IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

September 2026 Term

No. 24-330

FILED
November 12, 2026
released at 3:00 p.m.
C. CASEY FORBES, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

IN RE: PETITION FOR REINSTATEMENT OF JARRELL L. CLIFTON II

Lawyer Disciplinary Proceeding

REINSTATEMENT DENIED

Submitted: October 13, 2026
Filed: November 12, 2026

Jarrell L. Clifton II
Marlinton, West Virginia
Petitioner

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CHIEF JUSTICE BUNN delivered the Opinion of the Court.
JUSTICE TRUMP and JUSTICE KIRKPATRICK dissent and reserve the right to file dissenting opinions.

SYLLABUS BY THE COURT

1. "Absent a showing of some mistake of law or arbitrary assessment of the facts, recommendations made by the [Hearing Panel Subcommittee] in regard to reinstatement of an attorney are to be given substantial consideration." Syllabus Point 3, *In re Brown*, 166 W. Va. 226, 273 S.E.2d 567 (1980).

2. "The general rule for reinstatement is that a disbarred attorney in order to regain admission to the practice of law bears the burden of showing that he presently possesses the integrity, moral character and legal competence to resume the practice of law. To overcome the adverse effect of the previous disbarment he must demonstrate a record of rehabilitation. In addition, the court must conclude that such reinstatement will not have a justifiable and substantial adverse effect on the public confidence in the administration of justice and in this regard the seriousness of the conduct leading to disbarment is an important consideration." Syllabus Point 1, *In re Brown*, 166 W. Va. 226, 273 S.E.2d 567 (1980).

3. "A disbarred lawyer petitioning for reinstatement of an annulled license to practice law must prove the criteria identified in Syllabus point 1 of *In re Brown*, 166 W. Va. 226, 273 S.E.2d 567 (1980), by clear and convincing evidence." Syllabus Point 4, *In re Kohout*, 252 W. Va. 169, 919 S.E.2d 72 (2025).

4. "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." Syllabus Point 3, *Comm. on Legal Ethics of W. Va. State Bar v. Roark*, 181 W. Va. 260, 382 S.E.2d 313 (1989).

5. "Rehabilitation is demonstrated by a course of conduct that enables the court to conclude there is little likelihood that after such rehabilitation is completed and the applicant is readmitted to the practice of law he will engage in unprofessional conduct." Syllabus Point 2, *In re Brown*, 166 W. Va. 226, 273 S.E.2d 567 (1980).

BUNN, Chief Justice:

Petitioner Jarrell Lee Clifton II ("Mr. Clifton") seeks reinstatement to the practice of law after the Court annulled his law license in November 2015 due to ten violations of the West Virginia Rules of Professional Conduct stemming from his sexual misconduct with three women while working as a Pocahontas County assistant prosecutor. Concluding that Mr. Clifton "us[ed] his position as assistant prosecuting attorney to elicit sexual behavior from vulnerable women—women involved in criminal matters and/or seeking his help," the Court rejected the recommendation of the disciplinary Hearing Panel Subcommittee ("HPS")[1] to suspend Mr. Clifton for two years and determined that his misconduct warranted annulment. *Law. Disciplinary Bd. v. Clifton*, 236 W. Va. 362, 381, 780 S.E.2d 628, 647 (2015) ("*Clifton I*").

After considering Mr. Clifton's petition for reinstatement, which was opposed by the Office of Disciplinary Counsel ("ODC"), the reinstatement HPS recommended that we deny the petition given the seriousness of the underlying offenses and the resulting impact on public confidence if he were reinstated. Upon our independent review, we agree that Mr. Clifton has failed to clearly and convincingly demonstrate a level of rehabilitation sufficient to overcome his grave breach of public trust. We therefore accept the HPS's recommendation and deny the petition for reinstatement.

[1] Throughout the opinion we refer to the "disciplinary HPS" and the "reinstatement HPS" to distinguish the bodies presiding over Mr. Clifton's various proceedings.

