

SUPREME COURT OF ARIZONA

In the Matter of the Application) Arizona Supreme Court
for Transfer from Disability to) No. SB-16-0048-R
Active Status and for)
Reinstatement of a Suspended) Office of the Presiding
Member of the State Bar of) Disciplinary Judge
Arizona) No. PDJ20169045-R
)
)
MICHAEL T. REYNOLDS,)
Attorney No. 16719)
)
) **FILED 2/15/2017**
)
Applicant.)
_____)

O R D E R

Applicant MICHAEL T. REYNOLDS has established to the satisfaction of the Hearing Panel and this Court that his application for transfer from disability inactive status and reinstatement from suspended status to active status should be granted. Pursuant to Rules 63 and 65 of the Rules of the Supreme Court,

IT IS ORDERED that Applicant MICHAEL T. REYNOLDS' application for transfer from disability inactive status to active status is GRANTED, effective the date of this order.

IT IS FURTHER ORDERED that Applicant MICHAEL T. REYNOLDS' application for reinstatement from suspended status to active status is GRANTED, effective the date of this order.

IT IS FURTHER ORDERED that upon the effective date of reinstatement MICHAEL T. REYNOLDS shall be placed on probation for a period of two years, under the terms and conditions listed below and the terms and conditions contained in a separate order which shall remain confidential pursuant to Rule 63(e), Rules of the Supreme Court:

Applicant shall pay restitution, plus any accrued interest at the statutory rate, in the following principal amounts to the following individuals under a plan to be approved by the State Bar providing each individual with a monthly payment:

1. Count II [SB 13-1621]: \$3,000.00 payable to Kenneth Parker and/or his next of kin.
2. Count III [SB 13-1629]: \$2,500.00 payable to John Martin.

3. Count IV [SB 13-1701]: \$1,800.00 payable to Ralph Heaton.
4. Count V [SB 13-1907]: \$4,000.00 payable to Larry Davis and/or the bankruptcy trustee.
5. Count VI [SB 13-1928]: \$5,000.00 payable to Pamela Allara.
6. Count IX [SB 13-2062]: \$1,500.00 payable to Regina Moreno.
7. Count X [SB 13-2342]: \$3,000.00 payable to John Baker.
8. Count XI [SB 13-2348]: \$3,500.00 payable to Kathy Claypatch.
9. Count XII [SB 13-3165]: \$8,800.07 payable to Harold Stapley.
10. Count XIII [Sb 14-0900]: \$650.00 payable to Joseph Jakubowski.

The State Bar shall report material violations of the terms of probation pursuant to Rule 60(a)(5)(C). A hearing may be held within thirty days to determine if the terms of probation have been violated and if any additional conditions should be imposed. The burden of proof shall be on the State Bar to prove non-compliance by a preponderance of the evidence.

DATED this 15th day of February, 2017.

_____/s/_____
SCOTT BALES
Chief Justice

TO:

Michael T Reynolds

Craig D Henley

Amanda McQueen

Sandra Montoya

Maret Vessella

Don Lewis

Beth Stephenson

Mary Pieper

Netz Tuvera

Raziel Atienza

Lexis Nexis

**BEFORE THE PRESIDING DISCIPLINARY
JUDGE**

IN THE MATTER OF AN APPLICATION FOR
REINSTATEMENT OF A SUSPENDED MEMBER
OF THE STATE BAR OF ARIZONA,

MICHAEL T. REYNOLDS,
Bar No. 016719

Applicant.

No. PDJ-2016-9045-R

**ORDER MAKING REDACTED
REPORT AND RECOMMENDATION
OPEN TO THE PUBLIC**

FILED SEPTEMBER 21, 2016

The Report and Recommendation in this matter was filed under seal due to the intertwined medical aspects of the Rule 63(b)(3), Ariz. R. Sup. Ct., disability inactive status of Mr. Reynolds. Except as otherwise provided in the Supreme Court Rules, the record maintained by the disciplinary clerk, and all proceedings in discipline and reinstatement proceedings are open to the public. Rule 70(a), Ariz. R. Sup. Ct.

