

Filed April 9, 2014

STATE BAR COURT OF CALIFORNIA
REVIEW DEPARTMENT

In the Matter of)	Case No. 12-R-13895
)	
LEON JENKINS,)	OPINION
)	
Petitioner for Reinstatement.)	
_____)	

This is Leon Jenkins’ second petition for reinstatement to practice law in this state. His earlier serious transgressions as a judge in Detroit led to his removal from the bench and Michigan disbarment, followed by his California disbarment in October 2001. The hearing judge below denied Jenkins’ petition, having concluded that he failed to establish his rehabilitation from his past misconduct or that he presently possesses the necessary moral qualifications for reinstatement. The judge reached this conclusion based on Jenkins’ recent misconduct, including, inter alia, his failure to disclose material information in his reinstatement petition and in divorce papers he filed in the superior court, his affirmative misrepresentations in two apartment rental applications, and his recent conviction for reckless driving involving alcohol.

Jenkins is appealing the hearing judge’s decision. He contends that his significant good character evidence and substantial community involvement demonstrate that he has been rehabilitated from his past misdeeds and presently possesses the requisite rehabilitation and moral fitness for reinstatement. The Office of the Chief Trial Counsel of the State Bar (OCTC) requests that we affirm the hearing judge.

Upon our independent review of the record (Cal. Rules of Court, rule 9.12), we conclude that Jenkins failed to meet his heavy burden of proving by clear and convincing evidence his rehabilitation and present moral qualifications to practice law in California.¹ As detailed below, Jenkins has continued to engage in acts of dishonesty, many of which are minor when viewed in isolation. But, when taken as a whole, his conduct calls into question his fitness to practice law. Given the gravity of his earlier transgressions, we continue to apply the most rigorous level of scrutiny of his conduct, and in so doing, we agree with the hearing judge that Jenkins' petition for reinstatement should be denied.

I. FACTUAL AND PROCEDURAL BACKGROUND

We adopt the hearing judge's thorough reiteration of the facts that led to Jenkins' disbarment, as summarized below.

A. Misconduct in Michigan Leading to Removal as Judge and Disbarment

Jenkins was licensed to practice law in Michigan in 1979. In 1983, at the age of 30, he was appointed as a judge of the District Court in Detroit. After his appointment, he engaged in a course of misconduct that included accepting bribes to dismiss traffic citations; misstating his address to reduce his insurance premium; soliciting an individual to commit perjury in a federal investigation of Jenkins' misconduct; engaging in improper ex parte communications with parties and counsel regarding matters before him; improperly accepting gifts and favors from litigants and counsel who appeared before him; and signing a writ of habeas corpus to release an individual whom he knew personally without adequate information to justify the release.

In 1988, Jenkins was indicted in federal court for bribery, racketeering, mail fraud, extortion, and conspiracy, but he was ultimately acquitted. Nevertheless, the Michigan Supreme

¹ Clear and convincing evidence leaves no substantial doubt and is sufficiently strong to command the unhesitating assent of every reasonable mind. (*Conservatorship of Wendland* (2001) 26 Cal.4th 519, 552.)

Court removed him from the bench in 1991, finding “overwhelming evidence that during the period from 1984 to 1987 [Jenkins] systematically and routinely sold his office and his public trust, committed acts which would, if proven in a criminal trial, constitute violations of three criminal statutes, committed wholesale violations of the most elementary canons of judicial conduct, and brought grave dishonor upon this state’s judiciary.” (*Matter of Jenkins* (1991) 465 N.W.2d 317, 319.) In 1994, he was disbarred in Michigan retroactive to 1991 based on his judicial misconduct.

B. California Disbarment and Subsequent Reinstatement Proceedings

Jenkins was licensed to practice law in California in 1980, and he moved here in 1991. In 1995, OCTC initiated disciplinary proceedings based on his misconduct in Michigan, and our Supreme Court disbarred him, effective October 19, 2001.

Jenkins filed his first petition for reinstatement in February 2006. We denied it upon finding that he did not grasp the seriousness of his misconduct as a judge, and he failed to disclose in his petition for reinstatement several material facts including information about: (1) his past employment history; (2) a civil lawsuit in which he was a plaintiff; and (3) a \$250,000 financial obligation. He also made misrepresentations in his California Rules of Court, rule 9.20 affidavit. (*In the Matter of Jenkins* (July 31, 2008, Cal. State Bar Ct. no. 06-R-11001 [nonpub. opn.].)

