

**BEFORE THE PRESIDING DISCIPLINARY JUDGE
OF THE SUPREME COURT OF ARIZONA**

IN THE MATTER OF AN APPLICATION FOR
REINSTATEMENT OF A RESIGNED MEMBER
IN GOOD STANDING OF THE STATE BAR OF
ARIZONA,

**NANCY ELIZABETH CAMPBELL,
Bar No. 015398**

Applicant.

PDJ-2012-9012

[File No. 12-9012]

REPORT and RECOMMENDATION

On April 11, 2012, the Hearing Panel ("Panel") composed of Douglas S. Pilcher, a public member from Maricopa County, Glen S. Thomas, an attorney member from Maricopa County, and the Honorable William J. O'Neil, Presiding Disciplinary Judge ("PDJ") held a one day telephonic hearing pursuant to Supreme Court Rule 65(b)(1), Ariz.R.Sup.Ct. James D. Lee appeared on behalf of the State Bar of Arizona ("State Bar") and Applicant appeared pro-per. The Panel considered the testimony, the admitted exhibits, the parties' Joint Prehearing Statement and the State Bar's Pre-Hearing Memorandum, in which Applicant joined. At the conclusion of the hearing, the State Bar recommended reinstatement. The Panel now issues the following "Report and Recommendation," pursuant to Rule 65(b)(3), Ariz.R.Sup.Ct, recommending reinstatement.

Procedural History

Applicant was admitted to practice law in Arizona on May 21, 1994 and resigned in good standing effective May 10, 2007.

Applicant filed her Petition for Reinstatement on February 2, 2012 and requested that the PDJ seal and expunge the record.¹ The State Bar filed a Response to the Petition for Reinstatement on February 16, 2012 addressing Applicant's request to seal and expunge the record. The PDJ in his ICMC Order filed March 5, 2012, sealed the following Exhibits attached to Applicant's Petition: Exhibits H (document reflecting Applicant's age and personal e-mail address); Exhibits C and J (income tax returns); Exhibit L (Experian Reports); and Exhibits I, K and M (list of employers, residences and Character Report for Medicine). At hearing Applicant's Exhibits 10, 11, 14-24 were also sealed. Applicant filed a Motion to Amend Petition for Reinstatement on March 19, 2012 correcting statements of fact related to dates of her admission to practice and status. The parties filed their Joint Prehearing Statement on March 30, 2012. Applicant filed a Second Motion to Amend Petition for Reinstatement on April 2, 2012 again correcting statements of fact. The State Bar filed its Pre-Hearing Memorandum on April 5, 2012 and Applicant filed her statement on April 10, 2012 joining the State Bar's statement.

I. FINDINGS OF FACT

1. In 1993, Applicant graduated with honors/magna cum laude from the University of Illinois School of Law.
2. In 1994, the Applicant passed the Arizona bar exam on her first attempt and was admitted to practice on May 21, 1994. Applicant's current membership status with the Arizona State Bar is "Resigned in Good Standing."

¹ At hearing, Applicant corrected the date reflected in her original petition; page 3:19-24 should read March 6, 2007. The State Bar also corrected the date on page 3:21, which should read filled out and mailed back on March 23, 2007.

3. In 1993, the Applicant passed Hawaii's bar exam on her first attempt and was subsequently admitted to the practice law in Hawaii on July 12, 1994. Applicant has never practiced law in Hawai'i and has never paid dues to the Hawaii State Bar Association. Applicant's current membership status with the Hawaii Bar Association is "Suspended due to non-payment" of dues. Applicant has never had any disciplinary complaint, charge or action brought against her in Hawaii since her admission in 1994.

4. Following Applicant's admission to the State Bar of Arizona, Applicant worked in a legal capacity in the State of Arizona. Just prior to her decision to pursue a medical degree, Applicant served the State of Arizona as an Assistant Attorney General representing the Bureau of Emergency Medical Services and then worked in house for them until approximately 2000.

5. In 2001, Applicant returned to school full-time to pursue a medical degree.

6. Applicant was enrolled in the Mayo Clinic Medical School from August 5, 2002 through June 16, 2006, and moved to Rochester, Minnesota. Applicant earned her M.D. degree awarded by the Mayo Clinic Medical School on June 16, 2006. Applicant subsequently worked as a surgical resident and completed her surgical residency intern year in July, 2008 in Chicago, Illinois.

7. While in school full time and/or in residency, Applicant voluntarily and of her own accord, and after communication and consultation with the State Bar of Arizona, became an inactive member in good standing of the State Bar of Arizona on two occasions. She did so because she found it financially difficult to continue paying active or inactive dues and fees while in medical education and training.

(a) Applicant voluntarily remained an inactive member of the State Bar of Arizona from February 8, 2001, through June 12, 2001, and again from February 1, 2003, through May 9, 2007.

