

PUBLIC MATTER – NOT DESIGNATED FOR PUBLICATION

FILED NOVEMBER 09, 2010

REVIEW DEPARTMENT OF THE STATE BAR COURT

In the Matter of)	08-R-14575
)	
LAWRENCE SCOTT BOYLE)	OPINION
)	
Petitioner for Reinstatement.)	
_____)	

I. STATEMENT OF THE CASE

Lawrence Scott Boyle seeks reinstatement to practice law after he resigned with charges pending in 2002, following his felony conviction. Before the conviction, he had built a successful career as a capable prosecutor and, later, as a criminal defense attorney. But that changed in 1998, when Boyle suffered a catastrophic illness, underwent a heart transplant and started worrying about his family’s financial welfare. As a result, in 1999, he joined a conspiracy to illegally traffic counterfeit computer software from Asia into the United States in exchange for the promise of almost one million dollars. Boyle participated in two major conspiracy schemes for nearly a year before he was arrested. In August 2000, he pled guilty in federal court to conspiracy and trafficking in counterfeit goods. He served time on house arrest and successfully completed a three-year felony probation in December 2004. Four years later, on November 17, 2008, he filed this petition for reinstatement, and the trial commenced in August 2009.

The hearing judge granted Boyle’s reinstatement, concluding that he was rehabilitated from his serious criminal misconduct and possessed good moral character for three reasons:

(1) he expressed sincere remorse; (2) he presented compelling moral character testimony; and (3) he had not committed misconduct since he resigned in 2002. The State Bar seeks review and requests that we reverse the hearing judge's decision and deny Boyle's reinstatement petition.

II. ISSUES

Applicants for reinstatement to the practice of law following disbarment or resignation with charges pending must meet three requirements: (1) Pass a professional responsibility examination; (2) Establish present ability and learning in the general law; and (3) Prove rehabilitation and present moral qualifications for reinstatement. (Former Cal. Rules of Court, rule 9.10(f).¹) Since Boyle passed the Multi-State Professional Responsibility Examination (MPRE) and the State Bar does not dispute the hearing judge's finding that he has the legal ability to practice law, the sole issue before us is whether Boyle proved by clear and convincing evidence that he has been rehabilitated and currently possesses good moral character.²

On review, the State Bar contends that Boyle did not prove rehabilitation or good moral character in light of his serious criminal misconduct. The State Bar also asserts that Boyle's petition is incomplete since he did not adequately account for his activities from his last employment in December 2007, to the time of trial in August 2009.

In response, Boyle contends that he proved his rehabilitation and good moral character, and his petition is complete because he disclosed that since he was last employed in 2007, he

¹ This rule was amended, effective January 1, 2010, to also require that "Applicants who resigned with charges pending or who were disbarred must establish present ability and learning in the general law by providing proof, at the time of filing the application for readmission or reinstatement, that they have taken and passed the Attorneys' Examination by the Committee of Bar Examiners within three years prior to the filing of the application for readmission or reinstatement." Since Boyle filed his application prior to the effective date, the exam requirement does not apply in this case.

² The clear and convincing standard "requires a finding of high probability . . . [And] that the evidence be so clear as to leave no substantial doubt [and] sufficiently strong to command the unhesitating assent of every reasonable mind. [Citation; internal quotations omitted.]" (*In re Angelina P.* (1981) 28 Cal.3d 908, 919.)

studied for and passed the 2008 MPRE and completed 66 units of on-line mandatory continuing legal education (MCLE).

III. SUMMARY OF DECISION

Upon independent review of the record (Cal. Rules of Court, rule 9.12), we find that Boyle did not prove he is rehabilitated and possesses good moral character. The hearing judge's findings that Boyle expressed remorse, presented character witnesses and did not commit further misconduct since resigning do not establish sufficient rehabilitation or good moral character when measured against the gravity of his crimes. Boyle failed to carry his heavy burden to prove truly exemplary conduct over an extended time period, as required by decisional law. We reverse the hearing judge's ruling and deny Boyle's petition for reinstatement.