On May 22, 2012, Jenkins filed this second petition for reinstatement, which the hearing judge denied on February 27, 2013.

II. REQUIRED SHOWING FOR REINSTATEMENT

California Rules of Court, rule 9.10(f), provides that applicants for readmission must: (1) pass a professional responsibility examination; (2) establish rehabilitation and present moral qualifications for reinstatement; and (3) establish present ability and learning in the general law

by passing the Attorneys' Examination within three years prior to filing the application. We agree with the hearing judge that Jenkins established the first and third requirements for readmission. He passed the Multistate Professional Responsibility Exam in August 2011 and the Attorneys' Examination in February 2012.

We thus focus on the second requirement: whether Jenkins has demonstrated that he is rehabilitated and possesses the requisite moral qualifications for reinstatement. Due to the nature of his past misdeeds, which involved serious dishonesty and breach of the public trust, Jenkins faces the heaviest of burdens. (*Hippard v. State Bar* (1989) 49 Cal.3d 1084, 1092 [strength of reinstatement evidence considered "in light of the moral shortcomings that previously resulted in discipline"].) Accordingly, he must show rehabilitation by "sustained exemplary conduct over an extended period of time." (*In the Matter of Giddens* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 25, 30.)

III. JENKINS' EVIDENCE OF REHABILITATION AND MORAL FITNESS

Since 2004, Jenkins has been the vice president and a consultant to Smoke House Restaurant, Inc., which is owned by his good friend, Leland Spencer. Jenkins describes himself as a self-employed management consultant specializing in labor relations who assists companies with personnel, employee management matters, and other labor issues.

Jenkins has an impressive record of involvement in community service. He has held various positions with the National Association for the Advancement of Colored People (NAACP) and currently is serving his third term as president of the Los Angeles branch. He helped to raise over \$2 million to host the 2011 NAACP national convention in Los Angeles. In addition, Jenkins participated in various organizations that focus on educational opportunities for African-American students, including the Coalition for Black Student Equity; the Black Education Task Force; the African-American Education Alliance; and the Alliance for Equal

Opportunity in Education. Other activities include the Black HIV Task Force State of Emergency and various other mentoring programs, voter outreach committees, and small business assistance groups. His considerable and sustained community service is very strong evidence in favor of his rehabilitation and moral character. (*In the Matter of Miller* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 423, 430.)

Jenkins also provided 13 character witnesses who all attested to his honesty, high moral character, and trustworthiness. These witnesses included three attorneys, community activists, former educators, the president of the Southern Christian Leadership Conference of Greater Los Angeles, the former dean of Southwest Community College, a former president of the United Teachers of Los Angeles, a California Teachers Association Board member, and a sociology professor at the University of California at Los Angeles. Many witnesses have known Jenkins over 10 years, and he informed each of them about his Michigan and California disbarments. Nevertheless, all of the witnesses testified that Jenkins' prior misconduct did not affect their positive view of his character. Some even held a higher opinion of Jenkins because he had demonstrated to them that he was reformed and had learned from his mistakes.

IV. JENKINS' RECENT CONDUCT PRECLUDES REINSTATEMENT

Despite Jenkins' impressive good character evidence and community service, he continues to commit errors in judgment that call into question his rehabilitation and present good moral character and fitness to practice, including his: (1) material omissions in his reinstatement petition and in superior court pleadings; (2) misrepresentations on two apartment rental applications; (3) failure to resolve outstanding debts; and (4) conviction for driving under the influence of alcohol. We find these issues undermine Jenkins' showing of rehabilitation.

A. Material Omissions in Reinstatement Petition

When we previously denied Jenkins' readmission in 2008, we admonished him about the importance of an accurate and complete petition: "The petition for reinstatement is more than a procedural formality for which errors or omissions will be lightly excused. Rather, the 'verified' petition for reinstatement serves as the important, formal written presentation by which the petitioner now places himself before the State Bar, the legal profession, the judiciary and the public for decision whether he or she should be allowed to discharge the high responsibilities required of an attorney at law in this state.' [Citation.]" (*In the Matter of Jenkins* (July 31, 2008, Cal. State Bar Ct. no. 06-R-11001, p. 16 [nonpub. opn.])