I. FACTS AND PROCEDURAL HISTORY

Mr. Clifton was admitted to the West Virginia State Bar in 2007 and immediately began working as an assistant prosecutor for the Pocahontas County Prosecuting Attorney's Office until 2011 when he entered private practice. Prior to attending law school in his late thirties, Mr. Clifton had a significant work history including law enforcement positions with the Marlinton and Pocahontas County Sheriff's Departments, a position with Child Protective Services; he was also a member of the Army National Guard. During this time, Mr. Clifton also owned two restaurants in the community. Mr. Clifton was in his early forties at the time of the underlying misconduct.

Because *Clifton I* details the specifics of each act of misconduct, we include only a brief summary here to provide context for our consideration. While working as an assistant prosecutor, Mr. Clifton interacted with three women who were either directly or indirectly involved in criminal matters overseen by his office. He exploited those interactions to engage in a "quid-pro-quo . . . exchange of legal and sexual favors[,]" as characterized by the reinstatement HPS. First, T.S. was a criminal defendant convicted of possession with intent to deliver a controlled substance and her sentence was suspended in favor of probation and participation in the Day Report program. *Id*. at 365, 780 S.E.2d at 631. Mr. Clifton began communicating with her on Facebook and exchanged sexual photos

and videos with her, including one of his penis.[2] *Id*. at 365-66, 780 S.E.2d at 631-32. T.S. testified that she told Mr. Clifton she did not like being on Day Report and he indicated that he "could maybe help" her, requesting that she stop by his office. *Id*. at 365, 780 S.E.2d at 631. T.S. testified that she visited Mr. Clifton at the Prosecuting Attorney's offices three to four times and gave him oral sex, due to Mr. Clifton's insinuation that he could seek to revoke her suspended sentence if she did not comply. *Id*. at 365-66, 780 S.E.2d at 631-32. After T.S. reported the incidents to authorities, claiming they were non-consensual, she wore a wire to Mr. Clifton's office after he left the prosecutor's office and began private practice. *Id*. at 366, 780 S.E.2d at 632. The recording documented Mr. Clifton's request to take photos of T.S. and his "continual[]" requests for her to touch his penis. *Id*. In August 2012, Mr. Clifton was criminally indicted for four felonies regarding these incidents, which the prosecutor ultimately dismissed after concluding that the encounters were consensual.[3] *Id*. at 367, 780 S.E.2d at 633.

Mr. Clifton's second act of sexual misconduct involved K.M., with whom he had a sexual relationship prior to his enrollment in law school while she was working at a bar he owned. *Id*. at 367, 780 S.E.2d at 633. Mr. Clifton recorded one of their sexual

[2] Like the video recording involving K.M., discussed *infra*, Mr. Clifton misrepresented to T.S. that he no longer had the pictures or videos. *Id*. at 366, 780 S.E.2d at 632.

[3] Mr. Clifton was charged in state court with two counts of sexual assault in the second degree and two counts of imposition of sexual intercourse on an incarcerated person. *Id*. at 367, 780 S.E.2d at 633.

encounters, but assured K.M. he had destroyed the videotape. *Id*. After Mr. Clifton became an assistant prosecutor, K.M. sought his assistance after her son was charged with brandishing. *Id*. at 368, 780 S.E.2d at 634. K.M. testified that during their meeting, Mr. Clifton brought up the videotape and revealed he had not destroyed it, telling K.M. he could "'get rid of [the videotape] today'" if she exposed herself to him. *Id*. She testified that he then exposed himself to her and cajoled her into kissing and holding his penis. *Id*. During the original disciplinary investigation of this matter, Mr. Clifton claimed that, despite having previously told K.M. the videotape had been destroyed, he found the videotape in boxes of business records and took it to a safe deposit box. *Id*. at 377, 780 S.E.2d 643. In his subsequent answer to ODC's complaint, however—despite then knowing he had retained and still possessed the videotape when he denied the same to K.M.—Mr. Clifton asserted that he "no longer possessed" it when he made that representation to K.M. *Id*. at 369, 780 S.E.2d at 635. Mr. Clifton ultimately moved to dismiss the charges against K.M.'s son. *Id*. at 368, 780 S.E.2d at 634.