IV. FINDINGS OF FACT

A. PRE-CONVICTION CIRCUMSTANCES

Boyle graduated from law school in the mid-1970s, but then decided to become a police officer. During five years on patrol, he suffered injuries and, in 1982, retired with a disability pension. From 1982 to 1987, Boyle provided security services for a friend and dabbled in real estate. Then, in 1987, he took and passed the California Bar Examination and was admitted to practice law.

Boyle first prosecuted misdemeanors at the City Attorney's Office, but moved to the District Attorney's Office after a year. For the next seven years, Boyle prosecuted criminal matters from misdemeanors to capital cases, and taught legal education to fellow prosecutors. In 1995, he left the District Attorney's Office to work for a criminal defense attorney.

Unfortunately, Boyle developed serious health and financial problems in the ensuing years. In 1998, he suffered a heart attack, underwent a heart transplant and developed medical complications, including diabetes. Shortly after the transplant surgery, Boyle lost his job with

the criminal defense attorney. Around the same time, his elderly parents told him they were facing eviction because they could no longer afford the increased rent on their home where they had lived since 1952. Because of these circumstances, Boyle began paying his parents \$1,500 per month.³ Being married with children, Boyle's bills began to mount due to the additional expenses for his parents and a strict regimen of post-transplant medications. To make ends meet, he started a criminal defense practice out of his home, but business was slow. Living month-to-month, his health deteriorated in 1998 as he became nauseated, exhausted and depressed most of the time.

B. CRIMINAL CONDUCT AND CONVICTION

Boyle's illegal activities took root in 1999, when Richard Casas, a U.S. customs agent and Boyle's former co-worker in the District Attorney's Office, referred Jake Davin to Boyle as a client. Unbeknownst to both Boyle and Casas, Davin was a government-paid confidential informant. The U. S. Customs Service was investigating Casas for possible capping with Boyle. Over time, Boyle became friends with Davin and they discussed business dealings Davin had in Europe. Boyle asked him if there were any "investments" in which he could get involved. After these discussions, Davin asked Boyle to help import counterfeit computer software from Asia into the United States to sell for a substantial profit. Boyle was promised \$900,000 for his part, so he agreed to participate. He testified that he was tired of living paycheck-to-paycheck and admitted that his desire for money "was overriding the fact that it was criminal."

Boyle played a critical role in two conspiracies that were sophisticated, well-planned and assisted by his involvement. In the first scheme, Boyle helped traffic 5,000 units of counterfeit

³ In order to resolve his parents' threat of eviction, Boyle advised them to purchase a home with their life savings of \$150,000, and agreed to pay them \$1,500 per month to replace interest income they had been receiving on the money.

Microsoft Office 97 computer software that he believed to be worth \$400,000.⁴ This conspiracy lasted from August 16, 1999, to May 25, 2000. In the second scheme, he helped traffic 10,000 units of counterfeit Microsoft Windows 97 software that he believed to be worth \$2,000,000.⁵ This conspiracy ran from March 30, 2000, to July 8, 2000. Although Boyle originally expected the entire operation to last only two weeks, he continued to participate in the conspiracies for a total of 11 months. During these months, he coordinated meetings among the co-conspirators at rendezvous locations such as a Buddhist temple and a cemetery to pick up and/or examine the counterfeit merchandise. He brought Casas into the conspiracy for his expertise with counterfeit operations. Significantly, Boyle used his client trust account to channel over \$100,000 for use in the conspiracies.⁶ He admitted that the opportunity to make quick money was appealing and he continued to participate because “it just seemed the answer to my problem. And once it took a – once it was going I just didn’t even think about it.” Boyle also invested his profits from the first conspiracy to advance the second one.