However, there are exceptions. Included within them is "information with respect to which a protective order has been issued pursuant to these rules" Rule 70(b), Ariz. R. Sup. Ct. Mr. Reynolds was transferred to disability inactive status pursuant to Rule 63(b)(3), Ariz. R. Sup. Ct. Under Rule 63(e), except for "orders transferring a lawyer to or from disability inactive status," such proceedings and records "relating to transfer to or from disability inactive status, including determinations of competency, are confidential." The parties have stipulated to the sealing of the report and recommendation. However, the majority of the report does not address those disability proceedings and records.

An abbreviated report is ordered published with the confidential information redacted. The report does not show the redactions as "blank spaces" but instead the

language is removed and those redacted portions removed. There are no "blank" lines showing where a portion of the report was redacted.

Now Therefore,

IT IS ORDERED the attached redacted report and recommendation shall be open to the public and the disciplinary clerk shall place it in the public file. The unredacted report and recommendation shall remain sealed.

DATED this 21st day of September, 2016.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Copies of the foregoing emailed this 21st day of September, 2016, and mailed September 22nd, 2016, to:

Michael T. Reynolds
12505 W. Woodland Avenue
Avondale, Arizona 85323
Emails: mtreynoldslaw@gmail.com & mreynolds@bellahperez.com
Applicant

Craig D. Henley
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

by: [AMcQueen](#)

**BEFORE THE PRESIDING DISCIPLINARY
JUDGE**

IN THE MATTER OF AN APPLICATION FOR
REINSTATEMENT OF A SUSPENDED MEMBER
OF THE STATE BAR OF ARIZONA,

MICHAEL T. REYNOLDS,
Bar No. 016719

Applicant.

No. PDJ-2016-9045-R

**REDACTED REPORT AND
RECOMMENDATION**
(OPEN TO THE PUBLIC)

FILED SEPTEMBER 21, 2016

The Report and Recommendation was filed under seal due to the intertwined medical aspects of the disability inactive status of Mr. Reynolds under Rule 63(b)(3), Ariz. R. Sup. Ct. This abbreviated report is published with that information redacted. The report does not show the redactions as "blank spaces" but instead the language is removed and those redacted portions removed. There are no "blank" lines showing where a portion of the report was redacted.

This matter is before the Hearing Panel (Panel) for consideration of Mr. Reynold's application for reinstatement from his two years suspension and probation imposed in File No. PDJ-2016-9020. The hearing on Mr. Reynold's application for reinstatement was held on August 22, 2016. The Panel was comprised of Gary L. Stuart, Attorney Member and Michael Snitz, Public Member and the Presiding Disciplinary Judge William J. O'Neil.¹ The State Bar recommends Mr. Reynolds' reinstatement. Upon review, Panel now issues the following report, recommending the reinstatement of Mr. Reynolds to the active practice of law in Arizona subject to terms of probation.

¹ The Panel considered testimony from Tracy Reynolds and Christina Perez, Esq.

I. BACKGROUND HISTORY

Mr. Reynolds was first admitted to the practice of law in Arizona on October 21, 1995 and in Pennsylvania on December 6, 1993. On November 6, 2013 in PDJ-2013-9088, Mr. Reynolds was transferred to disability inactive status pursuant to Rule 63(b)(3), Ariz. R. Sup. Ct., inability to discharge duties to clients, the bar, the courts or the public. His underlying discipline charges in State Bar File Nos. 12-1738, 13-1621, 13-1629, 13-1701, 13-1907, 13-1928, 13-1977, 13-2015, 13-2062, 13-2342, 13-2348, 13-3165 and 14-0900 were stayed under Rule 63.

By Order of the PDJ filed February 29, 2016, the stay was lifted. [Exhibit 2, Bates 007.] The parties into an Agreement for Discipline by Consent which imposed a suspension mandating probation upon reinstatement which included terms of restitution. The probationary terms are specific and we recommend that term of probation be imposed as a condition of reinstatement.

Mr. Reynolds filed his first application for reinstatement from disability inactive status in PDJ-2015-9099 on September 22, 2015. That application was subsequently withdrawn without prejudice. Mr. Reynolds filed his second application for reinstatement on May 4, 2016. The Joint Prehearing Statement was filed on August 8, 2016. Thereafter, a Protective Order was filed on August 11, 2016 sealing hearing Exhibits 1, 6, 10, 17, 24 and 28.