The third act of sexual misconduct involved L.B., with whom Mr. Clifton also had a sexual encounter prior to attending law school. *Id*. at 369, 780 S.E.2d at 635. While Mr. Clifton was working as an assistant prosecutor, L.B. was the victim of a theft and sought his assistance in how to handle it. *Id*. While in his office, Mr. Clifton solicited oral sex from her. *Id*. L.B. had also obtained a domestic violence protective order against her boyfriend that she later wished to drop; she obtained the magistrate's approval, but the magistrate stated she required Mr. Clifton's assent. *Id*. Mr. Clifton refused to agree,

questioning whether L.B. wanted to put herself "'in that relationship'"; during their discussion about the protective order, Mr. Clifton "'mentioned something about seeing [her] breasts.'" *Id*. Mr. Clifton later signed off on a diversion agreement and dismissal in a destruction of property charge against L.B. *Id*.

A. The Clifton I Charges and Annulment

After our review of the evidence regarding these incidents in *Clifton I*, we agreed with the disciplinary HPS's conclusion that each of the alleged acts of sexual misconduct occurred. *Id*. at 377, 780 S.E.2d at 643. As a result, the Court found that Mr. Clifton committed three violations of Rule 1.7(b)[4] for the conflict of interest created by his sexual misconduct against victims who were involved in criminal matters, as well as three related violations of Rule 8.4(d)[5] for conduct prejudicial to the administration of justice. *Id*. For Mr. Clifton's falsehoods to criminal investigators regarding his relationship with

[4] Because Mr. Clifton's discipline occurred prior to January 1, 2015, we refer to the then-existing West Virginia Rules of Professional Conduct under which he was disciplined. Rule 1.7(b)(1) and (2) provided:

> (b) A lawyer shall not represent a client if the representation of that client may be materially limited by the lawyer's responsibilities to another client or to a third person or by the lawyer's own interests, unless:
>
> (1) the lawyer reasonably believes the representation will not be adversely affected; and
> (2) the client consents after consultation[.]

[5] Rule 8.4(d) provides that "[i]t is professional misconduct for a lawyer to[] . . . (d) engage in conduct that is prejudicial to the administration of justice[.]"

T.S. and to disciplinary authorities regarding his possession of the videotape involving K.M., the Court found that Mr. Clifton committed two violations of Rule 8.4(b)[6] for commission of criminal acts reflecting on honesty or trustworthiness. *Id*. Finally, the Court found an additional violation of Rule 8.4(c)[7] for engaging in conduct involving dishonesty, fraud, deceit or misrepresentation, and Rule 8.1(a)[8] for Mr. Clifton's false denial of the allegations contained in the indictment to ODC. *Id*.

The disciplinary HPS determined that Mr. Clifton's misconduct was aggravated by "selfish motive, a pattern of misconduct, multiple offenses, illegal conduct, and the vulnerability of the victims." *Id*. at 379, 708 S.E.2d 645. The Court agreed and added that Mr. Clifton's lack of cooperation with ODC by being untruthful about the videotape, false statements to law enforcement, and his position as a public official constituted additional aggravating factors. *Id*. Mr. Clifton's absence of a prior disciplinary record and inexperience in practice of law were the only mitigating factors. *Id*. The Court

[6] Rule 8.4(b) provides that "[i]t is professional misconduct for a lawyer to[] . . . (b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects[.]" The Court found that Mr. Clifton's falsehoods to investigators violated 18 U.S.C. § 1001(a) (making materially false statement or representation) and West Virginia Code § 15-2-16 (giving false information to member of department of public safety).

[7] Rule 8.4(c) provides that "[i]t is professional misconduct for a lawyer to[] . . . (c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation[.]"

[8] Rule 8.1(a) provides that "a lawyer in connection with a bar admission application or in connection with a disciplinary matter, shall not[] (a) knowingly make a false statement of material fact[.]"

described only "some" level of remorse and that Mr. Clifton "continue[d] to deny that he used his position as assistant prosecutor to procure sexual conduct from vulnerable women[.]" *Id*.

As previously noted, the disciplinary HPS recommended a two-year suspension; the Court found that sanction insufficient and annulled Mr. Clifton's law license.[9] *Id*. at 381, 780 S.E.2d at 647. The Court stated that Mr. Clifton knowingly and intentionally violated a duty to his client—the State of West Virginia—by engaging in sexual conduct with the women, "all of whom were, at some point . . .a victim, a defendant, or seeking help for another defendant[.]" *Id*. at 378, 780 S.E.2d at 644. The Court concluded that the real injury in the case was "great[]" because Mr. Clifton "us[ed] his position as assistant prosecuting attorney to elicit sexual behavior from vulnerable women—women involved in criminal matters and/or seeking his help" which "damaged the prosecutor's office in Pocahontas County and the legal profession on the whole." *Id*. at 378-79, 780 S.E.2d at 644-45. As a result, the *Clifton I* Court annulled Mr. Clifton's law license effective December 22, 2015, following issuance of the mandate.