C. POST-CONVICTION ACTIVITIES

Boyle was arrested on July 8, 2000, immediately confessed, and cooperated fully with the authorities. On August 28, 2000, he pled guilty in federal court to two counts -- conspiracy and trafficking in counterfeit goods, in violation of title 18 United States Code section 371 and title 18 United States Code section 2320, respectively. As part of his plea bargain, Boyle agreed to testify at a co-conspirator’s trial. During this testimony, Boyle revealed his own intricate involvement in the crimes. In fact, he had discussed future illegal ventures with his co-

⁴ The true value of this shipment was \$2,995,000.

⁵ The true value of this shipment was \$8,090,000.

⁶ Boyle managed the money for the conspiracies as follows: Davin gave money to Boyle, who deposited it in his trust account. Boyle withdrew money at various times to pay for the counterfeit items, showing the withdrawal as income and reserving enough money to pay taxes on the purported income.

conspirators, such as laundering \$500,000 through his trust account from a wire fraud scam, selling green cards in Costa Rica and smuggling illegal aliens into the United States.⁷

On December 12, 2001, a federal judge sentenced Boyle to serve six months' home detention by electronic monitoring, and ordered him to pay \$11,600 in restitution to the U.S. Customs Service and complete three years of formal probation. The judge reluctantly ordered the home detention because of Boyle's health problems stating: ". . . I want to make sure that you understand it's your heart condition that saved your skin. It really is. You certainly did cooperate. What you did was really despicable." Boyle has expressed remorse, claiming that he was desperate and knew his conduct was wrong, but has vowed not to commit future crimes: "I [now] reach out to friends and this just wouldn't happen again. Ever." He completed probation and paid the restitution.

After the felony conviction, the California Supreme Court placed Boyle on interim suspension on November 8, 2001, effective December 12, 2001 (case 00-C-13153 -- the Conviction Case). The Supreme Court ordered that he file a declaration according to California Rules of Court, rule 955⁸ within 60 days, but Boyle did not do so. On March 19, 2002, the State Bar filed for summary disbarment, and eight days later, Boyle submitted his resignation with charges pending (case 02-Q-111460 -- the Resignation Case). He then filed his tardy rule 955 declaration in the Conviction Case on April 25, 2002. On May 16, 2002, the Supreme Court accepted Boyle's resignation, and ordered him to file another rule 955 declaration in the Resignation Case. Boyle has not filed this second declaration.

⁷ At the co-conspirator's trial, Boyle also admitted he told Jake Davin of his own plans to purchase an existing law firm to launder money for clients.

⁸ All further references to "rule" or "rules" are to this source. Former rule 955 is now rule 9.20.

After he resigned, Boyle worked for law firms and legal businesses in non-attorney positions for seven years. In 2001, he began working at a workers' compensation and criminal law firm doing clerical work and supervising staff. He left in 2005 to work for a former partner of that firm who opened his own criminal law practice, web-advertising business and ignition interlock company. In the web-advertising business, Boyle researched courts throughout the U.S. to link local attorneys with people seeking legal assistance through the Internet. In the ignition interlock business, he served as a judicial services liaison, and traveled throughout California educating police, probation staff and the courts about the ignition interlock system. Boyle worked long hours and, consequently, his health suffered. He stopped working in December 2007, because his health deteriorated and he wanted to take MCLE courses and prepare for the MPRE. Boyle testified that because he was "exhausted" from his post-resignation work schedule of 8:30 a.m. to 9:00 p.m., he did not perform pro bono or community service during those seven years. Boyle successfully passed the November 2008 MPRE and completed 66 units of on-line MCLE during May, June and July of 2009.

D. CHARACTER WITNESSES

Boyle presented 13 character witnesses, including four judges, six attorneys, two former support staff and his wife. Most of the witnesses met Boyle while working with him in the District Attorney's Office between 1989 and 1995, including three of the judges, five of the attorneys and both support staff. The witnesses uniformly described Boyle as skilled, hardworking, honest, intelligent and exceptionally remorseful. One judge called Boyle a "vanguard of justice" and a "well-respected attorney in the DA's office." But several witnesses had maintained only occasional contact with Boyle after he resigned. And while these witnesses generally knew about the criminal conviction and the disciplinary proceedings, many did not know that Boyle had discussed future conspiracies with his co-conspirators, had invited Casas

into the conspiracy and was to receive \$900,000. All witnesses were astonished when they learned that Boyle had committed the crimes, but ultimately opined that he possessed good moral character and should be reinstated to the practice of law. These witnesses impressed the hearing judge, who found them to be credible and “excellent” witnesses overall.

