parties stipulated to the authenticity, introduction, and admissibility into evidence of testimonial and character letters from judges, other members of the legal community, former clients, and friends of Petitioner. Stipulated Exs. D-O and Q-HH.

{¶13} In addition to the submitted agreed joint stipulations, a hearing was held at which the following, uncontradicted and credible testimony was offered as evidence.

{¶14} Judge Denise N. Rini, a juvenile court judge in Cuyahoga County, reached out to Petitioner during Judge Rini’s run for judge of Cuyahoga County Juvenile Court and they’ve probably been in contact daily since 2012. Hearing Tr. 18. She had no concern about the idea of hiring a lawyer who is under an indefinite suspension to work at the court. *Id.* Petitioner serves

as Judge Rini's bailiff and has been instrumental in making Judge Rini's courtroom "one of the best courtrooms to practice in for almost all attorneys" that come before her. Hearing Tr. 19-20. If Petitioner is reinstated, Judge Rini intends to appoint her as magistrate for custody, abuse and neglect, dependency and delinquency cases. Hearing Tr. 20-21. Judge Rini thinks Petitioner is more than capable, and "the law profession is going to be better when and if she's reinstated." *Id.* In Judge Rini's opinion, Petitioner is respected by some of the old-time attorneys who come through the door and that Petitioner has the traits of integrity, honesty, and compassion. Petitioner is tenacious, would be a benefit to the practice of law and also be a huge benefit to the population of the kids of Cuyahoga County (who come into the court's jurisdiction). Hearing Tr. 22-24. Judge Rini further opined, based upon her background, knowledge, and experience with the Petitioner, that she would be no risk to the general public if she is reinstated, she would only be an asset. Hearing Tr. 25.

{¶15} Je'Nine Nickerson, who serves as a magistrate for Judge Rini and works with Petitioner, first met Petitioner when she (Magistrate Nickerson) was working as a prosecutor for the City of Garfield Heights, and knew her by reputation ("wonderful reputation") prior to meeting her in person. Magistrate Nickerson had a great respect for Petitioner as an attorney in terms of her (Petitioner's) reputation in the community and in their field. Hearing Tr. 28. Magistrate Nickerson testified regarding her opportunity to observe Petitioner aiding in the development of some younger and less experienced members of the bar. Hearing Tr. 30-32. Her further opinion was that Petitioner, despite having made a bad decision and "mak[ing] a few side steps" is absolutely fit for the practice, that she's learned from this and will use this experience "to put others in the right position where they maybe don't follow in that same step and make that misstep." Hearing Tr. 32-33. Magistrate Nickerson's opinion as to Petitioner's character traits for

honesty, integrity, compassion, and all the various other traits that one looks for in a good lawyer who is serving her clients appropriately was very favorable. Hearing Tr. 34-35. Magistrate Nickerson was sure that Petitioner would respond to any future disciplinary complaint, has discussed the matter with Magistrate Nickerson, would be a benefit to the public if reinstated, and would not pose any danger or problem to either the public, her clients or the court system if reinstated. Hearing Tr. 35-37.

{¶16} Nancy Jamieson, currently a self-employed attorney, had previously worked for Petitioner as her associate from February 2009 until Petitioner's suspension in September 2011. Hearing Tr. 39-41. Ms. Jamieson testified regarding the excellent mentoring she received from Petitioner. Hearing Tr. 41-43. Ms. Jamieson testified that Petitioner talks openly about her failure and believes it is a fair assessment that Petitioner would put her pride aside in the future and look to others for help in times of need. Hearing Tr. 45-46. Ms. Jamieson testified that "I absolutely think that she (Petitioner) possesses those requirements that are important and that are necessary to be an attorney in the state of Ohio. In fact, I think that she exudes those things. I think that she does more than just possess them. She does whatever she needs to do to make sure that she is doing all those things in an appropriate manner." Hearing Tr. 46-47. Ms. Jamieson further testified that she knows many people in the community who knows Petitioner, and that "[e]verybody has the utmost respect for her and can't wait for her to come back." Hearing Tr. 47. In addition, Ms. Jamieson testified to personally knowing many younger members of the bar whom Petitioner has helped out. Hearing Tr. 47-48. Finally, Ms. Jamieson opined that Petitioner possess character traits of honesty, integrity, diligence, compassion, and all of the character traits that one would look for in an exemplar member of the bar, and that if she's given the opportunity to come back to the bar, that she will continue to exhibit those character traits to the fullest. As well, she believes

that Petitioner would be a benefit to the public and state of Ohio court system, the bar, and all of the other constituencies that lawyers are duty bound to serve, and she cannot envision Petitioner being a detriment or a danger to the public in the state of Ohio if her licensure is reinstated. Hearing Tr. 49-51.