[9] The disciplinary HPS explained that it agreed Mr. Clifton's misconduct was serious, but it considered that K.M. and L.B. had prior consensual relationships with him, along with the conflicting evidence about whether there were consensual relationships "during the relevant disciplinary time period[.]" *Id*. at 372, 780 S.E.2d at 638.

B. Petition for Reinstatement

On June 12, 2024, Mr. Clifton filed his petition for reinstatement. Following his disbarment, Mr. Clifton worked as a paralegal for approximately seven years, then purchased a local insurance agency and realty company which he now operates with his wife. He testified that before purchasing the insurance agency, he drew unemployment while studying to be a minister with the Methodist church. Mr. Clifton explained that he is now a "certified lay minister" with the Methodist church, but his application to become an ordained minister was rejected due to the misconduct at issue. Mr. Clifton has been a member of the Pocahontas Memorial Hospital Board of Trustees, including Chair, and developed a youth basketball league in his community. Mr. Clifton admitted that he also sat on "quite a few [b]oards" before his disbarment, has always been involved in his community, and attended church regularly since approximately 2010.

After being disbarred, in April 2016, Mr. Clifton attended mental health counseling; he attended seven sessions of therapy individually which, by August 2016, "morphed" into marital counseling for an additional thirteen monthly sessions for approximately one year. He described his individual therapy as focusing on his need for "attention" and "validation." Mr. Clifton testified in his sworn statement that at the time he and his wife began attending together, their joint counseling "was more about how I viewed my wife, our relationship[.]" When asked about whether his counseling addressed the "pornography addiction" he posited during the original disciplinary proceedings, Mr. Clifton denied that he had any such issue but was merely "an effort to get a mitigating

circumstance." He has engaged in no further professional counseling since August 2017 but references spiritual counseling from local pastors.

During Mr. Clifton's sworn statement to ODC on January 30, 2025, he continued to deny a physical sexual relationship with any of the victims while a prosecutor, but admitted to inappropriate sexual conversations, photos, and videos. During the January 14, 2026 hearing before the reinstatement HPS, Mr. Clifton was careful to concede that while he had been found to have committed the misconduct by clear and convincing evidence, his oath required him to be truthful and maintain that he had no physical sexual relationship with the women as alleged.

Mr. Clifton called a number of character witnesses before the reinstatement HPS. Of note, only one of them claimed to be aware in any detail of the underlying misconduct and none had discussed it with him. The HPS observed that most of the witnesses seemed "shocked" at the allegations, with one claiming that Mr. Clifton's reputation was "unquestionable." Mr. Clifton confirmed that he had a "great reputation" at the time of the underlying misconduct and was believed to be "'one of the good guys.'"

The reinstatement HPS found that Mr. Clifton "expressed genuine emotion and regret" and "heartfelt remorse[.]" However, it evaluated the "very serious underlying" offenses against Mr. Clifton's admission that while he used his position as an assistant prosecutor "in a manner that was morally and ethically wrong[,]" he refused to admit to

any physical sexual contact. In Mr. Clifton's favor, the HPS found that 1) there was no evidence of improper professional conduct or illegal activities since annulment; 2) he engaged in steady employment and community service; 3) an adequate length of time had passed since annulment; and 4) that he demonstrated continued legal competence. However, the HPS looked unfavorably on Mr. Clifton's age at the time of the misconduct and his use of pornography addiction as a "mitigation strategy" in defending himself in the underlying disciplinary proceedings. The HPS was similarly critical of Mr. Clifton's character witnesses' lack of familiarity with the particulars of his misconduct and ultimately found that his serious underlying misconduct weighed against reinstatement:

> [T]his [HPS] can conjure up no more serious offense which affects the very essence of the public's perception of the legal profession than a lawyer serving as an Assistant Prosecuting Attorney, having engaged in what appears to have been a quid-pro-quo arrangement involving the exchange of sexual and legal favors. The potential negative effect on the public confidence in the administration of justice is too much to allow for reinstatement[.]

