

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

Decided and Entered: May 30, 2024

PM-112-24

In the Matter of EBERECHUKWU
NKECHINYERE NWAKUDU,
Also Known as EBERECHUKWU
NKECHINYERE NWAKUDU
EKECHUKWU, a Resigned
Attorney.

MEMORANDUM AND ORDER
ON MOTION

(Attorney Registration No. 2624526)

Calendar Date: March 18, 2024

Before: Garry, P.J., Clark, Aarons, Fisher and Mackey, JJ.

Eberechukwu Nkechinyere Nwakudu, Chicago, Illinois, pro se.

Monica A. Duffy, Attorney Grievance Committee for the Third Judicial Department, Albany (Alison M. Coan of counsel), for Attorney Grievance Committee for the Third Judicial Department.

Per Curiam.

Eberechukwu Nkechinyere Nwakudu lives and practices in Chicago, Illinois. She was admitted to practice by this Court in 1994 but thereafter resigned, for nondisciplinary reasons, in December 2002. She now moves for her reinstatement by motion returnable March 18, 2024 and, initially, the Attorney Grievance Committee for the Third Judicial Department (hereinafter AGC) did not oppose the motion. Upon this Court's review of Nwakudu's application materials, however, certain inconsistencies were revealed, specifically that, while she correctly attested to being voluntarily resigned from the practice of law in New York, her law firm letterhead and website nonetheless listed her as

licensed in this jurisdiction. As such, we sought additional information on this issue, which Nwakudu provided by correspondence. Based on the information provided by Nwakudu, AGC now opposes her reinstatement, and Nwakudu has submitted additional correspondence in reply.

An attorney seeking reinstatement following his or her nondisciplinary resignation must submit an application by the form affidavit as provided in appendix F to Rules for Attorney Disciplinary Matters (22 NYCRR) § 1240.22 (b) (*see Matter of Saul*, ___ AD3d ___, ___, 208 NYS3d 379, ___, 2024 NY Slip Op 01863 [3d Dept 2024]; *see also* Rules of App Div, 3d Dept [22 NYCRR] § 806.22 [b] [1]). In addition, an applicant who has been resigned for a period of two years or more must establish that, within two years preceding such an application, he or she successfully completed a minimum of eight credit hours of continuing legal education (hereinafter CLE) as follows: six credit hours of Skills and/or Law Practice Management that specifically relate to the practice of law in New York; one credit in Ethics and Professionalism; and one credit in either Diversity, Inclusion and Elimination of Bias or Cybersecurity, Privacy and Data Protection (*see* Rules of App Div, 3d Dept [22 NYCRR] § 806.22 [b] [2]; *see also* Rules of App Div, All Depts [22 NYCRR] § 1500.2 [c], [d], [e], [g], [h]). While the CLE requirement is part of our recently amended rules, we have nonetheless always held that an applicant for reinstatement from nondisciplinary resignation must establish both the legal education and experience and the necessary character and fitness as would be required of an applicant for admission in the first instance (*see Matter of Tuve*, 171 AD3d 1392, 1393 [3d Dept 2019]; *Matter of Gaudio*, 159 AD3d 1217, 1218 [3d Dept 2018]). Upon review of the application, we possess wide discretion to grant the application, with or without any conditions; to deny the application with leave to renew upon the completion of the Multistate Professional Responsibility Examination, the New York Bar Examination (*see* Rules of Atty Disciplinary Matters [22 NYCRR] § 1240.22 [b]) or additional CLE accreditation (*see Matter of Wenxuan Yang*, 210 AD3d 1232, 1232-1233 [3d Dept 2022]; *Matter of Holup*, 203 AD3d 1303, 1304 [3d Dept 2022]); or any other such action as we deem appropriate (*see* Rules of Atty Disciplinary Matters [22 NYCRR] § 1240.22 [b]).