{¶17} Petitioner began by testifying as to her educational background and career path. Hearing Tr. 56-60. She next explained the IOLTA overdraft in the underlying matter as her having released settlement monies drawn on an IOLTA account check in advance of depositing the actual settlement check into the IOLTA account which caused the overdraft. Hearing Tr. 60-62. This never affected her client who was unaware of the matter and was not injured in any way. Hearing Tr. 62. She gave thorough testimony concerning her failure to respond to the underlying complaint and how her diagnosis and start of treatment interacted with that. Hearing Tr. 63-69. She testified as to her subsequent instruction as to all the rules about IOLTA accounts, such as making sure that checks clear, making sure that you have the appropriate ledger sheets and that you abide by all the rules and that she feels that today she is in a position she could appropriately maintain an IOLTA account with the tools she has been given. Hearing Tr. 69-70. She next testified as to the court of appeals matter where she failed to file a brief. She testified that she was trial counsel for her long-standing client and won on a vast majority of the case, but that her client was convicted on one part of it and was sent to prison. She was planning to do the appeal and then she and her client were able to do some things where she was going to be released from prison so she (Petitioner) didn't think her client was going forward with the appeal. It was a mistake on her part to think her client was abandoning the appeal, and was a miscommunication with the client. She further testified that, having had a lot of time to go back and revisit all of these things, you have to be 100 percent sure that everything is taken care of at all times. Hearing Tr. 71-72. Petitioner testified

extensively concerning her personality trait by which she failed to reach out to get help with her clientele so she could focus on her own matters. She stated “I’ve learned that lesson, and it’s been a very painful lesson to learn. But it’s been a very good lesson. The time off has been a blessing to me. Not one that I would have ever picked or that I ever saw coming * * *.” and “So it’s been a really great lesson for me to learn that * * * you don’t have to be number one every single time. It’s more important that you do things the way that you are supposed to do them with respect to – for everybody. Even though I thought I knew that, I have learned it. It’s been, like I said, not what I ever thought I would have picked or managed about my life, but it’s been a real blessing for me.” Hearing Tr. 72-75. Petitioner testified concerning her health, agreeing with her physician’s letter that she has a good prognosis and that she has no active physical limitations and is in full remission and that she physically has the wherewithal and capacity to serve the public appropriately in the role of a lawyer. Hearing Tr. 75-76, 78. While she’s missed practicing law, she’s really enjoyed working at the juvenile court and would like to stay there, and hopefully stay on and be able to become a magistrate with Judge Rini. *Id.* Petitioner has no (former) client to whom she owes any monies. Hearing Tr. 89. Petitioner has not been convicted of any crime, has no existing chemical dependency, has not done any act in the last four years (since her suspension) that would be considered the unauthorized practice of law, knows of no mental or psychological disorder that would affect her ability to practice law, has not been charged with any crime in the past four years, has not violated any order of a court, is not admitted to the practice bar in any other jurisdictions (having resigned all of her admissions at the time of her suspension), and has no other disciplinary cases. Hearing Tr. 89-90.

{¶18} Relator, having stipulated, had no case to present. Hearing Tr. 91-92. Relator represented in closing that “relator continues to believe that [Petitioner] has demonstrated her

fitness and proper character and fitness to be reinstated to the practice of law in the State of Ohio.”
Hearing Tr. 96.

{¶19} The panel concludes by clear and convincing evidence that Petitioner has satisfied all of the requirements for reinstatement mandated by Gov. Bar. R. V, Section 25(D)(1) as to restitution; the mental, educational, and moral qualifications; the CLE compliance; and her being a proper person for readmission. The panel further finds by clear and convincing evidence that Petitioner has satisfied all of the specific requirements for reinstatement set forth in the Supreme Court’s suspension order of September 22, 2011.

{¶20} The panel recommends that Petitioner be reinstated to the practice of law.

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 October 2, 2015. The Board adopted the findings of fact and recommendation of the panel and recommends that the reinstatement petition of Carolyn Ranke be granted and that she be reinstated to the practice of law in Ohio. 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 and recommendation as
those of the Board.**



RICHARD A. DOVE, Director