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SUPREME COURT OF APPEALS
OF WEST VIRGINIA

No. 24-330 – *In re: Petition for Reinstatement of Jarrell Lee Clifton, II*

KIRKPATRICK, Justice, dissenting, joined by Justice Trump:

I respectfully disagree with the majority's decision to deny Mr. Jarrell L. Clifton's petition for reinstatement to the practice of law in West Virginia. The inquiry at reinstatement is whether the applicant has shown by clear and convincing evidence that he or she "presently possesses the integrity, moral character and legal competence to resume the practice of law." Syl. Pt. 1, in part, *In re Brown*, 166 W. Va. 226, 273 S.E.2d 567 (1980). Contrary to the majority, I conclude that Mr. Clifton has made that showing and demonstrated a record of rehabilitation, and that his reinstatement would "not have a justifiable and substantial adverse effect on the public confidence in the administration of justice . . . ." *Id*. For those reasons, I would reinstate Mr. Clifton's license to practice law, subject to certain conditions, including supervision for a period of two years by a supervising attorney who submits monthly reports to the Office of Disciplinary Counsel ("ODC") regarding Mr. Clifton's practice.

By all accounts, Mr. Clifton has led an exemplary life since his disbarment in 2015, leading me to conclude that he "presently possesses the integrity [and] moral character . . . to resume the practice of law." *Id*. He is a trustee of Pocahontas Memorial Hospital, a twenty-five bed "critical access hospital with a federally designated Rural

Health Clinic,"[1] and a leader in youth sports in his community. Mr. Clifton's Christian faith has deepened in the years since his misconduct came to light, and he now provides pastoral services and preaches at a Pocahontas County church. He regained a steady economic footing after disbarment, first by working as a paralegal in a respected law firm, then by obtaining his license to sell insurance[2] and reactivating his real estate license.[3]

Regarding rehabilitation, the majority seems to fault Mr. Clifton for offering the testimony of "longstanding friends and acquaintances" to demonstrate a record of rehabilitation, rather than "professional testimony regarding rehabilitation efforts . . . ." Maj. Op. at 17. I have two problems with this. First, while rehabilitation requires more than "falling on one's sword," *In re Reinstatement of Sparks*, 252 W. Va. 335, 346, 922 S.E.2d 335, 346 (2025), ODC has not pointed to a per se requirement (nor does it advocate

[1] "Pocahontas Memorial Hospital: About," https://www.pmhwv.org/about/ (last visited November 4, 2026). As of July 2026, Mr. Clifton was the chairperson of the Board of Trustees.

[2] The Insurance Commissioner denied Mr. Clifton's application for a resident producer license in June 2023, based on the facts underlying Mr. Clifton's disbarment and liens stemming from Mr. Clifton's failure to pay state sales tax in the late 1990s. Mr. Clifton requested a hearing on his application. After hearing testimony from some of the same character witnesses who later testified before the Hearing Panel Subcommittee ("HPS"), the Hearing Examiner recommended that the Insurance Commissioner reverse the original denial and grant Mr. Clifton's application because (1) the Insurance Commissioner initially lacked information about Mr. Clifton's life, post-2015; and (2) it was "clear that [Mr. Clifton] has turned his life around . . . ." The Insurance Commissioner adopted the Hearing Examiner's recommendation.

[3] I concur with the majority that "[t]he education and training necessary for those ventures, along with Mr. Clifton's abilities in representing himself in this matter, generate no concern about his current legal abilities." Maj. Op. at 15.

for one) for disbarred attorneys to offer such testimony at reinstatement in order to meet their burden of demonstrating a record of rehabilitation.