V. PRINCIPLES OF LAW

While the law looks with favor on rehabilitation, an applicant for reinstatement to the practice of law bears a heavy burden to prove both rehabilitation from misconduct and good moral character by evidence that is “the most clear and convincing.” (*Hippard v. State Bar* (1989) 49 Cal.3d 1084, 1092.) We are required to consider Boyle’s rehabilitative and character evidence in light of the shortcomings of his past misconduct. (*Ibid.*) Although Boyle need not demonstrate perfection, “ ‘ ‘overwhelming [] proof of reform’ ’ ” is necessary. (*Feinstein v. State Bar* (1952) 39 Cal.2d 541, 547; *In the Matter of Brown* (Review Dept. 1993) 2 Cal. State Bar. Ct. Rptr. 309, 315.) In fact, Boyle must offer stronger evidence of present honesty and integrity than when seeking admission for the first time when his character has not been in question. (*Tardiff v. State Bar* (1980) 27 Cal.3d 395, 403.) Good moral character includes traits of “ ‘honesty, fairness, candor, trustworthiness, observance of fiduciary responsibility, respect for and obedience to the laws of the state and the nation and respect for the rights of others and for the judicial process.’ [Citation.]” (*In re Gossage* (2000) 23 Cal.4th 1095.)

VI. ANALYSIS

Boyle’s misconduct was extraordinarily serious. He played a major part in two sophisticated, deceptive plans to distribute counterfeit software for his personal financial benefit. Because Boyle had worked in law enforcement as a police officer, a City Attorney and a Deputy District Attorney for a combined 12 years, his conduct is more reprehensible and “bespeaks a blatant disregard of the laws he was sworn to enforce. . . .” (*Seide v. Committee of Bar*

Examiners (1989) 49 Cal.3d 933, 938.) He used his contact with Casas, whom he knew from the District Attorney's Office, to facilitate the conspiracies. He also abused his position of trust by using his client trust account to channel the money for the conspiracy. Moreover, we do not find that Boyle's conduct was "abberational," as the dissent suggests, because he engaged in a "protracted course of wilful misconduct" by continuing to be involved in the conspiracies for almost a year and ending his participation only when law enforcement arrested him. (*In re Menna* (1995) 11 Cal.4th 975, 987.)

In order to prove rehabilitation, Boyle must show his fitness to practice law by "sustained exemplary conduct over an extended period of time." [Citation.] (*In the Matter of Giddens* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 25, 30; see also *In re Menna, supra*, 11 Cal.4th at p. 989 [overwhelming proof of rehabilitation shown by lengthy period of not merely unblemished but exemplary conduct].) And while we assign some weight to his activities while he was on criminal probation, we give "far greater weight" to activities after his probation ended in 2004. (*In the Matter of Bodell* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 459, 464.⁹) Overall, the *quality* of Boyle's evidence, rather than the number of years, is the true measure of his rehabilitation. (*In the Matter of Rudnick* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 27, 36.)

Boyle has been law-abiding since he committed the crimes, but his conduct overall has not been truly exemplary. In fact, he failed to adequately account for his activities after he stopped working in December 2007, until the trial in August 2009. The only evidence Boyle presented was that he passed the November 2008 MPRE and took 66 hours of on-line MCLE

⁹ See *Seide v. Committee of Bar Examiners, supra*, 49 Cal.3d at p. 939 [inadequate that petitioner stayed out of trouble while being watched on probation]; *In re Giddens* (1981) 30 Cal.3d 110, 116 [proof of rehabilitation needed "during a period when petitioner is neither on parole . . . nor under supervision of the bar"].

courses during May, June and July of that 20-month period. This evidence does not sufficiently detail Boyle's activities during that time.