Considering our prior admonition, his omissions on his second petition for reinstatement are inexcusable. Jenkins failed to disclose a \$25,000 loan he obtained from Spencer in 2008, four years before he filed his current petition. The hearing judge found that this omission was "willful." We agree. Given Jenkins' modest income and the loan amount, we cannot accept his contention that his failure to disclose the loan was an inadvertent mistake.

We also question the accuracy of Jenkins' statement of income in his petition. He was required to disclose all sources of income, whether as an employee, independent contractor, or consultant. Yet he failed to list \$14,575 that he received in 2007 from the Warehouse, which was another restaurant owned by Spencer. Jenkins claims that he forgot he received the additional funds until he reviewed his Wells Fargo bank records and Smoke House, Inc.'s payment records, which he did *after* he filed his petition. Jenkins testified that he was not obligated to disclose those funds because they were reimbursement for business expenses. The hearing judge did not find his testimony credible, and we give great deference to the judge's assessment. (Rules Proc. of State Bar, rule 5.155(A); *In the Matter of Brown* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 309, 315.) Further, we do not find this testimony persuasive,

particularly because Jenkins did not offer invoices, receipts, or other documentation for these expenses.

Moreover, Jenkins had a duty to review his bank records *before* submitting his reinstatement petition to ensure he presented an accurate and complete picture of his finances. And he most assuredly had an obligation to update his petition once he discovered the missing information.² We find Jenkins' omissions significant and they weigh heavily against his showing of rehabilitation.

B. Material Omissions in Superior Court Pleadings

Jenkins also failed to disclose material information in documents he signed under penalty of perjury and filed in 2005 and 2006 in the Los Angeles County Superior Court in connection with the dissolution of his marriage. In his financial and property disclosure documents, Jenkins intentionally omitted his obligation to pay a 2004 judgment of \$660,000 that he owed as attorney fees to the prevailing parties in a civil suit. Nor did he list his individual retirement account (IRA) as an asset. Jenkins admits that he deliberately did not divulge the obligation to pay the attorney fees judgment because his wife did not want to be financially responsible for that judgment. He maintains that he concealed his IRA because he mistakenly believed that he could withhold the information to protect it from entering the "public domain."

Jenkins' explanations reveal his inclination to selectively withhold information when he believes it is in his interest to do so. In this case, his non-disclosure was intended to shield community assets from potential creditors, thereby securing an advantage for himself. Such conduct is a "serious breach of basic standards of honesty." (*Barreiro v. State Bar* (1970) 2 Cal.3d 912, 926.)

² The petition states in capital letters in boldface type on the first page: "Petitioner must continue to update the information contained in the petition whenever changes to the information occur and must promptly file the updates with the State Bar Court and serve them on the Office of Chief Trial Counsel."

C. Misrepresentations in Rental Applications

The hearing judge found Jenkins made misrepresentations on two rental applications to obtain an economic advantage. We agree. On his 2007 application, in which he declared the information was true and correct, he reported his salary as \$5,500 per month (or \$66,000 a year) as a self-employed consultant, and he listed a friend's address as his place of employment. The evidence contradicts this information. His gross income in 2007 was \$23,200 (less than \$2,000 per month), and he never worked at the employment address he identified on his application. Similarly, on his 2009 application, he listed his income as a consultant and real estate salesperson as \$3,300 per month or \$39,600 per year. But, in 2009, his gross income was only \$30,000 or an average of \$2,500 per month.

Jenkins contends that the applications were not inaccurate because he included both his salary and non-salary income from other sources. However, the application specifically requested his "salary" from his employment, and provided for a separate section for "additional income." Jenkins did not list any income in the non-salary section. He also claims that he gained no economic advantage from misreporting his income because he was already living in the apartment complex when he completed the applications and was merely relocating to a smaller, less expensive unit. Once again, Jenkins made a unilateral decision as to the disclosures required of him, notwithstanding the request for specific information.

D. Failure to Address His Financial Obligations

Jenkins has made no payments in satisfaction of the \$660,000 judgment for attorney fees that was awarded to the prevailing parties in a civil suit in 2004. He maintains he does not have the ability to satisfy the judgment. But, even if he is not currently able to pay his debts, he offered no evidence of any efforts to make arrangements with his creditors to resolve his debts nor did he prove that he cannot meet his obligations.