Second, Mr. Clifton's misconduct did not stem from drug or alcohol addiction, for which there are readily identifiable, clinical treatment options. As Mr. Clifton stated in his brief to this Court, he "lost his moral compass," and so behaved dishonestly, immorally, unethically, and improperly used his position of authority. Logically, Mr. Clifton relied upon testimony from those who know him (in some instances, since childhood) to paint the picture of his life before and after disbarment. I disagree with the HPS and the majority that, in this case, the witnesses' testimony must be discounted because Mr. Clifton did not personally "discuss his misconduct in any detail or depth with these witnesses . . . ."[4] Maj. Op. at 18. Several witnesses testified that they recalled reading this Court's 2015 Opinion disbarring Mr. Clifton. *See Law. Disciplinary Bd. v. Clifton*, 236 W. Va. 362, 780 S.E.2d 628 (2015). Others testified that, while they had not read the opinion, they knew the general nature of Mr. Clifton's misconduct because, as one witness put it, "[w]e live in a very small county so you hear those things in lots of places.

[4] This Court has observed that, "general statements and letters from attorneys, friends, and community leaders on behalf of a petitioner in a reinstatement proceeding are of little evidentiary value." *Law. Disciplinary Bd. v. Vieweg*, 194 W. Va. 554, 559, 461 S.E.2d 60, 65 (1995) (citing *In re Brown*, 164 W. Va. 234, 236 n.1, 262 S.E.2d 444, 445 n.1 (1980) ("Many courts recognize that such Ex parte material is of little evidentiary value on the difficult factual issues that must be resolved on a reinstatement.")). In *Brown*, "a number of letters [were] filed on behalf of the petitioner by attorneys, friends and community leaders," but no evidentiary hearing was held. *Brown*, 164 W. Va. at 236 n.1, 262 S.E.2d at 445 n.1. That is not the case in this instance, where the character witnesses testified and were ably cross-examined by ODC.

Unfortunately, if someone's known for something then people talk." Despite that, the witnesses presented by Mr. Clifton testified in favor of his integrity and competency and expressed the belief that his reinstatement to the practice of law would not adversely affect public confidence in the administration of justice in their community.

Unquestionably, Mr. Clifton's misconduct was very serious. In writing separately, I do not minimize his transgressions. Mr. Clifton "used his position as assistant prosecuting attorney to take advantage of three women on multiple occasions" in 2009, then lied to investigators and the ODC about his conduct, constituting violations of Rules 1.7(b), 8.1(a), 8.4(b), 8.4(c) and 8.4(d) of the West Virginia Rules of Professional Conduct. *Clifton*, 236 W. Va. at 377, 381, 780 S.E.2d at 643, 647. "[T]he fact that the ethics violations occurred while Mr. Clifton served as assistant prosecuting attorney [was] an aggravating factor" in the disciplinary proceedings, *id*. at 379, 780 S.E.2d at 645, and it is something that I am mindful of today, faced with Mr. Clifton's petition for reinstatement. *See* Syl. Pt. 5, *Off. of Lawyer Disc. Couns. v. Plants*, 233 W. Va. 477, 759 S.E.2d 220 (2014) ("'Ethical violations by a lawyer holding a public office are viewed as more egregious because of the betrayal of the public trust attached to the office.'") (quoting Syl. Pt. 3, *Comm. on Legal Ethics of W. Va. State Bar v. Roark*, 181 W.Va. 260, 382 S.E.2d 313 (1989)).

That said, the severity of a disbarred attorney's misconduct is one consideration in our analysis of the disbarred attorney's petition for reinstatement. It is not the sole consideration. *See, e.g.*, *In re Reinstatement of diTrapano*, 240 W. Va. 612, 617,

814 S.E.2d 275, 280 (2018) (rule that a convicted felon is barred from reinstatement to the practice of law "would run counter to the fact-intensive reinstatement inquiry mandated by Syllabus Point 1 of *In re Brown*, which demands analysis of current attributes (integrity, moral character, and legal competence), the record of rehabilitation, and the impact reinstatement would have on our profession"). Mr. Clifton offered clear and convincing evidence demonstrating his present character, and there is no concern as to the currency of his legal skills. He offered undisputed testimony by numerous witnesses regarding his post-disbarment disposition and accomplishments, which are such that I would conclude that Mr. Clifton's reinstatement to the practice of law would not have a justifiable and substantial adverse effect on the public confidence in the administration of justice. For those reasons, I respectfully dissent. I am authorized to state that Justice Trump joins in this separate Opinion.