We acknowledge that Boyle has expressed genuine remorse to friends, family, colleagues and the court. He admitted that his crime was despicable. Such remorse is an essential step toward his rehabilitation. But we do not weigh Boyle's remorse as heavily as did the hearing judge or the dissent as proof of his rehabilitation. As the Supreme Court has instructed: “[R]emorse does not demonstrate rehabilitation. . . . In our view, a truer indication of rehabilitation will be presented if petitioner can demonstrate by his sustained conduct over an extended period of time that he is once again fit to practice law. . . .” [Citations.]” (*In re Menna, supra*, 11 Cal.4th at p. 991.) Examining the 10 years since Boyle's misconduct and focusing on the four-year period since he finished felony probation, we find his activities are insufficient to prove rehabilitation when weighed against his serious misconduct.

We also do not adopt the hearing judge's finding that Boyle's remorse “reduces the likelihood of reoccurrence of misbehavior.” In fact, the Supreme Court has advised that rehabilitation is not complete when the record fails to show that an applicant “has engaged in truly exemplary conduct in the sense of returning something to the community he betrayed. . . .” [¶] . . . Sustained exemplary conduct must include proof applicant is making amends to the victim and community he harmed. [Fn. omitted.]” (*In re Menna, supra*, 11 Cal.4th at p. 990.) Boyle has not shown this.

For example, he did not present evidence of pro bono work, community service or counseling to treat the psychological problems he claimed contributed to his misconduct. We reject Boyle's assertion that his health prevented him from performing any pro bono work or community service since he was able to work long hours and/or travel extensively for seven years in his post-resignation jobs. Boyle failed to explain why he never took the time from his

busy work schedule to offer even limited services to make amends. He also failed to adequately prove that the difficulties which led him to commit the crimes, i.e., his physical condition, psychological depression and economic circumstances, have been fully resolved.¹⁰

Boyle also failed to establish his rehabilitation through character witnesses. Like the dissent, we find that the judges and attorneys who testified were impressive. But we assign limited weight to their testimony regarding Boyle's *present* moral character because most of them, as former deputy district attorney colleagues, lacked full knowledge about the details of the conspiracies and had spent little time with Boyle since he resigned. Boyle must point to more than his reputation among friends for good moral character. (*In the Matter of Ainsworth* (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 894, 899-900.)

Boyle contends that decisional law supports his reinstatement, citing four cases where the applicant was reinstated.¹¹ But in these cases, as detailed below, each applicant presented significantly stronger evidence of rehabilitation than Boyle did.

In *Bodell*, the applicant sought reinstatement 10 years after the misconduct, and expressed remorse, showed insight into his misconduct, tried to discover why it had occurred, and became intensely involved with his church, which led to a leadership position. He also spoke to law students about the importance of honesty as an attorney. In *Miller*, the applicant sought reinstatement nine years after his misconduct ended. He had performed pro bono work on a capital case, volunteered for and made donations to a community museum and occupied a fiduciary position before seeking to be reinstated. In *Brown*, the applicant sought reinstatement

¹⁰ Boyle suffered from a persistent depression after his transplant. He did not present any evidence that this depression has been treated and/or no longer negatively affects him.

¹¹ *In the Matter of Bodell*, *supra*, 4 Cal. State Bar Ct. Rptr. 459; *In the Matter of Miller* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 423; *In the Matter of Brown* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 309; and *In the Matter of Rudman* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 546.

15 years after his criminal acts. He had performed pro bono service and presented psychological evidence that he was not likely to commit further criminal acts. And in *Rudman*, the applicant sought reinstatement 10 years after his crime and proved that he had attended four years of psychological treatment to address the problems that led to his misconduct.