In addition, Jenkins has not repaid \$25,000 owed to Spencer, which he received in 2008. Jenkins maintains that his failure to repay this loan does not call into question his rehabilitation and moral fitness because he has “no obligation to make payments, or show any effort to repay the debt.” Indeed, he now contends on appeal that the \$25,000 is in reality a “gift or quasi-gift or a quasi-loan” even though he admitted at trial that it was a loan. Jenkins’ willingness to ignore or modify his obligations reflects poorly on his rehabilitation efforts and weighs against reinstating him to practice law. (*In the Matter of Wright* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 219, 227 [although petitioner made restitution to individuals in matters for which he was disbarred, his indifference to other creditors was negative factor weighing against reinstatement].)

E. 2008 Conviction for Driving Under the Influence of Alcohol or Drugs

In December 2006, Jenkins was arrested for violating Vehicle Code section 23152, subdivisions (a) and (b) (driving under the influence of alcohol or drugs). Two years later, in 2008, he pled no contest to a misdemeanor violation of Vehicle Code section 23103 (reckless driving involving alcohol). Jenkins offered little to explain his conviction other than to state he “drove a vehicle after drinking alcohol.”

The hearing judge relied on Jenkins’ conviction as a factor in denying reinstatement because it “is an indication that he may still be abusing alcohol.” While the conviction is not clear and convincing evidence that Jenkins suffers from alcohol addiction, we find that it is yet another factor in considering whether he has demonstrated sustained exemplary conduct.

V. DISCUSSION

Although Jenkins’ judicial misconduct occurred more than 20 years ago, it is relevant to our analysis of the requisite showing to establish his present rehabilitation. It bears repeating that his previous transgressions were very serious, involving dishonesty and a breach of the

public trust, and therefore Jenkins must assume the heaviest burden of proof. (*Feinstein v. State Bar* (1952) 39 Cal.2d 541, 547 [“[O]verwhelming . . . proof of reform” is required].)

We fully acknowledge that Jenkins provided outstanding character evidence, and his community service is most admirable. The strength of his good character evidence is a significant component of his overall showing of rehabilitation, but such evidence, “however laudatory or great in quantity, is not alone conclusive. [Citation.]” (*Feinstein v. State Bar, supra*, 39 Cal.2d at p. 547.)

While many of the incidents that concern us occurred several years ago, they preclude a finding of exemplary conduct. Truthful, accurate, and complete disclosures are essential to maintain the integrity of the profession. The State Bar, the Superior Court, and Jenkins’ landlord all relied on the accuracy of his disclosures to make informed decisions. These ongoing issues with accuracy and truthfulness, coupled with Jenkins’ failure to affirmatively address his financial obligations, prevent us from finding that his rehabilitation is sufficient to warrant his reinstatement.

When we last considered Jenkins’ petition for reinstatement, we found that the record raised too many unanswered questions about his understanding of his professional and ethical obligations. The present record raises many of the same questions, which unfortunately remain unanswered. We thus conclude that Jenkins still has not established the requisite rehabilitation and moral fitness to resume the practice of law. Our conclusion is reinforced by other cases which have similarly resulted in the denial of a petition for reinstatement. (*In the Matter of Wright, supra*, 1 Cal. State Bar Ct. Rptr. 219 [reinstatement denied because petitioner displayed indifference toward creditors, made no effort to pay them, concealed his disbarment from his employer, and omitted recent lawsuit from reinstatement petition]; *In the Matter of Giddens, supra*, 1 Cal. State Bar Ct. Rptr. 25 [reinstatement denied because petitioner omitted lawsuits

from his reinstatement petition, as he had done in prior petition; petition contained incomplete employment information; and petitioner maintained questionable lawsuit].) While we do “not require perfection from an applicant nor total freedom from true mistake” (*Giddens, supra*, 1 Cal. State Bar Ct. Rptr. at p. 37), Jenkins has not established overwhelming evidence of reform which “ “ “we could with confidence lay before the world in justification of a judgment again installing him in the profession . . . ’ ” ’ [Citations.]” (*In re Menna* (1995) 11 Cal.4th 975, 989.)

VI. CONCLUSION

We affirm the hearing judge’s decision and deny Leon Jenkins’ petition for reinstatement.

EPSTEIN, J.

WE CONCUR:

REMKE, P. J.

PURCELL, J.