(b) On or about March 23, 2007, after consulting with the State Bar of Arizona, and deciding upon retirement status, Applicant signed a document sent by the State Bar of Arizona that resulted in her resignation in good standing from the State Bar of Arizona.

(c) On April 27, 2007, the Board of Governors of the State Bar of Arizona sent a letter to the Supreme Court of Arizona recommending that it accept Applicant's resignation in good standing from the State Bar of Arizona.

(d) The Supreme Court of Arizona received the Board of Governors' letter on May 8, 2007. On May 10, 2007, the Supreme Court entered an order accepting Applicant's resignation from the State Bar of Arizona. Applicant's status continues to be "Resigned in Good Standing."

8. Applicant discovered her resigned status rather than her intended retired status only after she made inquiries to the State Bar in 2010 about the procedures required in resuming an inactive status in good standing.

9. As of May 10, 2007, Applicant (a) did not have any clients, opposing parties or opposing counsel; (b) had no cases pending in any court; and (b) had no client funds or property in her possession. Therefore, Applicant had no courts to notify regarding her status following her resignation. The Arizona Supreme Court was notified of her resignation, as signified by the signature of the clerk of the Supreme Court on the order allowing her to resign from the State Bar. Applicant's address remained the same for some time following her resignation from the State

Bar of Arizona. While Applicant did not have to comply with the provisions of Rule 72(a), Ariz. R. Sup. Ct., Applicant did not file an affidavit as required by Rule 72(e), Ariz. R. Sup. Ct.

10. Applicant has never been suspended from the practice of law in Arizona.

11. Applicant has never been disciplined by the State Bar of Arizona or the Supreme Court of Arizona nor has she been the subject of a charge of misconduct.

12. Prior to this application, Applicant has not applied for reinstatement as a member of the State Bar of Arizona.

13. Applicant's has had a stable and continuous work history since resigning from the State Bar of Arizona that has primarily been in the medical and healthcare fields.

(a) Since January 2010, Applicant has been employed as an instructor of anatomy and physiology at European Massage Therapy School.

(b) Applicant's tax returns from 2006-2010 are contained in sealed Exhibits C and J, Petition for Reinstatement.

14. Applicant has been a resident of Illinois since 2007.

15. Applicant has not been convicted of any criminal conduct in Arizona.

16. Applicant has not been a party to any civil or family action in the Cook County Circuit Court and there are no liens or judgments against Applicant in Cook County, Illinois.

17. With one exception, Applicant has no delinquent payments to any credit card, revolving credit, student loan or mortgage company. The one delinquent payment pertains to a September 1, 2008, debt of \$476.00. The past due amount on that account as of April 1, 2011, was \$577.00. Applicant disputes that payment

is owed to the company and prefers it remain on her credit report for the requisite time rather than pay a debt she maintains she does not owe.

18. Applicant has never had a State Bar of Arizona Client Protection Fund claim filed against her, the Client Protection Fund has never paid any funds to any of Applicant's former clients, and Applicant does not owe any payment to the Client Protection Fund.

19. Applicant is current on the payment of all membership dues or fees to the State Bar of Arizona to be eligible for reinstatement.

20. Applicant has completed all CLE requirements through 2012. Although Applicant was not required to do so, Applicant has recently completed 45 hours of continuing legal education courses through the State Bar of Arizona.

21. With the exception of Applicant's current suspension for non-payment of dues in Hawai'i and the inquiries that have been made regarding this reinstatement proceeding, Applicant has not been the subject of any procedure or inquiry regarding her standing as a member of any profession or organization, or holder of any license or office, which involved the reprimand, removal, suspension, revocation of license or discipline of Applicant.

22. No charge of fraud has been made or claimed against Applicant during the period of her resignation.

23. Applicant has provided all required supporting documentation as required by Rule 65(a)(2) prior to reinstatement and otherwise complied with Rule 65, Ariz. R. Sup. Ct.

24. Applicant has met her burden to show competency as required by Rule 65(b)(2), Ariz. R. Sup. Ct. Applicant recently completed 45 hours of continuing

legal education (CLE), has undergone extensive formal training in medicine to allow her to deal with medical-legal issues more effectively, read and studied numerous books on medical-legal issues during the period of her resignation, and is current with all Arizona CLE requirements through 2012.

Applicant's Testimony

Applicant testified she originally intended to transfer to retired status but inadvertently signed the paper resigning from the practice of law. Applicant stated she decided to attend medical school on a full time basis and initially transferred back and forth from active to inactive status. Ultimately, she transferred to resigned status in order to pursue her medical degree, which included a 5 year surgical residency. She stated she knew would not be able to practice law during that time. Applicant stated that since her resignation, she has obtained her M.D. and is currently studying to take step 3 of the USMLE, which is the board examination to become a licensed physician. She will take that test in approximately 6 months and will then continue her residency. Applicant further stated that she is considering starting a family in the near future.