In contrast, Boyle did not perform community service or pro bono work, undergo psychological treatment or work in a fiduciary position. While we agree with the dissent that reformation is a state of mind that may not be disclosed by any certain or unmistakable outward sign (*In the Matter of Rudman, supra*, 2 Cal. State Ct. Rptr. at pp. 547, 554), we look to prior case precedent in *Bodell, Miller, Brown* and *Rudman*, to guide us about the nature and quality of evidence that clearly and convincingly establishes rehabilitation. Boyle failed to present adequate evidence suggested by such precedent.¹²

We reject Boyle's contention that his health and money problems should significantly mitigate his criminal misconduct. These difficulties are no different from those confronting many people today who struggle financially or are in poor health, yet live law-abiding lives. And if law enforcement officers had not arrested Boyle, millions of dollars in counterfeit goods could have been circulated. Public confidence is lost when an attorney violates his fiduciary obligation by misusing a client trust account for personal gain.

VII. CONCLUSION

In sum, Boyle violated “ ‘ “the fundamental rule of [legal] ethics-that of common honesty-without which the profession is worse than valueless in the place it holds in the

¹² The dissent cites *Bodell, Brown, Miller* and *Werner v. State Bar* (1954) 42 Cal.2d 187, to show that a period of five and one-half to ten years without wrongdoing is adequate time to establish rehabilitation. But in these cases, each applicant also presented significant evidence of community service, pro bono work and/or counseling. We conclude that reinstatement in each of these cases was based on the totality of the rehabilitative evidence, which included efforts by the applicants to give back to the community following their criminal conduct.

administration of justice...” [Citation.]’ ” (*Rhodes v. State Bar* (1989) 49 Cal.3d 50, 60.) Given his grave criminal misconduct, we conclude that Boyle has not clearly and convincingly proved his rehabilitation and good moral character by “ “ “overwhelming [] proof of reform...which we could with confidence lay before the world in justification of a judgment again installing him in the profession....’ ” ’ [Citation.]” (*In re Menna, supra*, 11 Cal. 4th at p. 989.) We deny Boyle’s petition for reinstatement.

PURCELL, J.

I CONCUR:

REMKE, P. J.

Dissenting Opinion of EPSTEIN, J.

The majority holds that reinstatement is not warranted because petitioner, Lawrence Boyle, failed to prove he is rehabilitated and possesses good moral character. I respectfully disagree. Although Boyle’s evidence of present character must be considered in light of his prior serious misconduct (*Tardiff v. State Bar, supra*, 27 Cal.3d at p. 403), even egregious misconduct does not preclude reinstatement. (*In the Matter of Brown, supra*, 2 Cal. State Bar Ct. Rptr. at p. 316.) For the reasons stated below, I conclude Boyle has met the heavy evidentiary burden required of attorneys seeking reinstatement.

The task of determining whether a petitioner for reinstatement has proven his or her rehabilitation is a difficult one. As Judge Carter explained in his dissenting opinion in *Feinstein v. State Bar* (1952) 39 Cal.2d 541, 552: “Moral reformation or rehabilitation has long been a perplexing problem to such experts as penologists, psychologists, theologians and social workers. When laymen endeavor to ascertain the fact on the evidence of lay witnesses, the problem becomes even more complex.”

In their majority opinion, my colleagues acknowledge that in 1998 Boyle “suffered a catastrophic illness, underwent a heart transplant and started worrying about his family’s financial welfare” when shortly thereafter he lost his job as a criminal defense attorney and assumed responsibility for his elderly parents’ rent because they were facing eviction. Boyle was taking sixty pills a day to stave off rejection of his transplanted heart, and he was fearful he could die at any time. This dire situation had a profound effect on Boyle. He went from being a robust man to someone who had aged 15 or 20 years and he became depressed.