II. FINDINGS OF FACT

In 2012, Mr. Reynolds was placed in diversion and ordered to complete the Trust Account Ethics Enhancement Program (TAEHP). Thereafter, he was confronted with personal and marital problems. On August 21, 2012, Mr. Reynolds separated from his wife and business law partner, Jessica Reynolds. A dissolution of their marriage and law partnership followed on February 12, 2013. [Exhibit 19.] Under

increasing stress and anxiety and resulting hospitalization resulted in him engaging in ethical misconduct including failure to adequately communicate and diligently represent clients. He missed scheduled hearings and deadlines. [Joint Prehearing Statement.]

Following his hospitalization in July 2013, Mr. Reynolds was treated until April of 2014. On April 18, 2014, Mr. Reynolds' treating physician opined that he was ready to resume the active practice of law. [Joint Prehearing Statement, Exhibit 22.]

On September 22, 2015, Mr. Reynolds applied to reinstate his active license and end his inactive/disability status in Case No. PDJ-2015-9099, which is incorporated by reference. On January 6, 2016, Mr. Reynolds and the State Bar of Arizona entered into an agreement to dismiss his first application to enable the negotiation of a complete resolution of the underlying stayed discipline matters. On February 25, 2016, the PDJ lifted the stay based on the parties' motion. [Joint Prehearing Statement; Exhibit 2.]

On February 25, 2016, the State Bar of Arizona and the Respondent filed their Agreement for Discipline by Consent (Agreement) in case PDJ-2016-9020. [Exhibit 3.] On April 13, 2016, the PDJ accepted the Agreement in the underlying discipline matters which imposed a two (2) years suspension retroactive to October 30, 2013, two (2) years of probation upon reinstatement, with terms of probation to include the payment of restitution to the complainants totaling \$33,750.07 during the probation period, and completion of the State Bar's TAEPP seminar. [Exhibits 4 and 5.] Mr. Reynolds completed the TAEPP on June 7, 2016. [Exhibit 29.]

For his competency requirement, Mr. Reynolds completed over eighty-eight (88) hours of CLE credits, including forty-six (46) hours of ethics CLE credits. All were taken on-line. [Joint Prehearing Statement; Exhibit 23.]

In March of 2015, after working in the insurance and financial industry for a year, Mr. Reynolds worked as a paralegal with the law firm of *Bellah Perez, PLLC* ("*Bellah Perez*") in Glendale, Arizona. He remains employed there. The partners at *Bellah Perez* loaned Respondent funds to pay the cost of his reinstatement and have verbally agreed to loan funds to assist Respondent to pay a portion of the Restitution Amount. [Joint Prehearing Statement; Testimony of Cristina Perez.]

Mr. Reynolds has not been a party to any criminal proceeding during the period of his suspension or a party to any civil action. [Exhibits 12 and 20.] Mr. Reynolds received several written letters of recommendation supporting his reinstatement to the active practice of law. [Exhibits 8 and 30-33.]

ANALYSIS UNDER RULES 64 and 65, ARIZ. R. SUP. CT.

Under Rule 64(a), an applicant petitioning for reinstatement to the practice of law "must show by clear and convincing evidence that the lawyer has been rehabilitated . . . and possesses the moral qualifications and knowledge of the law required for admission to practice law in this state in the first instance." Clear and convincing evidence is that which may persuade that the truth of the contention is highly probable. *In the Matter of Neville*, 147 Ariz. 106, 111, 708 P.2d 1297, 1302 (1985). In addition, under Rule 65(b)(2), the lawyer must demonstrate by clear and convincing evidence his or her rehabilitation, compliance with all discipline orders and rules, fitness to practice, and competence. The more serious the misconduct, the more difficult it is to show satisfactory rehabilitation. *In re Robbins*, 172 Ariz. 255, 256, 836 P.2d 965, 966 (1992).