The HPS recommended denial of his petition for reinstatement and ordered Mr. Clifton to pay the costs of the proceeding.

II. STANDARD OF REVIEW

The Court has held that "[a]bsent a showing of some mistake of law or arbitrary assessment of the facts, recommendations made by the [HPS] in regard to reinstatement of an attorney are to be given substantial consideration." Syl. Pt. 3, *In re Brown*, 166 W. Va. 226, 273 S.E.2d 567 (1980). As with all disciplinary matters, however,

we are required to engage our own independent judgment regarding discipline, including reinstatement: "Because we are the final arbiter of legal ethics issues, we exercise de novo review of disciplinary matters, including petitions for reinstatement, while giving substantial deference to the Hearing Panel's findings of fact that are supported by the record and respectfully considering its recommendations[.]" *In re Kohout*, 252 W. Va. 169, 180, 919 S.E.2d 72, 83 (2025); *see also In re Reinstatement of DiTrapano*, 240 W. Va. 612, 616, 814 S.E.2d 275, 279 (2018) ("While we give respectful consideration to the recommendations of the HPS, this Court ultimately exercises its own independent judgement regarding reinstatement[.]").

III. DISCUSSION

A lawyer's burden for reinstatement is well-established:

> [A] disbarred attorney in order to regain admission to the practice of law bears the burden of showing that he presently possesses the integrity, moral character and legal competence to resume the practice of law. To overcome the adverse effect of the previous disbarment he must demonstrate a record of rehabilitation. In addition, the court must conclude that such reinstatement will not have a justifiable and substantial adverse effect on the public confidence in the administration of justice and in this regard the seriousness of the conduct leading to disbarment is an important consideration.

Syl. Pt. 1, in part, *In re Brown*, 166 W.Va. 226, 273 S.E.2d 567. Moreover, "[a] disbarred lawyer petitioning for reinstatement of an annulled license to practice law must prove the criteria identified in Syllabus point 1 of *In re Brown*, 166 W. Va. 226, 273 S.E.2d 567

(1980), by clear and convincing evidence." Syl. Pt. 4, *In re Kohout*, 252 W. Va. 169, 919 S.E.2d 72.

A. The Brown Factors

The *Brown* factors first require an evaluation of Mr. Clifton's integrity, moral character, and legal competence to return to the practice of law. *See* Syl. Pt. 1, *In re Brown*, 166 W. Va. 226, 273 S.E.2d 567. The Court has developed several non-exclusive factors to guide this initial inquiry:

> "(1) the nature of the original offense for which the petitioner was disbarred, (2) the petitioner's character, maturity, and experience at the time of his disbarment, (3) the petitioner's occupations and conduct in the time since his disbarment, (4) the time elapsed since the disbarment, and (5) the petitioner's present competence in legal skills."

In re Smith, 214 W. Va. 83, 85, 585 S.E.2d 602, 604 (1980) (quoting *In re Hiss*, 333 N.E.2d 429 (Mass. 1975)). If not disqualifying alone, these factors are then weighed against a disbarred lawyer's demonstrated rehabilitation.

We begin with the factor the HPS ultimately found determinative: the nature of Mr. Clifton's misconduct. The HPS expressed that while Mr. Clifton may have demonstrated a "general" suitability for reinstatement, in light of his underlying misconduct, the risk of damaging public confidence was "too much[.]" As noted above, in evaluating whether to reinstate, we likewise "must conclude that such reinstatement will not have a justifiable and substantial adverse effect on the public confidence" and therefore

"the seriousness of the conduct leading to disbarment is an important consideration." Syl. Pt. 1, in part, *In re Brown*, 166 W. Va. 226, 273 S.E.2d 567. Far from a relitigation of the merits, careful evaluation of the underlying misconduct "serves as the backdrop to our consideration of whether or not [a lawyer's] license should be reinstated[.]" *In re Reinstatement of Drake*, 242 W. Va. 65, 69, 829 S.E.2d 267, 271 (2019); *see In re Brown*, 166 W. Va. at 233, 273 S.E.2d at 570-71 ("[T]he more serious the underlying offense that brought about disbarment, the more likely that public confidence will be impaired.").

