

SUPREME COURT OF WISCONSIN

In the Matter of Disciplinary Proceedings Against Brian B. Burke

2008 WI 119, 756 N.W.2d 564 · No. 2006AP432-D · Decided October 9, 2008

SUMMARY

The Wisconsin Supreme Court grants Brian B. Burke's petition for reinstatement of his license to practice law after a disciplinary suspension. The court finds that Burke satisfied the applicable reinstatement standards and orders him to pay \$3,876.39 in proceeding costs within 180 days.

CASE DETAILS

COURT	Supreme Court of Wisconsin
JURISDICTION	Wisconsin
DECIDED	October 9, 2008
DOCKET	2006AP432-D
DISPOSITION	approved
PROCEDURAL POSTURE	The Supreme Court of Wisconsin independently reviewed a referee's report and recommendation granting Brian B. Burke's petition for reinstatement because no party appealed or responded to the report.
STANDARD OF REVIEW	The court independently reviewed the reinstatement proceeding and affirmed the referee's factual findings unless clearly erroneous.
PRECEDENTIAL VALUE	Published Wisconsin Supreme Court opinion; precedential.
PARTIES	Office of Lawyer Regulation v. Brian B. Burke

TOPICS

appellate procedure

administrative law

PRACTICE AREAS

legal ethics

attorney discipline

professional licensing

QUESTIONS PRESENTED

1. Whether Burke established by clear, satisfactory, and convincing evidence that he satisfied the requirements for reinstatement of his Wisconsin law license.
2. Whether Burke should be required to pay the costs of the reinstatement proceeding.

HOLDINGS

1. Burke met his burden of proving by clear, satisfactory, and convincing evidence that he possessed the moral character to practice law, that resuming practice would not be detrimental to the administration of justice or subversive of the public interest, that his representations in the reinstatement petition were substantiated, and that he had complied with the suspension order and applicable disciplinary rules.
2. Burke was required to pay the full costs of the reinstatement proceeding, totaling \$3,876.39 as of July 18, 2008, within 180 days of the order.

KEY QUOTATIONS

“The petitioning attorney must demonstrate by clear, satisfactory, and convincing evidence that he has the moral character necessary to practice law in this state, that his resumption of the practice of law will not be detrimental to the administration of justice or subversive of the public interest, and that he has fully complied with the suspension order and SCR 22.26.” (¶ 3)

“IT IS ORDERED that Brian B. Burke's license to practice law in Wisconsin is reinstated effective the date of this order.” (¶ 13)

FACTUAL BACKGROUND

Brian B. Burke, a Wisconsin attorney and former state senator, had his law license summarily suspended after criminal misconduct involving the use of state employees and resources to further his campaign for attorney general. He pleaded guilty to misconduct in public office and obstructing an officer. After the suspension, he did not practice law, completed continuing legal education, complied with the suspension requirements, paid the prior disciplinary costs, and presented evidence of rehabilitation and present fitness to practice.

PROCEDURAL HISTORY

Burke filed a petition for reinstatement on October 29, 2007, after his law license had been summarily suspended in 2006. Following an investigation and a public hearing, the referee recommended reinstatement, and the Office of Lawyer Regulation and Board of Bar Examiners supported reinstatement. The supreme court independently reviewed the record, accepted the referee's factual findings, granted reinstatement, and ordered Burke to pay the proceeding's costs.

DISPOSITION

approved

CASES CITED

- In re Disciplinary Proceedings Against Burke, 2007 WI 46, 300 Wis. 2d 198, 730 N.W.2d 651
- In re Disciplinary Proceedings Against Carroll, 2004 WI 19, 269 Wis. 2d 172, 675 N.W.2d 792