

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

Decided and Entered: April 1, 2021

PM-43-21

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

COMMITTEE ON PROFESSIONAL
STANDARDS, Now Known as
ATTORNEY GRIEVANCE
COMMITTEE FOR THE THIRD
JUDICIAL DEPARTMENT,
Petitioner;

MEMORANDUM AND ORDER
ON MOTION

ROY WARREN BRESLOW,
Respondent.

(Attorney Registration No. 1875400)

Calendar Date: March 8, 2021

Before: Egan Jr., J.P., Lynch, Clark, Aarons and
Reynolds Fitzgerald, JJ.

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

Roy Warren Breslow, Verona, New Jersey, respondent pro se.

Per Curiam.

Respondent was admitted to practice by this Court in 1983.
Prior to his admission in this state, respondent was admitted in
New Jersey in 1975, where he currently works as a solo

practitioner.¹ Respondent was suspended from the practice of law by January 2014 order of this Court for conduct prejudicial to the administration of justice arising from his failure to comply with his attorney registration obligations beginning in 2009 (Matter of Attorneys in Violation of Judiciary Law § 468-a, 113 AD3d 1020, 2015 [2014]). Having cured his longstanding registration delinquency in September 2020, respondent now moves for his reinstatement (see Rules for Attorney Disciplinary Matters [22 NYCRR] § 1240.16 [a]; Rules of App Div, 3d Dept [22 NYCRR] § 806.16 [a]). Petitioner has submitted papers opposing respondent's motion based upon various deficiencies in his application, and respondent has submitted several affidavits in reply intended to address petitioner's concerns.

Any attorney seeking reinstatement from suspension must establish, by clear and convincing evidence, (1) that he or she has complied with the order of suspension and the Rules of this Court, (2) that he or she has the requisite character and fitness for the practice of law, and (3) that it would be in the public interest to reinstate the attorney to the practice of law in New York (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]). Further, a respondent must also meet certain procedural thresholds as part of his or her application. To this end, while respondent initially submitted an affidavit that omitted multiple inquiries delineated in the form affidavit provided for in appendix C to the Rules for Attorney Disciplinary Matters (22 NYCRR) part 1240, his supplemental submissions provide the necessary responses for this Court to proceed with its review.

In doing so, we must first address respondent's omission of proof of his successful passage of the Multistate Professional Responsibility Examination (hereinafter MPRE) within one year of filing his application for reinstatement (see Rules for Attorney Disciplinary Matters [22 NYCRR] § 1240.16 [b]). In response to petitioner's opposition, which notes this

¹ Respondent was also admitted to practice in Maryland in 1974.

deficiency, respondent requests a waiver of the MPRE requirement (see Matter of Attorneys in Violation of Judiciary Law § 468-a [Giordano], 186 AD3d 1827, 1828-1829 [2020]). In determining whether a respondent has established good cause, this Court considers the purpose of the MPRE requirement itself, which is to "reemphasize[] the importance of ethical conduct to attorneys who have been subjected to serious public discipline, and . . . reassure[] the general public that such attorneys have undergone retraining in the field of professional responsibility" (Matter of Cooper, 128 AD3d 1267, 1267 [2015]; see Matter of Attorneys in Violation of Judiciary Law § 468-a [Holtz], 185 AD3d 1277, 1279 [2020]). In support of his waiver request, respondent states that he has practiced exclusively in New Jersey and has provided this Court with "proof of analogous professional responsibility course work" that exceeds the continuing legal education (hereinafter CLE) requirements of his home jurisdiction (Matter of Attorneys in Violation of Judiciary Law § 468-a [Alimanova], 156 AD3d 1223, 1224 [2017]). Having considered that proof along with the nature of his misconduct and his lack of a disciplinary history, we find that the circumstances justify a waiver and grant respondent's request (see Matter of Attorneys in Violation of Judiciary Law § 468-a [Holtz], 185 AD3d at 1280; cf. Matter of Sklar, 186 AD3d 1773, 1775 [2020]).

Turning to the merits of his application, we are satisfied that respondent has complied with the order of suspension and the Rules of this Court based upon the attestations in his appendix C form affidavit as well as his belated affidavit of compliance (see Matter of Attorneys in Violation of Judiciary Law § 468-a [Luce], 190 AD3d 1083, 1084 [2021]; Matter of Attorneys in Violation of Judiciary Law § 468-a [Timourian], 153 AD3d 1513, 1515 [2017]). Further, respondent has demonstrated that he has the requisite character and fitness for the practice of law, which is evidenced by, among other things, his good standing in the various foreign jurisdictions he is admitted in and the aforementioned attendance at multiple CLE seminars (see Matter of Attorneys in Violation of Judiciary Law § 468-a [Serbinowksi], 164 AD3d 1049, 1050 [2018]). Finally, we find that reinstating respondent to the practice of law would be in

the public interest (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 [Ettelson], 161 AD3d 1478, 1480 [2018]). Accordingly, we grant respondent's motion and reinstate him to the practice of law.

Egan Jr., J.P., Lynch, Clark, Aarons and Reynolds
Fitzgerald, J.J., 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 in the State of New York, effective immediately.

ENTER:

A handwritten signature in black ink that reads "Robert D. Mayberger". The signature is written in a cursive, slightly slanted style.

Robert D. Mayberger
Clerk of the Court