In proving rehabilitation, an applicant for reinstatement must first identify the weaknesses that led to the misconduct. *In re Johnson*, 231 Ariz. 556, 559, 298 P.3d

904, 906-07 (2013). The applicant must then demonstrate that weaknesses has been overcome. The severity of misconduct does not itself preclude reinstatement. *Id.* In addition the proof must be clear and convincing that the applicant is no longer a threat to the public. *Arrotta*, 208 Ariz. 509, 512, 96 P.3d 213, 216 (2004). Our duty in deciding whether reinstatement is appropriate is always to protect the public. *Id.* The Panel must “weigh those factors tending to show rehabilitation against those tending to show a lack thereof” to decide whether the applicant has met his burden of proof. *In re Hamm*, 211 Ariz. 458, 465, 123 P.3d 652, 659 (2005).

The four factors the Panel considers are (1) the applicant’s character and standing before suspension, (2) the nature and character of the charges for which he was disciplined, (3) the applicant’s conduct after the imposition of discipline, and (4) the elapsed time between suspension and application for reinstatement. *Arrotta*, 208 Ariz. at 512, 96 P.3d at 216.

The multiple discipline charges filed against Mr. Reynolds were stayed because of his condition leading to his transfer to disability inactive. He had no other disciplinary matters other than those resolved through the Agreement for Discipline by Consent in case PDJ-2016-9020. [Exhibit 3.] He enjoyed a good reputation in the legal community as a shareholder at the firm of *Greenburg, Trauring* in 2004, and then in 2006 as an equity partner at *Collins, May, Potenza, Baran and Gillespie, PC*. [Exhibit 9; Testimony of Mr. Reynolds.]

His ethical failings resulted in 2012. This resulted in abandonment of numerous clients. Since that time, he has received treatment and sought rehabilitation. He is committed to pay the ordered restitution to his clients. Mr. Reynolds testified he was eligible to apply for reinstatement sooner but wanted to be sure he could handle practicing law again and did not want to harm his recovery

process. Working as a paralegal has aided in his cautious re-entry into the profession and provided an environment of oversight and accountability supporting his efforts.

Compliance

Mr. Reynolds paid \$3,194.58 to the State Bar of Arizona for costs related to the underlying discipline matters. He owes no outstanding amounts to the Client Protection Fund. [Exhibit 24 and 26.] Respondent has also paid the application fee and advanced costs of investigation for this application for reinstatement. [Exhibit 27.]

Mr. Reynolds also entered into an Order and Stipulation for Modification of Child Support and Subsequent Wage Assignment in his family law matter and is current on those payments. [Exhibit 16.]

Weakness & Rehabilitation

Mr. Reynolds identified his weakness. He was evaluated by Dr. Phillip Lett on July 13, 2016. Dr. Lett performed numerous intelligence tests and inventories with an objective measure. Dr. Lett found his profile indicates no disorder. Dr. Lett recommends Mr. Reynolds participate in a program and MAP monitoring.

Mr. Reynolds acknowledges his misconduct and the harm he caused. He testified he now has a solid support network which includes his present his wife and her family, with whom they reside. The law firm of *Bellah and Perez* is a great source of support for him professionally. His current marriage is stable, he has reconnected with friends, and is again active with his church. He now co-parents with his former spouse, exercises regularly and follows all doctor recommendations. He is also active in AA. [Application, p. 10.] Mr. Reynolds is involved in community services including Eve's Place on behalf of the law firm. [Testimony of Mr. Reynolds.] We find he has

identified his weaknesses that led to his suspension and demonstrated by clear and convincing evidence those weaknesses have been overcome.

Competence

We find Mr. Reynolds to be competent. He has completed over eighty-eight (88) hours of CLE credits, including forty-six (46) hours of ethics CLE credits to prepare for returning to the active practice of law [Exhibit 23]. Although the majority were obtained online, Mr. Reynolds explained that forum was the most convenient for him and most cost effective. He paid a flat fee of \$300.00 with unlimited access to the CLE. He stated initially he did not believe he was eligible to take AZ CLE courses because of his membership status.

