

STATE OF MAINE

SUPREME JUDICIAL COURT
Docket Nos. BAR-95-1 and 95-5

IN THE MATTER OF:

BOARD OF OVERSEERS OF THE BAR

GORDON P. GATES,
Petitioner

DEC 12 2003

ORDER OF REINSTATEMENT
M. Bar R 7.3(j)(5)

This matter came before the Court pursuant to a Petition for Reinstatement filed by Gordon P. Gates pursuant to Rule 7.3(j)(5) of the Maine Bar Rules. Mr. Gates was suspended from the practice of law on August 11, 1995 by order of the Maine Supreme Judicial Court (hereinafter "Court"). Gordon P. Gates has petitioned for reinstatement to practice law in the state of Maine. The matter of Mr. Gates's petition for reinstatement was referred to the Grievance Commission for hearing pursuant to Maine Bar Rule 7.3 (j)(5) to Panel E of the Grievance Commission following Bar Counsel's opposition to Mr. Gates's petition. Panel E conducted a hearing on the petition on October 7, 2003, after notice prescribed by M. Bar R. 7.3(j)(5), at which hearing Petitioner presented evidence of his moral qualification, competency, and learning in law required for admission to practice. The record of that hearing consists of the documentary evidence offered by Mr. Gates and admitted without objection. From that record, Panel E made findings which are set forth in relevant part below pursuant to M. Bar R. 7.3 (j)(6). Based upon those findings, Panel E recommended to the Board of Overseers that the Board, in turn, recommend to the Court that, after satisfying conditions, Gordon P. Gates be reinstated as a member of the Bar. This

ROVE 530 DEC 13 2003

Court adopts those Findings and concludes, as agreed to and acknowledged by Bar Counsel, that Gordon P. Gates has met all conditions necessary for readmission. Specifically, the Court finds:

1. Gordon P. Gates was admitted to practice law in the state of Maine on August 5, 1991.
2. On August 11, 1995, the Court (Lipez, J.) suspended Mr. Gates from the practice for a period of one year for neglect of matters entrusted to him in violation of M. Bar. R. 3.2(f)(4) and 3.6(a)(3). Mr. Gates's neglect was diagnosed with a condition labeled as "an Adjustment Disorder with Disturbances of Emotions and Conduct".
3. In addition to the one-year period of suspension, the Court imposed conditions upon Petitioner's right to seek reinstatement.
4. The Court's August 11, 1995 suspension order requires, as a prerequisite to his petition for reinstatement, that he
 - a. provide reliable and credible proof of treatment for the disorder from which he suffered at the time of his suspension;
 - b. provide proof that a competent psychiatrist has determined that Mr. Gates has addressed his avoidance problem and that the problem no longer poses a threat to the interests of the public or potential clients of Mr. Gates;
 - c. submit a two year practice plan, including the establishment of a mentoring relationship with an experienced attorney who will provide regular status reports to the Court and Bar Counsel; and
 - d. pay restitution to five former clients within one year of the suspension order.
5. M. Bar R. 7.3(j)(5) imposes additional burdens upon any person seeking reinstatement. They include the evidentiary burden that the petitioner offer clear and convincing evidence that it is likely that reinstatement will not be detrimental to the integrity and standing of the Bar, the administration of justice or to the public interest. Rule 7.3(j)(5)(A) through (D) identifies four factors to be considered in evaluating whether Petitioner has met this burden. M. Bar R. 7.3(j)(5)(F) also requires a petitioner to meet the continuing legal education requirements of M. Bar R. 12(a)(1) for the period of the Petitioner's absence from practice.

