

IN THE SUPREME COURT OF OHIO

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

MOTION FOR RECONSIDERATION

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Now comes Applicant, through counsel, and respectfully requests the Court reconsider its decision to prohibit Joseph V. Libretti, Jr. from ever re-submitting an Application in Ohio.

The sole issue the Motion will address is whether Applicant's conduct merits the imposition of the death penalty in Ohio on his candidacy. Historically this Court has refrained from imposing a permanent ban on candidates where there even is a "glimmer of hope" resulting from a candidate's "belated candor" (*In re Clark*, 135 Ohio St.3d 252, 2013-Ohio-732, 985 N.E.2d 1266, ¶14) and when the applicant does not "completely lack rehabilitation potential." *Application of Holzhauser*, 66 Ohio St.3d 43, 46, 607 N.E. 2d 833 (1993). Both the majority and dissent agree that the Applicant has demonstrated academic achievement and professional conduct in the workplace (*In re Libretti* 2015-Ohio-4338 ¶3). As the dissent notes, this in itself reflects a level of rehabilitation, albeit incomplete. It is the existence of Applicant's accomplishments and constructive activities since his conviction, as well as the character support he has received from others in the legal community, though insufficient to demonstrate current rehabilitation, that weigh on the scale to indicate he is not a lost cause. These factors were notably lacking in *Aboyade* and *Cvammen*, and even in the cases cited by the dissent, *Worthy* and *Clark*, which permitted individuals with both a felony record and candor concerns to reapply at a concrete date. Applicant's record, as the majority notes, reflects a lack of current readiness but cannot be said to be utterly devoid of rehabilitation potential or of a glimmer of hope that he can some day be found completely rehabilitated. Applicant has acknowledged his defects, continues in his employment at the public defender's office, and has submitted to the guidance of colleagues, friends, and supporters in the legal community. It is that "belated candor," as well as the candidate's continued participation in constructive activity that suggests the result of an indefinite disapproval, rather than a permanent ban on ever re-applying. Applicant further

respectfully requests that his motivation for seeking to practice, that of engaging in public service and giving back to the community in a state where so many are lacking in access to basic legal services, also be taken into account.

Libretti is a unique case, and his case requires a unique solution. Were the candidate utterly lacking in any demonstrated rehabilitation and rehabilitation potential, he would not have attracted the support of the many who made personal appearances and efforts in his bar admissions case, whether by driving to Columbus to testify at his panel hearing, writing letters of recommendation, participating in oral argument before this Court, and, finally, by co-signing their names and bar registration numbers to pleadings, in full recognition of their responsibilities of truthfulness to this Court under Civ. R. 11 and the Ohio Rules of Professional Conduct. Their names will forever be associated with his in those filings, which were made instantaneously and perpetually available to the public on the Internet, and they have not shied from that association out of fear that his future conduct would tarnish them. The undersigned could locate no other bar admissions case in which any amici curiae have made an appearance, let alone 8 attorneys, 15 additional law professors and attorneys who have personal knowledge of the applicant, as well as two policy organizations who clearly provide a less personal recommendation. Something about Joe Libretti impresses those in the legal community who know him to go above and beyond the requirements of their job, school, or polite social obligation, to step out of their ordinary obligations and take a public stand, putting their own credibility on the line in support. It is difficult to imagine that someone without rehabilitation potential, who had demonstrated no capacity to grow and learn from mistakes, for whom there was not a glimmer of hope that the habit of candor and self-revelation could be further inculcated and learned, could incline so many

representatives of the bar to lend public support to a representative of a social category that is usually subjected to nothing but public derision: convicted felon.

In conclusion, Applicant would respectfully request the Court consider espousing a middle ground between the majority decision permanently precluding him from re-applying and the dissent's proposal of granting permission to apply to take the 2017 bar exam. There is a third alternative: to disapprove the application indefinitely until such time as the applicant can pass a character and fitness review and obtain the approval both of the local bar admissions committee and of the Board, as well as a commitment to supervision from at least one member of the bar. In such a scenario the public remains protected and the burden firmly on the candidate to continue doing the right thing, without forever foreclosing the opportunity that he might one day be of service to the community.

Wherefore, Applicant respectfully requests the requested relief be granted.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the above Motion has been served the 1nd day of November 2015 by email (and U.S. mail as to Bar Admissions Committee) upon the following:

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