

State of New York
Supreme Court, Appellate Division
Third Judicial Department

Decided and Entered: January 7, 2021

PM-01-21

In the Matter of ATTORNEYS IN
VIOLATION OF JUDICIARY LAW
§ 468-a.

ATTORNEY GRIEVANCE COMMITTEE
FOR THE THIRD JUDICIAL
DEPARTMENT,

Petitioner;

MEMORANDUM AND ORDER
ON MOTION

PETER THOMAS LUCE,
Respondent.

(Attorney Registration No. 4739413)

Calendar Date: December 21, 2020

Before: Egan Jr., J.P., Mulvey, Aarons, Pritzker and
Colangelo, JJ.

Monica A. Duffy, Attorney Grievance Committee for the
Third Judicial Department, Albany, for Attorney Grievance
Committee for the Third Judicial Department.

Emery Celli Brinckerhoff Abady Ward & Maazel LLP, New York
City (Hal R. Lieberman of counsel), for respondent.

Per Curiam.

Respondent was admitted to practice by this Court in 2009
and is presently employed at a law firm in Washington, DC, where
he is also admitted to practice. Respondent was suspended from

the practice of law by 2019 order of this Court for conduct prejudicial to the administration of justice arising from his failure to comply with his attorney registration requirements beginning with the 2015-2016 biennial period (Matter of Attorneys in Violation of Judiciary Law § 468-a, 172 AD3d 1706, 1738 [2019]; see Judiciary Law § 468-a [5]; Rules of Professional Conduct [22 NYCRR 1200.0] rule 8.4 [d]). Having cured his registration delinquency in February 2020, he now applies for his reinstatement pursuant to Rules for Attorney Disciplinary Matters (22 NYCRR) § 1240.16. The Attorney Grievance Committee for the Third Judicial Department (hereinafter AGC) has submitted correspondence opposing respondent's application, and respondent has since submitted a supplemental affidavit addressing AGC's points in opposition.

AGC's opposition to respondent's motion for reinstatement is predicated on certain threshold deficiencies in his application. However, we have determined that respondent has properly supplemented his application with the required submissions. Specifically, respondent has provided this Court with copies of the required tax returns that had been filed during the period of suspension (see Matter of Attorneys in Violation of Judiciary Law § 468-a [Cox], 187 AD3d 1485, 1487 [2020]). Further, although AGC notes that respondent initially failed to demonstrate that he had successfully completed the Multistate Professional Responsibility Examination (hereinafter MPRE) within one year of filing his application, as is required for all attorneys who have been suspended for more than six months (see Rules for Attorney Disciplinary Matters [22 NYCRR] § 1240.16 [b]), he has since supplemented his application with proof that he achieved a passing score on the MPRE administered in October 2020. Accordingly, we find that respondent has met the procedural requirements for an attorney seeking reinstatement from a suspension that exceeded six months (see Matter of Attorneys in Violation of Judiciary Law § 468-a [Oketunji], 186 AD3d 923, 923-924 [2020]).

We have further determined that respondent has satisfied the three-part test applicable to all attorneys seeking reinstatement from suspension or disbarment (see Matter of

Attorneys in Violation of Judiciary Law § 468-a [Nenninger], 180 AD3d 1317, 1317-1318 [2020]; Rules for Attorney Disciplinary Matters [22 NYCRR] § 1240.16 [a]). Respondent has submitted a belated affidavit of compliance, and the attestations in that affidavit, together with his statements in his application for reinstatement, demonstrate clearly and convincingly that he has complied with the order of suspension and the Rules of this Court (see Matter of Attorneys in Violation of Judiciary Law § 468-a [Kearney], 186 AD3d 972, 974 [2020]; Matter of Attorneys in Violation of Judiciary Law § 468-a [Summons], 186 AD3d 968, 969-970 [2020]). We also find that respondent has established that his reinstatement is in the public interest, as there is no detriment that would inure to the public from his reinstatement, and his continued practice in Washington, DC provides a tangible benefit to the public (see generally Matter of Attorneys in Violation of Judiciary Law § 468-a [Giordano], 186 AD3d 1827, 1829 [2020]).

As it concerns his character, respondent attests to having no criminal history or any disciplinary history, other than the underlying suspension, in this or any other jurisdiction, and there is no indication in the record of any governmental investigations, financial circumstances or medical or substance abuse history that would negatively impact his reinstatement. Respondent has also provided a certificate from the District of Columbia establishing that he is currently an attorney in good standing. As to his fitness, although respondent has not completed any continuing legal education (hereinafter CLE), he correctly notes that his home jurisdiction does not have any CLE requirements and, accordingly, he is exempted from the CLE requirements of this state (see Rules of App Div, All Depts [22 NYCRR] §§ 1500.5 [b] [1]; 1500.22 [n] [1]). Notably, an applicant for reinstatement is not required to complete a minimum amount of CLE as a prerequisite for reinstatement; rather, an attorney's commitment to attending CLE courses is only part of this Court's overall consideration of his or her fitness to resume the practice of law in this state. Thus, while it is our preference that all attorneys admitted to practice in this state commit to maintaining a strong legal acumen through attendance at CLE or other forms of legal study,

we find that the remainder of respondent's application contains sufficient indicia that he possesses the requisite fitness for reinstatement. Accordingly, we find that he has clearly and convincingly demonstrated his character and fitness for reinstatement (see Matter of Attorneys in Violation of Judiciary Law § 468-a [Oketunji], 186 AD3d at 925), and we therefore grant respondent's motion and reinstate him to the practice of law.

Egan Jr., J.P., Mulvey, Aarons, Pritzker and Colangelo, JJ., concur.

ORDERED that respondent's motion for reinstatement is granted; and it is further

ORDERED that respondent is reinstated as an attorney and counselor-at-law, effectively immediately.

ENTER:

A handwritten signature in black ink, reading "Robert D. Mayberger". The signature is written in a cursive, flowing style with a large, stylized "R" and "M".

Robert D. Mayberger
Clerk of the Court