First, we note that six of the underlying Rule violations stem from Mr. Clifton's sexual victimization of vulnerable women involved in the criminal justice system. Although three of those violations are grounded in former Rule 1.7(b)'s provisions regarding conflict of interest, his misconduct resonates more soundly as a breach of the public trust, reflected in the three Rule 8.4(d) violations. The Court has expressly held that "[e]thical 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." Syl. Pt. 3, *Comm. on Legal Ethics of W. Va. State Bar v. Roark*, 181 W. Va. 260, 382 S.E.2d 313 (1989).

With respect to prosecutors specifically, we have observed that they hold a "position of public trust and must be held to a heightened standard of ethical behavior." *Off. of Law. Disciplinary Couns. v. Plants*, 233 W. Va. 477, 485, 759 S.E.2d 220, 228 (2014). Importantly, Mr. Clifton's position as an assistant prosecutor was not incidental to his misconduct but rather was the linchpin of it. His position provided access to his victims,

thereby allowing him to utilize their vulnerability within the criminal justice system to sexually exploit them. *See In re Reinstatement of Sparks*, 252 W. Va. 335, 345, 922 S.E.2d 335, 345 (2025) ("[W]e have found the seriousness of underlying misconduct virtually outcome determinative for reinstatement purposes where the lawyer is also a public official whose misconduct intersects with or denigrates the legal system."). Mr. Clifton's position did not merely create a conflict of interest in matters involving his victims; he leveraged that position to coerce their compliance with his abusive requests for sexual favors after they sought his assistance.

In fact, the egregiousness of Mr. Clifton's sexual misconduct tends to overshadow the fact that nearly half of the Rule violations found in this matter stem from his post-misconduct deceit. Without detracting from the gravity of his sexual misconduct, with regard to the legal profession specifically, we have held that "dishonesty, fraud, deceit, or misrepresentation[] . . . is the type of misconduct that most negatively impacts . . . public[] confidence[.]" *In re Kohout*, 252 W. Va. at 183, 919 S.E.2d at 86*; see also Law. Disciplinary Bd. v. Curnutte*, 243 W. Va. 617, 626, 849 S.E.2d 617, 626 (2020) ("No single transgression reflects more negatively on the legal profession than a lie. . . . Respect for our profession is diminished with every deceitful act of a lawyer." (quoting *Law. Disciplinary Bd. v. Munoz*, 240 W. Va. 42, 51, 807 S.E.2d 290, 299 (2017) (additional quotations and citations omitted)). Mr. Clifton provided false information to the ODC, a false statement in his answer to the statement of charges, and false representations to law enforcement investigators. *Clifton I*, 236 W. Va. at 370-71, 780 S.E.2d at 636-37. Even

now, before the HPS, Mr. Clifton conceded only that, with regard to the investigation into his misconduct with T.S., he was not "upfront" with investigators and "withheld information as long as [he] could." His semantics notwithstanding, Mr. Clifton testified that he received a "target letter" from the United States Attorney regarding his untruthfulness to federal investigators regarding his relationship with T.S.[10]

The remaining *Brown* factors are insufficient to convince us that Mr. Clifton's conduct since disbarment meets his "clear and convincing" burden for reinstatement. Since disbarment, Mr. Clifton has been regularly employed as a paralegal and more recently as a business owner, obtaining his insurance and real estate licenses in the little over ten years that has elapsed since his disbarment. The 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.

However, as to the "character, maturity, and experience" factor, Mr. Clifton was in his early forties when he engaged in the underlying misconduct and had extensive experience in law enforcement, child protective services, and the National Guard. The character and integrity necessary to be entrusted with the power attendant to these protective public services, like that expected of a prosecutor, stands starkly at odds with the lack of those traits demonstrated by Mr. Clifton's abuse of his public position.

[10] Mr. Clifton stated, however, that he has heard nothing further in regard to the letter and therefore does not believe action by federal authorities to be imminent.

Therefore, because Mr. Clifton's ostensibly respectable personal and professional undertakings over the past decade largely mirror his upstanding background and occupation at the time of his sexual misconduct, it holds little intrinsic value in demonstrating fitness to return to practice.