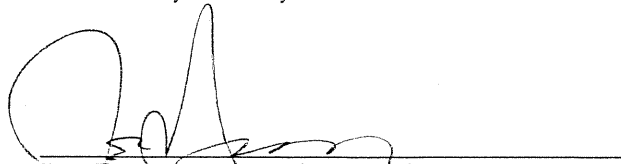
6. Mr. Gates offered evidence that he was treated for his avoidance disorder by Frederick A. Bloom, Ph.D. for a period of eleven months ending in November of 1997, at which time Dr. Bloom opined that with mentoring supports in place and continuing psychotherapy, Mr. Gates was suited to the return to the practice of law. Dr. Bloom's updated report, summarizing the steps taken by Mr. Gates to face his disorder and confirming Dr. Bloom's assessment of Mr. Gates's fitness to practice as of September 23, 2003, was admitted before the panel without objection.
7. Rather than seeking reinstatement to the Bar on the strength of Dr. Bloom's initial opinion, Mr. Gates moved from Camden to Portland and was employed from 1997 to the summer of 2003 as a sales representative for Performance Motors in Falmouth. Mr. Gates testified that during this extended hiatus from legal practice he gradually rebuilt his self-confidence, achieved success as a sales representative, regained an appetite for helping others and rekindled a long term friendship with Maine attorney Scott D. Gardner, a classmate of his at Maine Maritime Academy and Tulane Law School. In that period:
 - a. He neither engaged nor attempted to engage in the unauthorized practice of law in this period. He did assist Attorney Gardner with legal research and writing.
 - b. He recognized the wrongfulness and seriousness of his misconduct, as is reflected in Dr. Bloom's September 23, 2003 report.
 - c. He engaged in no other professional misconduct.
 - d. He conducted himself with the requisite honesty and integrity to practice law.
8. Mr. Gates submitted with his petition a practice plan for reinstatement, supervised by Attorney Gardner. At the hearing, Mr. Gardner agreed to submit quarterly reports and stipulated that Mr. Gates will serve Mr. Gardner in the capacity of "associate attorney" for the purposes of Maine Bar Rule 3.2. He has confirmed that by the submission of an Amended Plan dated November 17, 2003.
9. Third persons provided restitution to the victims of Mr. Gates's neglect, albeit after the time limits imposed by the Court had expired. This departure from the dictates of the Court's suspension order implicates Rule 7.3(j)(5)(A) which includes full compliance with the terms of prior disciplinary orders as a factor to be considered as to Mr. Gates' meeting his evidentiary burden. Insofar as Mr. Gates has reimbursed those who provided restitution, consistent with his financial means, the lateness of restitution should not eclipse the significance that restitution was, indeed, made and the ultimate source of payment was Mr. Gates.

10. Petitioner has complied with the continuing legal education requirements applicable to his petition, which require twenty-two hours of continuing legal education credits including two hours of ethics. Bar Counsel's records confirm that as of November 1, 2003 Mr. Gates had met the requisite CLE requirements.

Accordingly, the Court hereby orders that Gordon P. Gates be and hereby is reinstated to the practice of law in Maine subject to the following terms and conditions:

1. The Court appoints Attorney Scott D. Gardner as a mentor for Gordon P. Gates for a period of two (2) years commencing on December 1, 2003, unless terminated by other order of this Court.
2. During the period of supervision, Gordon P. Gates will work directly under Attorney Gardner consistent with the Amended Practice Plan attached hereto and incorporated into this Order.
3. Attorney Gardner shall file a status report with Bar Counsel and the Court on or before April 1, 2004 and quarterly thereafter.
4. Pursuant to M. Bar R. 3.13, Attorney Gardner has the duty to report to Bar Counsel and the Court any apparent or actual professional misconduct by Mr. Gates of which Attorney Gardner becomes aware or lack of cooperation by Mr. Gates in the performance of this Order.
5. The Court finds that Mr. Gates has completed twenty-two (22) credit hours of approved CLE, including two (2) hours of ethics as mandated by Me. Bar Rule 7.3(j)(5)(F).
6. Any apparent violation of the conditions of this Order, or any new allegation of misconduct being committed by Mr. Gates and deemed by Bar Counsel upon review to state a claim of misconduct, shall be directly filed by Bar Counsel with the Court.

Dated: December 10, 2003


Jon D. Levy, Associate Justice