Here, Nwakudu submitted the required form affidavit (*see* Rules for Atty Disciplinary Matters [22 NYCRR] appendix F), wherein she attests that she has been admitted to practice in Alabama and Illinois, although she notes that she has voluntarily resigned from the Alabama bar and, of course, in this state. Nwakudu provides information from the Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois, which reveals that she is eligible to practice law in that state and is not

the subject of any pending formal disciplinary proceedings or confidential investigations. Moreover, Nwakudu includes proof that she earned in excess of the required number of CLE credits in the appropriate categories, and that the credits earned in the areas of Skills and Law Practice Management specifically relate to the practice of law in New York. Given this, we conclude that Nwakudu has complied with the procedural requirements applicable to attorneys seeking reinstatement following nondisciplinary resignation; thus, we turn our analysis to the substantive requirements.¹

As to Nwakudu's character and fitness, the aforementioned letter from the Commission further reveals that, in September 2008, she was suspended from the practice of law by the Supreme Court of Illinois for 60 days, which suspension was ultimately stayed in its entirety by a one-year period of probation subject to conditions. While Nwakudu's discipline in Illinois involved serious misconduct, we note that she satisfied all of the requirements required by Illinois authorities and has been discharged from disciplinary probation in that state for more than 14 years, without any additional disciplinary infractions. We also acknowledge that Nwakudu properly disclosed her history of Illinois discipline to the Court and AGC in making her application for reinstatement.² However, a review of Nwakudu's materials reveals that her law office letterhead and website list her as "[a]lso licensed" in New York and Alabama, despite her attestations to this Court that she voluntarily resigned from the practice of law in both jurisdictions. In highlighting this inconsistency to Nwakudu, her response reveals that her law practice has solely focused on Illinois matters, that she had no deceitful intent in retaining mention of her former New York and Alabama admissions and that she has since removed mention of same from her letterhead and website. Accordingly, we grant her motion and reinstate her to the practice of law, effective immediately.

¹ In addition to the CLE credits satisfying the requirement contained within Rules of the Appellate Division, Third Department (22 NYCRR) § 806.22 (b), Nwakudu provided proof of additional CLE credits earned. Given this, as well as Nwakudu's good standing in Illinois, we find that there are no deficiencies related to her legal experience (*see Matter of Finamore*, 207 AD3d 1022, 1023 [3d Dept 2022]).

² We note that that Nwakudu was disciplined in Illinois after she resigned from the practice of law in this state; thus, she had no obligation to contemporaneously notify this Court or AGC of the Illinois discipline (*compare* Rules for Atty Disciplinary Matters [22 NYCRR] § 1240.13 [d]).

However, in granting respondent reinstatement, we nonetheless take the opportunity to remind the Bar that, upon the granting of an attorney's request for nondisciplinary resignation in this state, the attorney's name is stricken from the roll of attorneys and, by law, such an attorney is commanded "to desist and refrain from the practice of law in any form" in the state (Judiciary Law § 90 [2]). The resigned attorney is further prohibited from appearing "as an attorney or counsellor-at-law before any court, judge, justice, board, commission or other public authority" or "giving to another of an opinion as to the law or its application, or of any advice in relation thereto" (Judiciary Law § 90 [2] [a], [b]). To that end, an attorney who is removed from practice, including upon his or her own voluntary resignation, may not hold himself or herself out to the public as being entitled to practice law in this state, and cannot advertise or otherwise "convey the impression that he or she is a legal practitioner of law" in this state "without having first been duly and regularly licensed and admitted to practice law in the courts of record of this state, and without having taken the constitutional oath" (Judiciary Law § 478).

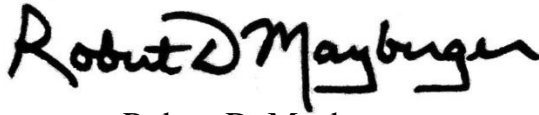
Garry, P.J., Clark, Aarons, Fisher and Mackey, JJ., concur.

ORDERED that Eberechukwu Nkechinyere Nwakudu's application for reinstatement is granted; and it is further

ORDERED that Eberechukwu Nkechinyere Nwakudu's name is hereby restored to the roll of attorneys and counselors-at-law of the State of New York, effective immediately; and it is further

ORDERED that Eberechukwu Nkechinyere Nwakudu shall, within 30 days of the date of this decision, file an attorney registration statement with the Chief Administrator of the Courts pursuant to Judiciary Law § 468-a and Rules of the Chief Administrator of the Courts (22 NYCRR) § 118.1.

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