B. Rehabilitation

With that backdrop, while Mr. Clifton is not per se disqualified from reinstatement based on his underlying offenses alone, the seriousness of his abuse of public trust makes his demonstration of thorough rehabilitation imperative. Mr. Clifton points to his continued gainful employment and business endeavors including purchasing an insurance business and obtaining his license to sell insurance. He touts his continued community involvement by establishing a youth basketball league, as well as church leadership as a "lay minister" and unsuccessful efforts to become an ordained Methodist minister. Mr. Clifton insists that he remains faith-driven and family-oriented, providing informal counsel and support to members of his community. He has been accused of no further sexual or other misconduct.

Mr. Clifton has also offered expressions of remorse and accountability for his misconduct. He continues to maintain that he engaged in no physical sexual conduct with the victims, while—to his credit—still acknowledging this Court's contrary finding and its binding nature on his disciplinary path. We commend Mr. Clifton for the

contributions to his community as reflected in the record and for avoiding further misconduct. However, we have recently cautioned that

> rehabilitation sufficient to warrant reinstatement is not demonstrated solely by falling on one's sword and thereafter avoiding personal or professional missteps—that is the bare minimum expected from a disbarred attorney before seeking reinstatement. Accountability must be more than superficial; it must be thorough and consistently reflected in a lawyer's words and actions.

Sparks, 252 W. Va. at 346, 922 S.E.2d at 346.

Mr. Clifton admits that following disbarment his efforts to address his behavior in a clinical mental health setting were limited to seven individual visits. His testimony regarding these sessions characterized them as targeted toward self-discovery and self-care. Mr. Clifton admitted that this therapy quickly turned into marital counseling that, while undoubtedly advisable, does not appear designed to address Mr. Clifton's sexual victimization of vulnerable women. Mr. Clifton further referenced a psychological evaluation obtained but not used in his disciplinary proceedings that "wasn't very glowing"; in a troubling lack of concern and diligence, he testified that he had not even reviewed it. He obtained no more recent psychological evaluation and did not call any professional witness to speak to his progress in addressing the lack of judgment his sexual misconduct revealed. Although Mr. Clifton emphasized that he sought spiritual counseling from various pastors, he likewise provided no testimony from them regarding his rehabilitation.

In lieu of professional testimony regarding rehabilitation efforts, Mr. Clifton called only lay character witnesses—primarily longstanding friends and acquaintances—who simply reemphasized his sterling reputation both prior to and since his disbarment.[11] Critically, each witness testified that he or she had never spoken with Mr. Clifton about the details of the conduct that led to his disbarment and all but one had only a vague awareness of the general allegations. That Mr. Clifton chose not to discuss his misconduct in any detail or depth with these witnesses—despite asking them to vouch for his fitness to practice law—rendered their testimony of little consequence to the issue before the Court. *See Law. Disciplinary Bd. v. Vieweg,* 194 W. Va. 554, 559, 461 S.E.2d 60, 65 (1995) ("[G]eneral statements and letters from attorneys, friends, and community leaders on behalf of a petitioner in a reinstatement proceeding are of little evidentiary value." (quoting *In re Brown*, 164 W.Va. 234, 236 n.1, 262 S.E.2d 444, 445 n.1 (1980))). We conclude these uninformed witnesses further demonstrate that Mr. Clifton still prefers to trade on his established reputation and public persona—even with those he claims know him best—rather than openly and transparently addressing the reality, consequences, and cause of his behavior.

In sum, we find that Mr. Clifton offers little more than bald assurances that he has addressed the shortcomings that led to his sexual misconduct. His evidence of

[11] One witness testified that Mr. Clifton "led a good family life and still does." Yet another testified that she "would never have believed" that Mr. Clifton would engage in the sexual misconduct that led to his disbarment.

rehabilitation reveals largely the same resume of good citizenship and professionalism which he publicly exhibited at the time of his misconduct—which did not reflect his behavior behind closed doors. More to the point, none of this public-facing, post-disbarment conduct corresponds with rehabilitation of the predatory sexual misconduct at the root of his disbarment. As we stated in *In re Kohout*,

> "[A] disbarred lawyer . . . must demonstrate more than that he has led a blameless and law-abiding life while disbarred. 'Merely showing that [an individual] is now living and doing those things he . . . should have done throughout life, although necessary to prove rehabilitation,' is not sufficient to meet the applicant's burden. . . . In addition, he must bring forth clear and convincing evidence showing the positive actions he has taken to overcome the weaknesses that led to his disbarment."