The majority characterizes these extreme conditions as “difficulties [that] are no different from those confronting many people today who struggle financially or are in poor health, yet lead law-abiding lives.” While I agree with the majority that these life-changing circumstances do not excuse Boyle’s misconduct, I find they provide compelling evidence that his crimes were aberrational due to extraordinary conditions. The testimony of the 13 character witnesses supports this finding, as virtually all of them testified that they believed, based on their personal knowledge, that Boyle’s criminal conduct was aberrational.

Furthermore, the 13 character witnesses provide a strong evidentiary basis for finding rehabilitation. Those attorneys who had worked with Boyle closely in the past testified about his excellent work habits, his effectiveness as a trial attorney, and his strong mentoring skills. Although some of the witnesses were not familiar with the specifics of Boyle’s crime, virtually all of them knew his misconduct was extremely serious. Even so, they expressed their high opinion of Boyle’s *present* moral character. The witnesses based their opinions on their personal and/or professional relationships with Boyle, most of whom had known him for many years. Some had significant, current knowledge of his activities. The majority points out that not all of the character witnesses had recent contact with Boyle, but “[n]ot every witness or letter writer must have recent close contact with petitioner. A variety of persons with different relationships

to petitioner can reflect his present moral qualifications. [Citation.]” (*In the Matter of Miller, supra*, 2 Cal. State Bar Ct. Rptr. at p. 432.)

Significant weight should be given to the testimony of the four judges and five attorneys who testified on Boyle’s behalf, because as judges and officers of the court “[t]hese witnesses have a strong interest in maintaining the honest administration of justice.” (*In the Matter of Brown, supra*, 2 Cal. State Bar Ct. Rptr. at p. 319.) The hearing judge’s determinations of the testimonial credibility of Boyle and his character witnesses also are entitled to significant weight because he saw the witnesses and observed their demeanor. (*In the Matter of Harney* (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 266, 280.) The credibility determinations of the hearing judge are particularly important in this case because “[r]eformation is a state of mind which ‘may be difficult to establish affirmatively’ and ‘may not be disclosed by any certain or unmistakable outward sign.’ ” (*In the Matter of Brown, supra*, 2 Cal. State Bar Ct. Rptr. at p. 315, citation omitted.)

In addition to strong character testimony, Boyle established that he has an unblemished record since his arrest in July 2000 until the time of trial in August 2009. At oral argument, the State Bar conceded that Boyle’s record was unblemished, but it argued that this was insufficient evidence to establish the sustained “exemplary” conduct required for readmission. The majority adopts this view.

The fundamental policy of this State looks with favor on rehabilitation. (*In the Matter of Brown, supra*, 2 Cal. State Bar Ct. Rptr. at p. 316.) During the past decade, Boyle has worked diligently to put his life in order and has offered his sincere apologies to his family and friends and professional colleagues. He has demonstrated an understanding of the serious nature of his wrongdoing and has declined to rationalize his criminal behavior. The majority acknowledges that since his resignation, “Boyle worked long hours and, consequently his health suffered. He

stopped working in December 2007, because his health deteriorated and he wanted to take MCLE courses and prepare for the MPRE.” This evidence of Boyle’s continuing serious health issues offers strong mitigation in support of his inability to participate in extra pro bono activities or community service, which the majority suggests is needed to establish rehabilitation.

I find that the quality and quantity of Boyle’s evidence clearly and convincingly establishes that he is presently rehabilitated and he is once again fit to practice law. (*In the Matter of Bodell, supra*, 4 Cal. State Bar Ct. Rptr. 459 [attorney convicted of fraudulent scheme lasting four years, proved rehabilitation after nine years, including five years on probation]; *In the Matter of Brown, supra*, 2 Cal. State Bar Ct. Rptr. 309, 317 [exemplary conduct extending over a period of from eight to ten years “without even a suggestion of wrongdoing” establishes rehabilitation]; *In the Matter of Miller, supra*, 2 Cal. State Bar Ct. Rptr. 423 [five and one half years sufficient]; *Werner v. State Bar, supra*, 42 Cal.2d. 187 [seven years sufficient].) I conclude that the only fair and reasonable result is reinstatement.