Applicant also advised that she seeks reinstatement at this time because in May 2012, she will have been resigned for 5 years and did not want to be burdened with the requirement that she re-take the bar examination. Applicant further advised that in the distant future, she would like to handle medical malpractice cases.

II. ANALYSIS UNDER RULE 65(B)(2), ARIZ.R.SUP.CT.

Rule 32, Ariz. R. Sup. Ct., requires Applicant to utilize this reinstatement proceeding to transfer from resigned status to active membership in the State Bar

of Arizona. Rule 32(c)(11)(C) provides that resigned persons in good standing may be reinstated to membership in the same manner as those members summarily suspended under Rule 62. This reinstatement proceeding is not based upon a disciplinary or administrative suspension; however, pursuant to Rule 64(f)(2)(B), Ariz.R.Sup.Ct., because Applicant has been absent from the practice of law for over two years, she must submit to formal reinstatement proceedings pursuant to Rule 65.

Rule 65(b)(2) requires that the lawyer seeking reinstatement has the burden of demonstrating by clear and convincing evidence the lawyer's rehabilitation, compliance with all disciplinary orders and rules, fitness to practice, and competence.

Rehabilitation

Applicant now understands the significant difference between a retired member and resigned member and will be diligent in her efforts to appropriately maintain her desired membership status.

Compliance with Disciplinary Rules and Orders

Applicant is compliant with all prior disciplinary orders and rules. Applicant has paid her Application and investigative fee in this reinstatement matter and does not owe any monies to the State Bar's Client Protection Fund. There were no allegations involving the unauthorized practice of law during the period of suspension. The State Bar's Statement of Costs and Expenses in this reinstatement matter is pending.

Fitness to Practice and Competence

Pursuant to Rule 45, Mandatory Continuing Legal Education ("MCLE"), a lawyer on active status is required to take 15 hours of MCLE per year to demonstrate their continued competence to practice law. Applicant has obtained 45 hours of MCLE in addition to extensive medical education and training during the period of resignation and is current in her 2012 MCLE requirements. The Panel reviewed Exhibits 5-9 (character letters) and 12 and 13 (MCLE) which support Applicant's competence and current fitness to practice.

Discussion

The Panel finds that Applicant voluntarily resigned from the practice of law to focus on pursuing a medical degree and license. Applicant stated although she is not going to practice law at this time, she is now seeking reinstatement so that she not be faced with the requirement that she be required to re-take the bar examination.²

The Panel finds that Applicant has met her burden of proof by clear and convincing evidence that she is qualified and possesses the character necessary to practice law.

² Rule 64(c), Addition Requirements (for reinstatement), provides that if an applicant has been on disability inactive status or suspended for a period of 5 years at the time the application is filed, or disbarred, the applicant shall be required to apply for admission and pass the bar examination. The rule however, does not specifically state that a resigned member must fulfill that additional requirement for reinstatement. Applicant testified she was compelled to apply for reinstatement at this time as the five year deadline was fast approaching (May 2012). Applicant stated she called the state bar regarding the reinstatement process and was informed of the requirements of Rule 64(c). Bar counsel acknowledged at hearing that Applicant may have been misinformed by non-lawyer personnel of this requirement as it pertains to her circumstances, but it is the State Bar's position that a resigned person in good standing would not be required to satisfy this specific requirement.

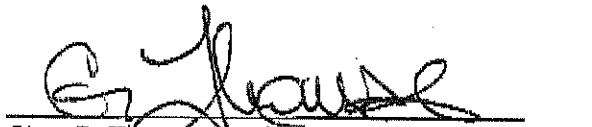
Conclusion

The Panel finds that Applicant has met her burden of proof and established by clear and convincing evidence, her rehabilitation and compliance with all disciplinary orders and rules and fitness to practice pursuant to Rule 65, Ariz.R.Sup.Ct. Therefore, the Panel unanimously recommends that Applicant be reinstated to active practice of law.

DATED this 14 day of May, 2012.


THE HONORABLE WILLIAM J. O'NEIL
PRESIDING DISCIPLINARY JUDGE

CONCURRING:


Glen S. Thomas, Volunteer Attorney Member

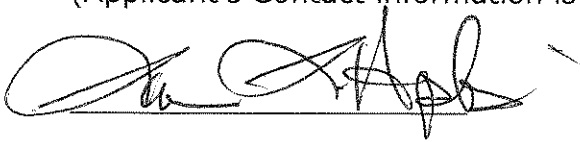

Douglas S. Pilcher, Volunteer Public Member

Original filed with the Disciplinary Clerk
this 14th day of May, 2012.

COPY of the foregoing mailed this
14th day of May, 2012, to:

James D. Lee
Senior Bar Counsel
STATE BAR OF ARIZONA
4201 N. 24th Street, Suite 200
Phoenix, AZ 85016-6288

Applicant
(Applicant's Contact information is sealed)

A handwritten signature in black ink, appearing to be "D. A. [unclear]", written over a horizontal line.