252 W. Va. at 187, 919 S.E.2d at 90 (quoting *In re Arrotta*, 96 P.3d 213, 219 (Az. 2004) (en banc)); *see also Law. Disciplinary Bd. v. Moore*, 214 W. Va. 780, 793, 591 S.E.2d 338, 351 (2003) (discussing requirement to "address[] the attitudes and circumstances that led to . . . misconduct"). Mr. Clifton entertained only brief professional intervention immediately following his disbarment, has failed to engage in clinical treatment since that time, and asks this Court to believe him a changed man based solely on his own assurances and that of witnesses who were unaware of the troubling details of his sexual misconduct.

Disbarment due to practice-related misconduct, monetary misappropriation, or drug or alcohol addiction, often lends itself to readily identifiable rehabilitative measures like restitution, substance abuse treatment, education, employment and service opportunities that help lay the foundational building blocks of rehabilitation. Sexual

misconduct, too, can be addressed with therapeutic treatment yet Mr. Clifton rejected the opportunity to obtain substantial and intensive professional counseling or treatment for his predatory behavior. In short, Mr. Clifton offered nothing but his own assurances that his worst impulses and behaviors have been personally addressed or that his public persona and reputation—which was previously incongruent with his private behaviors—is now genuine.

But this is a quandary of Mr. Clifton's own making. By engaging in such brazen abuse of power for sexual favors from vulnerable victims, while hiding behind the mask of a respected, community-minded, and faith-driven member of the bar, Mr. Clifton created for himself a difficult road to demonstrable rehabilitation. And while his claims of being fundamentally changed since his disbarment may be sincere and true, this Court is left with little objective support for his self-serving assertions. As his own character witnesses testified, they had long known him to be an upstanding family man, community member, and church-goer—just as he appears to be now. As Mr. Clifton acknowledged, the duality of his public persona and misconduct caused untrustworthiness to become his "brand."

The Court has observed that "there will be cases where the original transgression is so threatening to the integrity of the entire legal system that no brief period of even the most exemplary conduct can provide satisfactory assurance to the Court that the public will be adequately protected." *In re Smith*, 214 W. Va. at 88, 585 S.E.2d at 607.

In the face of such egregious misconduct, a disbarred lawyer must present "a course of conduct that enables the court to conclude there is little likelihood that after such rehabilitation is completed and the applicant is readmitted to the practice of law he will engage in unprofessional conduct." Syl. Pt. 2, in part, *In re Brown*, 166 W. Va. at 226-27, 273 S.E.2d at 567. Most importantly, that course of conduct must clearly and convincingly demonstrate to this Court that a lawyer is properly rehabilitated and otherwise fit to return to the practice of law. *See* Syl. Pt. 4, *In re Kohout*, 252 W. Va. 169, 919 S.E.2d 72.

We cannot outline a precise formula of accountability and rehabilitation for Mr. Clifton. *See In re Kohout*, 252 W. Va. at 186-87, 919 S.E.2d at 89-90 ("When evaluating a disbarred lawyer's rehabilitation we use a flexible approach. Rather than framing rehabilitation 'around a set of specific principles,' our analysis 'will vary depending on the particular facts of a given case.'" (quoting *In re Brown*, 166 W. Va. at 234, 273 S.E.2d at 571)). What we must do, instead, is be wary of confusing an expedient return to prudent behavior during annulment with genuine rehabilitation that has addressed the specific misconduct at issue. To do less exposes the public to unwarranted risk of victimization and erodes its trust in the legal profession as much, if not more, than the original offense. As is often invoked and well understood, the practice of law is a privilege. To be restored to the practice of law must remain a humbling responsibility, not an entitlement, justified by specific, demonstrable rehabilitative measures and resulting success.

IV. CONCLUSION

For the foregoing reasons, we deny Mr. Clifton's petition for reinstatement to the practice of law and order him to pay the costs associated with these proceedings.

Petition Denied.