The Panel finds this does not diminish his commitment to maintain competence in the practice of law. Mr. Reynolds is working as a paralegal at the firm of *Bellah Perez* and has remained active in law by performing high level tasks including legal research and writing as a paralegal since March 2014. His extensive legal experience and performance in his assigned bankruptcy and litigation matters has resulted in his progressing to a full time paralegal in April 2015. [Exhibit 8; Testimony of Mr. Reynolds.]

Fitness to Practice

Mr. Reynolds provided income tax records from the years 2013-2015 [Exhibits 10 and 11.] He disclosed his federal tax lien from the tax year 2007 and testified he has made an offer in compromise. [Exhibit 11; Testimony of Mr. Reynolds.] He filed for bankruptcy in 2015 and has no assets. He is in a payment plan with the Arizona Department of Revenue for his 2015 taxes [Exhibit 37.] Mr. Reynolds was unemployed from July 18, 2013 until February 21, 2014.

In February 2014, Mr. Reynolds obtained a license to sell life insurance and annuities with various insurance carriers. [Exhibit 21; Testimony of Mr. Reynolds.] Mutual of Omaha provided notice he was an Independent Producer beginning in March 2014. [Exhibit 25.] His license expires September 30, 2017. [Application, p. 10.]

Mr. Reynolds offered letters of support from his current employers Cristina Perez Esq., and Richard Bellah, Esq. They believe Mr. Reynolds is a valuable member of the legal community and fully support his reinstatement without reservations. [Exhibit 8.] If reinstated, the firm intends to hire him as an attorney and he will receive a pay increase. [Testimony of Mr. Reynolds and Christina Perez.] He stated the firm offers him a structured environment and has weekly accountability.

Mr. Reynolds provided both Accuprint and Experian reports. His debts reflect that they have been paid/charged off or settled. [Exhibits 6, 7.] He was issued a traffic violation on 11/10/2014. [Exhibit 6, SBA0087.] He is current in his child support obligations [Exhibit 36.] He has entered into a rehabilitation agreement regarding his student loans. [Exhibit 35.] He is committed to financial responsibility and repaying his debts. In September 2016, he will begin restitution payments to former clients and has a repayment plan to pay the smallest amounts of restitution first. [Testimony of Mr. Reynolds.] Equal payments to each creditor would better restore the public's confidence.

CONCLUSION AND RECOMMENDATIONS

Reinstatement proceedings are unlike formal disciplinary proceedings. In a reinstatement proceeding, the applicant must prove by clear and convincing evidence he has satisfied the criteria for reinstatement. Mr. Reynolds has met the burden of proof under Rule 65, Ariz. R. Sup. Ct., by demonstrating with clear and convincing

evidence his “weakness,” “rehabilitation,” and “fitness to practice.” Under *In re Arrotta*, 208 Ariz. 509, 512, ¶ 11, 96 P.3d 213, 216 (2004), Mr. Reynolds has met his burden of proof by demonstrating, with clear and convincing evidence, that he has “the moral qualifications and knowledge of the law required for admission to practice law in this state” and that he has been rehabilitated from his past misconduct.

The Panel recommends Mr. Reynolds be reinstated to the practice of law, subject to two years of probation with the State Bar’s Member Assistance Program (MAP) to include the recommendations from Dr. Phillip Lett and restitution to be paid under the Disciplinary Agreement during the period of his probation. The Panel finds a restitution plan assuring each person receives a monthly payment towards the restitution owed to be equitable and better serve the profession and public interests. Under Rule 60(a)(5), probation may be renewed for an additional two years if Mr. Reynolds has not fulfilled his restitution obligations.

DATED this 21st day of September, 2016.

William J. O’Neil

William J. O’Neil, Presiding Disciplinary Judge

CONCURRING:

Gary L. Stuart

Gary L. Stuart, Volunteer Attorney Member

Michael Snitz

Michael Snitz, Volunteer Public Member

Copies of the foregoing emailed
this 21st day of September, 2016, and
mailed September 22, 2016, to:

Michael T. Reynolds
12505 W. Woodland Avenue
Avondale, Arizona 85323
Emails: mtreynoldslaw@gmail.com & mreynolds@bellahperez.com
Applicant

Craig D. Henley
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

by: [AMcQueen](#)